

09/0505/FULL

- 1.2 This application is one of two submissions which have been received in respect of the existing curtilage of Oxbine, with three properties (plots A, B and C) proposed overall. In this case, the applicant seeks approval for the demolition of the existing bungalow and the erection of two detached dwellings (Plots B and C) with the existing drive entrance is to be utilised to provide access to both dwellings. The second application (Plot A), 09/0506/FULL, concerns the plot immediately adjacent to this site and seeks permission for the erection of a single detached dwelling. Whilst both applications fall within the existing boundaries of Oxbine they stand to be treated on their individual merits.
- 1.3 Revised plans have been submitted in direct response to concerns expressed by Members at the last Committee in relation to parking and manoeuvring space. These revised plans indicate the dwellings proposed for Plots B and C being positioned further away from the road to provide a further parking space for both properties and to ensure that vehicles would be able to enter and exit the site in a forward gear. Local residents have been re-notified.

2.0 Planning History

- 2.1 07/1219/OUTL – Redevelopment to provide 5 no. dwellings (layout and access to be determined) : Withdrawn.
- 2.2 09/0267/FULL – Two new dwellings in grounds with associated access and parking : Withdrawn.
- 2.3 09/0268/FULL – Proposed new dwelling in the grounds of existing bungalow with associated access and parking : Withdrawn.

3.0 Consultations and Representations

- 3.1 Rock Parish Council – Object to both of the proposed developments (references 09/0505/FULL and 09/0506/FULL) and recommend refusal on the grounds that the works would be considered overdevelopment of the site. The parish council would like to see only one dwelling replace the current house.
- 3.2 Highway Authority – Recommends that any permission issued includes conditions relating to visibility splays, vehicle access construction, driveway gradient, access turning and parking and cycle parking as well as notes concerning mud on the highway and alteration of highway to provide new or amend vehicle crossover.

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- 3.3 Policy Team – The site lies within the settlement boundary of Callow Hill. Under Policy H.2 vi) of the Wyre Forest Adopted Local Plan housing development is allowed subject to it comprising infill development of one or two dwellings on previously developed land. The proposal is to build a dwelling in a gap in the frontage adjacent to the existing bungalow and then demolish Oxbine before building another 2 dwellings in its place. The proposed dwellings are set back slightly from the main road in line with neighbouring houses. They are also 2-storeys like the neighbouring dwellings. This proposal continues the building line along Callow Hill and leaves the rear garden area undeveloped.

Policy LA.2 states that when considering applications for development in the Landscape Protection Area, attention will be paid particularly to the effect of the proposed development on the landscape. Development which will have a particularly adverse impact on the quality or character of a Landscape protection Area will not be permitted. Particular consideration should therefore be given to the impact of the application on the landscape.

- 3.4 Arboricultural Officer – The application sites contain a number of trees and hedges that add to the amenity of the area. However other than a large mature, multi-stem Common Ash (*Fraxinus excelsior*) that is on the neighbouring land, there are no trees worthy of a Tree Preservation Order.

It would be a shame to see the fruit trees removed from the orchard area, however as stated in the Arboricultural Report by Midland Arboriculture and Woodland Services, the fruit trees are generally in poor health and replacing them would be good long term tree management.

The site has hedges, containing various species, around its perimeter. The condition of the hedges are mixed, however they are an important feature and will need to be retained and where necessary enhanced to improve screening and restrict the impact of the proposed dwellings from the nearby highway and neighbouring properties.

The mature Ash within the grounds of Mapps Barn is a multi stemmed tree with a poor crown structure. A trial pit has been dug close to this tree and no structural or feeder roots were discovered. The proposed dwelling close to the Ash, will not have a direct impact on the tree, however the proposed garage for this house will be located under its canopy and well within the Root Protection Area RPA).

The only other reasonable quality tree affected by the proposals is Yew that is within the site on the boundary with Mapps Barn. A trial pit was also dug close to this tree and as with the Ash; no structural or feeder roots were discovered. This tree is directly affected by the construction of the dwelling close to Mapps Barn, as the property is well within its RPA.

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Although no roots were found from the Ash or Yew in the locations that are to be built on, there are concerns that major roots could be damaged during the construction process.

The loss of the Yew tree raises no particular concerns, if the applicants are keen for it to be removed, however as the Ash is on private land every effort should be made not to damage the tree.

As such there are no overall objections to the proposed development of three houses; however the methods for constructing the garage close to the Ash in the grounds of Mapps Barn should be by means of a system of construction that does not need a deep, strip foundation. The hedges forming the perimeter of the site should be retained and a detailed landscaping scheme, including tree and hedge planting, submitted before works commence.

- 3.5 Countryside and Conservation Officer – Having reviewed the ecological assessment that accompanied this proposal the Countryside and Conservation Officer is comfortable that providing the precautions laid out in the report are adhered to then this development possesses no risk to protected species.

The ecological report recommends the development includes some bat and bird boxes the number, nature and locations of these boxes should be confirmed, in addition to which indication of whether the comments relating to native nectar sources have been taken on board with the landscaping will also be needed.

- 3.6 Severn Trent Water – No objection subject to the addition of conditions requiring the submission and approval of a drainage scheme to reduce the risk of creating or exacerbating flooding and that no building shall be erected or trees planted within 2.5m of a sewer crossing the site.

- 3.7 Neighbour/Site Notice – Seven letters of objection have been received, the issues raised are:

- Loss of view as a result of the proposed development.
- Concerns over highways safety for both entering and exiting the site, exacerbated by delivery vehicles (including HGVs) serving a commercial property opposite.
- Loss of hedgerow would result in increased noise at property along same side of the A456.
- Over development of the site.
- Inadequate provision for parking (residents and visitors).
- Proposed development may exacerbate flooding at the rear of the site affecting properties on Bliss Gate Road.
- Possible impact on significant wildlife habitats.
- Recommended that section 106 monies be sought and utilised for the re-instatement of a footpath on the south side of the road or significant road safety improvements.

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- Overlooking and possible loss of privacy at neighbouring properties.
- Loss of light at neighbouring properties.
- Impact of headlights from vehicles utilising the garage on Plot A on the rear of neighbouring property.
- Impact of more properties on land and foul water drainage.
- Frontage dominated by vehicles would appear atypical for this area.
- The proposed development would not have a clear presence in the street scene.
- Previous planning permissions for dwellings were granted when shared drives were specified to reduce dangers of moving onto and off the A456.
- Loss of hedgerow between properties may have an impact on biodiversity.
- Concerns over the viability of achieving the required visibility splays without cutting across land belonging to a neighbouring property.

Two additional letters have been received in direct response to the re-notification of receipt of amendments. These letters raise no substantive issues over and above those already listed above.

4.0 Officer Comments

- 4.1 The applicant seeks approval for the erection of two, four bedroom, detached dwellings (referred to as Plots B and C) replacing the existing bungalow along with the erection of a double garage to the front of Plot C.
- 4.2 The proposed dwellings would form an infill development and as such would be acceptable in terms of Policy H.2 vi). The plots would be of a size comparable to those found in the immediate area and as such would offer no detriment to the rhythm and character of the street scene and immediate area. An objector makes a point that the proposed dwellings would have no clear presence within the street scene. This is noted, although to counter this it is considered that the new buildings have been designed to respond to the local character of the area as the majority of dwellings along the south side of the A456 within this locale are set back to a similar building line and drives are interspersed with stretches of the hedge that forms the southern boundary of the highway.
- 4.3 The proposed new dwellings are considered acceptable in terms of both scale and design. Both dwellings would be pitch roofed and of a similar height to other properties along Callow Hill, the roof of the property to be erected on Plot B has a ridge which runs at 90° to that of Plot C (and Plot A - application 09/0506/FULL) which it is felt serves to reduce the massing of the properties. A pitch roofed double garage to the front of Plot C mirrors a similar structure already evident at Mapps Barn.

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- 4.4 The proposed development would have a minimal impact on the privacy, outlook or daylight enjoyed at neighbouring properties and the 45⁹ Code guidelines would not be breached. The proposed dwellings would, by virtue of their set back position and the retention of much of the existing hedge, along with the replication of similar plot size, frontage and ridge height to neighbouring properties, offer negligible detriment to the street scene. One of the objections received refers to the possible loss of view as a result of the development. Planning Policy Guidance Note 1: General Policies and Principles, stated that there was no private right to a view. Whilst this document has been superseded by PPS1, planning inspectors decisions have continued to uphold this approach.
- 4.5 The issue of highway safety has been raised by several objectors. The Highway Authority raises no issues with the increased use of the existing access and the revised plans have sought to resolve issues with the layout of parking and manoeuvring areas.
- 4.6 The Council's Countryside and Conservation Officer has examined the ecological survey submitted as part of the application and has no objections subject to the addition of a condition requiring details of the siting and number of bat/bird boxes. The Councils Arboricultural Officer recommends conditions requiring the submission of a detailed landscaping plan which would allow the applicant to set out details of whether comments within the ecological survey relating to native species have been taken into account.

5.0 Conclusions and Recommendations

- 5.1 In consideration of Articles 1 & 8 of the Human Rights Act 1998, it is recommended that this application be **APPROVED** subject to the following conditions:
1. A6 (Full with no reserved matters)
 2. A11 (Approved plans)
 3. B1 (Samples of materials)
 4. B15 (Owl/bat box)
 5. C6 (Landscaping – small scheme)
 6. The foundations for the garage associated with Plot C shall be erected in such a way as to ensure that no damage occurs to the Ash tree within the grounds of Mapps Barn
 7. Development shall not begin until drainage details have been submitted and approved by the Local Planning Authority.
 8. There is a public sewer which crosses the site. No buildings shall be erected or trees planted within 2.5 (150FWS) metres either side of this sewer.
 9. Visibility splays
 10. Vehicle access construction

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11. Driveway gradient
12. Access, turning and parking
13. Cycle parking (multi unit)

Notes

- A Mud on highway
- B Alteration of highway to provide new or amend vehicle crossover

Reason for Approval

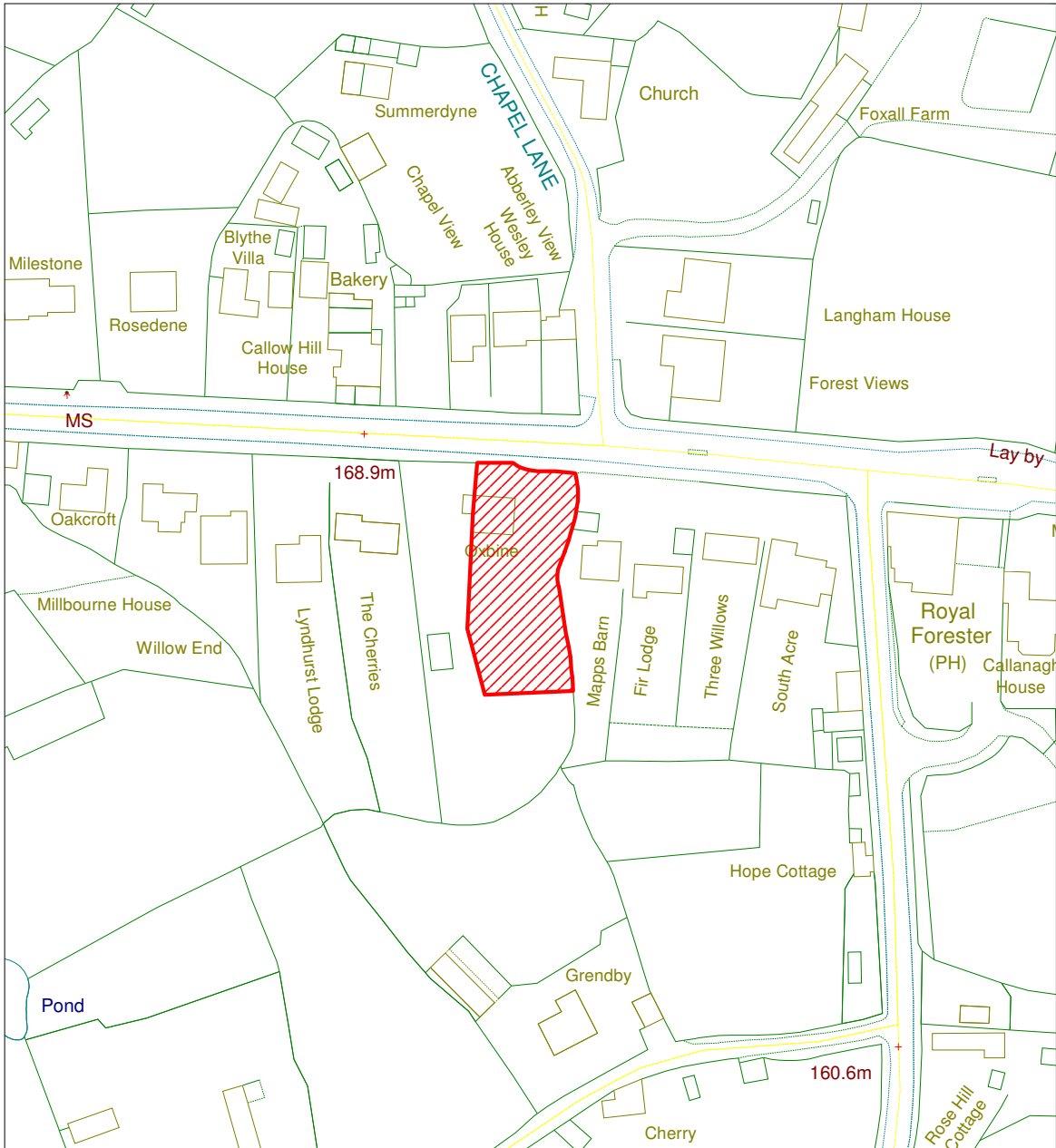
The proposed dwellings would form an infill development within the settlement boundary, are considered to be well designed and will have an acceptable appearance in the street scene. The impact of the dwellings upon the occupants of neighbouring properties has been carefully assessed and it is considered that there will be no undue impact on amenity. The proposed development is considered to accord with the requirements of Policies H.2, D.1, D.3, D.4, D.5, D.10, D.11, D.13, LA.2, TR.9 and TR.17 of the Adopted Wyre Forest District Local Plan (2004).

Date:- 25 August 2009

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Scale:- 1:1250

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PLANNING AND REGULATORY SERVICES DIRECTORATE

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Application Reference: 09/0506/FULL	Date Received: 16/07/2009
Ord Sheet: 374281 273862	Expiry Date: 10/09/2009
Case Officer: James Houghton	Ward: Rock

Proposal: New dwelling sited in the garden of Oxbine.

Site Address: OXBINE, CALLOW HILL, ROCK, KIDDERMINSTER, DY149XB

Applicant: Mr J Matthews

Summary of Policy	H.2, D.1, D.3, D.4, D.5, D.10, D.11, D.13, LA.2, TR.9, TR.17 (AWFDLP) D.14 (WCSP) CF.2, QE.1, QE.3 (WMRSS) Design Quality SPG
Reason for Referral to Committee	Third party has registered to speak at Committee
Recommendation	APPROVAL

THIS APPLICATION WAS DEFERRED FROM THE 8TH SEPTEMBER 2009 PLANNING COMMITTEE MEETING FOR A MEMBERS' SITE VISIT

1.0 Site Location and Description

- 1.1 The application site is within the Callow Hill settlement boundary, the landscape protection area and an area of great landscape value. The site currently contains a substantial bungalow set back from the road behind a hedge and parking area. A large detached garage/workshop stands is set back behind the bungalow and is close to the boundary shared with The Cherries.
- 1.2 This application is one of two submissions which have been received in respect of the existing curtilage of Oxbine, with three properties (Plots A, B and C) proposed overall. In this case, the applicant seeks approval for the erection of a single detached dwelling (Plot A) served by a new vehicular access onto the A456. Application 09/0505/FULL concerns the land immediately adjacent to this site and seeks permission for the demolition of the existing bungalow and the erection of two detached dwellings (Plots B and C). Whilst both applications fall within the existing boundaries of Oxbine they stand to be treated on their individual merits.

2.0 Planning History

- 2.1 07/1219/OUTL – Redevelopment to provide 5 no. dwellings (layout and access to be determined) : Withdrawn.
- 2.2 09/0267/FULL – Two new dwellings in grounds with associated access and parking : Withdrawn.

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- 2.3 09/0268/FULL – Proposed new dwelling in the grounds of existing bungalow with associated access and parking : Withdrawn.

3.0 Consultations and Representations

- 3.1 Rock Parish Council – Object to both of the proposed developments (references 09/0505/FULL and 09/0506/FULL) and recommend refusal on the grounds that the Parish Council feel the site is overdeveloped and that the access on to the A456 is dangerous.
- 3.2 Highway Authority – Recommend that conditions be added to any permission issued relating to visibility splays, vehicle access construction, driveway gradient and access turning and parking areas. Notes relating to mud on the highway and the alteration of the highway to provide new/amended vehicle crossovers are also recommended.
- 3.3 Policy Team – The site lies within the settlement boundary of Callow Hill. Under Policy H.2 vi) of the Wyre Forest Adopted Local Plan housing development is allowed subject to it comprising infill development of one or two dwellings on previously developed land. The proposal is to build a dwelling in a gap in the frontage adjacent to the existing bungalow and then demolish Oxbine before building another 2 dwellings in its place. The proposed dwellings are set back slightly from the main road in line with neighbouring houses. They are also 2-storeys like the neighbouring dwellings. This proposal continues the building line along Callow Hill and leaves the rear garden area undeveloped.

Policy LA.2 states that when considering applications for development in the Landscape Protection Area, attention will be paid particularly to the effect of the proposed development on the landscape. Development which will have a particularly adverse impact on the quality or character of a Landscape protection Area will not be permitted. Particular consideration should therefore be given to the impact of the application on the landscape.

- 3.4 Arboricultural Officer – The application sites contain a number of trees and hedges that add to the amenity of the area. However other than a large mature, multi-stem Common Ash (*Fraxinus excelsior*) that is on the neighbouring land, there are no trees worthy of a Tree Preservation Order.

It would be a shame to see the fruit trees removed from the orchard area, however as stated in the Arboricultural Report by Midland Arboriculture and Woodland Services, the fruit trees are generally in poor health and replacing them would be good long term tree management.

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The site has hedges, containing various species, around its perimeter. The condition of the hedges are mixed, however they are an important feature and will need to be retained and where necessary enhanced to improve screening and restrict the impact of the proposed dwellings from the nearby highway and neighbouring properties.

The mature Ash within the grounds of Mapps Barn is a multi stemmed tree with a poor crown structure. A trial pit has been dug close to this tree and no structural or feeder roots were discovered. The proposed dwelling close to the Ash, will not have a direct impact on the tree, however the proposed garage for this house will be located under its canopy and well within the Root Protection Area (RPA).

The only other reasonable quality tree affected by the proposals is Yew that is within the site on the boundary with Mapps Barn. A trial pit was also dug close to this tree and as with the Ash; no structural or feeder roots were discovered. This tree is directly affected by the construction of the dwelling close to Mapp Barns, as the property is well within its RPA.

Although no roots were found from the Ash or Yew in the locations that are to be built on, there are concerns that major roots could be damaged during the construction process.

The loss of the Yew tree raises no particular concerns, if the applicants are keen for it to be removed, however as the Ash is on private land every effort should be made not to damage the tree.

As such there are no overall objections to the proposed development of three houses; however the methods for constructing the garage close to the Ash in the grounds of Mapp Barns should be by means of a system of construction that does not need a deep, strip foundation. The hedges forming the perimeter of the site should be retained and a detailed landscaping scheme, including tree and hedge planting, submitted before works commence.

- 3.5 Countryside and Conservation Officer – Having reviewed the ecological assessment that accompanied this proposal the Countryside and Conservation Officer is comfortable that providing the precautions laid out in the report are adhered to then this development possesses no risk to protected species.

The ecological report recommends the development includes some bat and bird boxes the number, nature and locations of these boxes should be confirmed, in addition to which indication of whether the comments relating to native nectar sources have been taken on board with the landscaping will also be needed.

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- 3.6 Severn Trent Water – No objection subject to the addition of conditions requiring the submission and approval of a drainage scheme to reduce the risk of creating or exacerbating flooding and that no building shall be erected or trees planted within 2.5m of a sewer crossing the site.
- 3.7 Neighbour/Site Notice – Seven letters of objection have been received, the issues raised are:
- Loss of view as a result of the proposed development.
 - Concerns over highways safety for both entering and exiting the site, exacerbated by delivery vehicles (including HGVs) serving a commercial property opposite.
 - Loss of hedgerow would result in increased noise at property along same side of the A456.
 - Over development of the site.
 - Inadequate provision for parking (residents and visitors).
 - Proposed development may exacerbate flooding at the rear of the site affecting properties on Bliss Gate Road.
 - Possible impact on significant wildlife habitats.
 - Recommended that section 106 monies be sought and utilised for the re-instatement of a footpath on the south side of the road or significant road safety improvements.
 - Overlooking and possible loss of privacy at neighbouring properties.
 - Loss of light at neighbouring properties.
 - Impact of headlights from vehicles utilising the garage on Plot A on the rear of neighbouring property.
 - Impact of more properties on land and foul water drainage.
 - Frontage dominated by vehicles would appear atypical for this area.
 - The proposed development would not have a clear presence in the street scene.
 - Previous planning permissions for dwellings were granted when shared drives were specified to reduce dangers of moving onto and off the A456.
 - Loss of hedgerow between properties may have an impact on biodiversity.
 - Concerns over the viability of achieving the required visibility splays without cutting across land belonging to a neighbouring property.

4.0 Officer Comments

- 4.1 The applicant seeks approval for the erection of single, four bedroom detached dwelling (referred to as Plot A) adjacent to the existing bungalow, a substantial workshop/garage positioned to the rear of the property adjacent to the boundary shared with The Cherries is to be retained.

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- 4.2 The proposed dwelling would form an infill development and as such would be acceptable in terms of Policy H.2 vi). The plot created would be of a size comparable to those found in the immediate area and as such would offer no detriment to the rhythm or character of the street scene or the immediate area. An objector makes a point that the proposed dwelling would have no clear presence within the street scene. This is noted, although to counter this it is considered that the new building has been designed to respond to the local character of the area as the majority of dwellings along the south side of the A456 within this immediate area are set back to a similar building line and drives are interspersed with stretches of the hedge that forms the southern boundary of the highway.
- 4.3 The proposed new dwelling is considered acceptable in terms of both scale and design. The new dwelling would be of brick construction and pitch roofed. The dwelling would be similar in height to other properties along Callow Hill and the brick to be used would allow the property to blend in with neighbouring properties.
- 4.4 The proposed development would have a minimal impact on the privacy, outlook or daylight enjoyed at neighbouring properties and the 45^o Code guidelines would not be breached. A side facing window looking toward the property known as The Cherries would be screened by means of a beech hedge to be maintained at a height between 1.5 and 2.0m thereby minimising any loss of privacy. The proposed dwelling would, by virtue of its set back and the retention of much of the existing hedge alongside the road, offer minimal detriment to the street scene. One of the objections received refers to the possible loss of view as a result of the development. Planning Policy Guidance Note 1: General Policies and Principles, stated that there was no private right to a view. Whilst this document has been superseded by PPS1, planning inspectors decisions have continued to uphold this approach.
- 4.5 The issue of highway safety has been raised by several objectors. The Highways Authority raises no objection with the creation of a new access with the proposed parking provision is considered sufficient.
- 4.6 The Council's Countryside and Conservation Officer has examined the ecological survey submitted as part of the application and has no objections subject to the addition of a condition requiring details of the siting and number of bat/bird boxes. The Councils Arboricultural Officer recommends conditions requiring the submission of a detailed landscaping plan which would allow the applicant to set out details of whether comments within the ecological survey relating to native species have been taken into account.

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5.0 Conclusions and Recommendations

5.1 In consideration of Articles 1 & 8 of the Human Rights Act 1998, it is recommended that the application is **APPROVED** subject to the following conditions:

1. A6 (Full with no reserved matters)
2. A11 (Approved plans)
3. B1 (Samples of materials)
4. B15 (owl/bat box)
5. C6 (Landscaping – small scheme)
6. The foundations for the garage associated with Plot C shall be erected in such a way as to ensure that no damage occurs to the Ash tree within the grounds of Mapps Barn
7. Development shall not begin until drainage details have been submitted and approved by the Local Planning Authority
8. There is a public sewer which crosses the site. No buildings shall be erected or trees planted within 2.5 (150FWS) metres either side of this sewer.
9. Visibility splays
10. Vehicle access construction
11. Driveway gradient
12. Access, turning and parking

Notes

- A Mud on highway
- B Alteration of highway to provide new or amend vehicle crossover

Reason for Approval

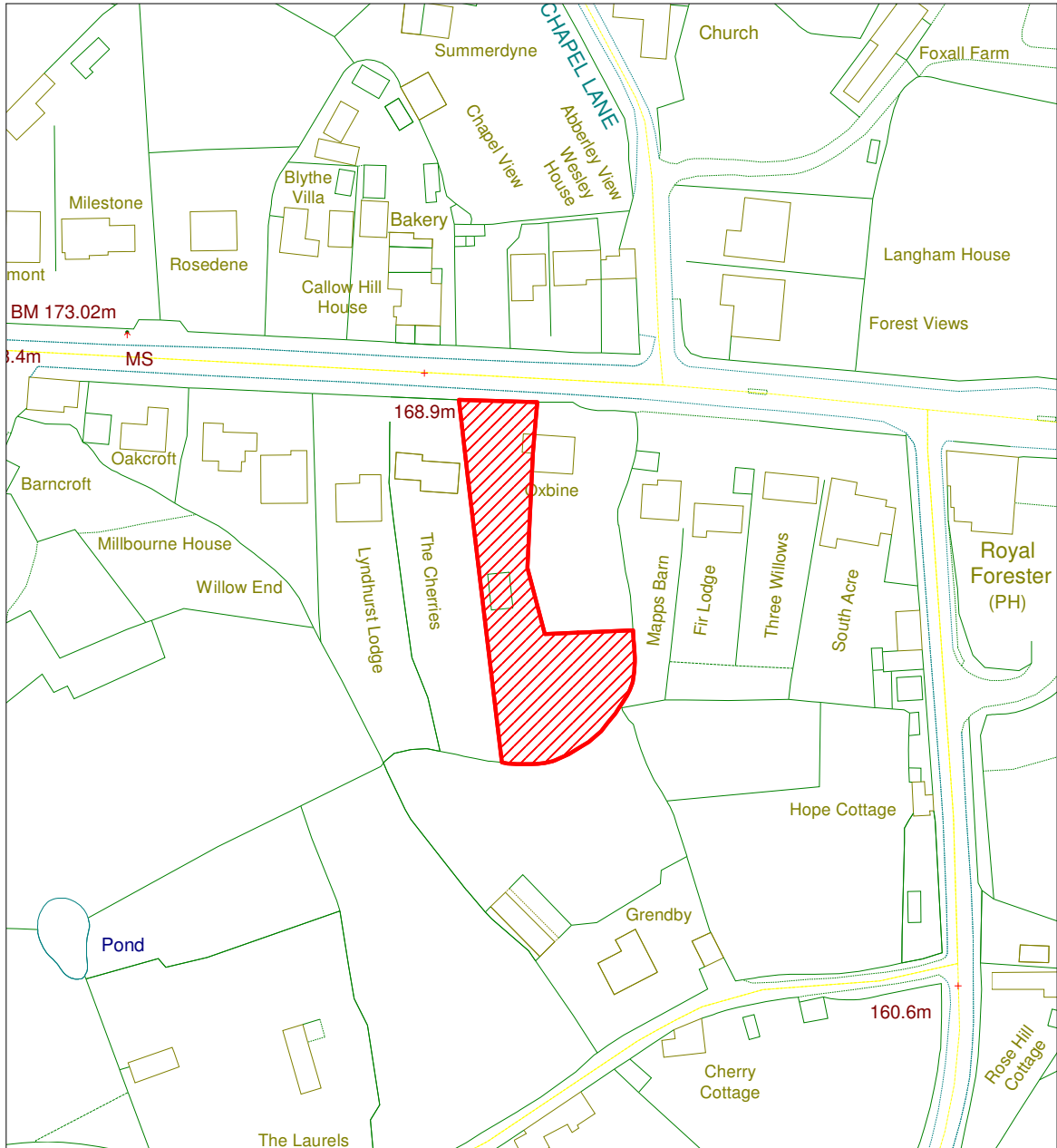
The proposed dwelling would form an infill development within the settlement boundary, are considered to be well designed and will have an acceptable appearance in the street scene. The impact of the dwelling upon the occupants of neighbouring properties has been carefully assessed and it is considered that there will be no undue impact on amenity. The proposed development is considered to accord with the requirements of Policies H.2, D.1, D.3, D.4, D.5, D.10, D.11, D.13, LA.2, TR.9 and TR.17 of the Adopted Wyre Forest District Local Plan (2004).

Date:- 25 August 2009

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Application Reference: 09/0541/FULL	Date Received: 28/07/2009
Ord Sheet: 374138 272934	Expiry Date: 22/09/2009
Case Officer: Paul Round	Ward: Rock

Proposal: Demolish existing dwelling, erection of replacement bungalow with vehicular access & parking (re-sub.08/1097)

Site Address: ELFIN GLEN, ROCK, KIDDERMINSTER, DY149YH

Applicant: Mr P Rogers

Summary of Policy	H.9, D.1, D.3, D.4, D.5, LA.1, LA.2, LR.9, TR.17, NR.7 (AWFDLP) CTC.1 (WCSP) QE.3, CE.6 (WMRSS)
Reason for Referral to Committee	Third party has registered to speak at Committee
Recommendation	APPROVAL

1.0 Site Location and Description

- 1.1 Elfin Glen is a detached property situated in Gorst Hill 240m south from the junction with Dark Lane, and shares an access with Bransley Farm.
- 1.2 The site is located within the Landscape Protection Area, and trees are protected by a Tree Preservation Order.
- 1.3 The proposal seeks for demolition of the existing property and the construction of a replacement dwelling in an altered location.

2.0 Planning History (of relevance)

- 2.1 07/1027/CERTE – Certificate of Lawfulness (use of land as garden) : Approved
- 2.2 07/1042/FULL - Extensions : Approved
- 2.3 08/1097/FULL - Replacement dwelling : Approved

3.0 Consultations and Representations

- 3.1 Rock Parish Council – No objection and recommend approval
- 3.2 Highway Authority – No objection subject to conditions

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- 3.3 Arboricultural Officer – Elfin Glen has a number of trees around the perimeter of the site, some of which are covered by a Tree Preservation Order (TPO). A number of them are young trees planted to mitigate for the loss of several mature trees, which were removed as part of application 08/025/TREE.

The centre of the site is now clear of trees, which did include a mature Common Oak that was removed without consent. As a result the proposed dwelling will not have a direct effect on any of the remaining trees.

There is a concern for the mature Common Yew that is located between the access road and the existing dwelling. This is one of the protected trees and will have to be retained. To do this there needs to be careful consideration for how the existing dwelling is to be demolished and to ensure no excavation or compaction takes place within the Root Protection Area (RPA).

It is proposed that the existing access road is used to service the new dwelling and be resurfaced. I am happy for that to take place as long as there is no need to remove the existing surface to lay the new surface.

Trees 2 to 6 will not have a large RPA as they are young trees that have not been established yet, however they will need to be protected during the construction phase.

T7 is the only other large mature tree on the site and this will need to have a RPA of 12 x the Diameter at Breast Height (DBH) to prevent storage of materials and compaction.

I have no objection to the proposed development, however I would like to see a condition for an Arboricultural Method Statement that should include the following:

1. Details how the existing dwelling is to be removed without causing damage to the Yew above or below ground.
2. Details on how the new access road is to be constructed.
3. Details of protective fencing for all the trees in accordance with BS5837:2005

- 3.4 Countryside and Conservation Officer – No objection. Conditions to include the erection of the couple of bat boxes as recommended in the report and remind applicants that they still need to be vigilant when they take the roof off for bats.

- 3.5 Neighbour/Site Notice – 1 letter received raising the following comments:

1. Concerns about access to the farm. Proposal shows fence around the tree which will restrict access.
2. The existing septic tank is insufficient to cope with new dwelling.
3. Do not wish rubble to be dumped on fields.
4. Trade business taking place at property.

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4.0 Officer Comments

- 4.1 Policy H.9 controls replacement dwellings within this location stipulating that they are permissible provided that:
- the existing dwelling is not of historic or local architectural interest;
 - the use has not been abandoned;
 - it is comparable in size and 3 dimensional scale of the existing dwelling;
 - it would relate harmoniously to any other buildings in the locality and be in keeping with the character of the area;
 - it is located on the site of the existing dwelling except where a less prominent position is available nearby.
- 4.2 The consideration of these points forms the basis of considering the application.
- 4.3 The property is in a pretty poor state of repair and offers little in terms of intrinsic value or character to the surrounding area. Although extensions have been permitted on the structure to help in its longevity, the building is not in my view a feature that is worthy of retention under this policy context. It is clear from visiting the site that the use has not been abandoned.
- 4.4 The existing building is reasonably small; however the proposed extensions result in a modest footprint 103 sq m and height of 4.2m. It is clear that substantial works are required to enable the works of extending the property to take place. As such, I agree with the Applicants that the most reasonable conclusion is to demolish the existing building. The replacement building is of lesser footprint measuring 100 sq m and slightly higher at 4.3m. The resulting building is in a more consolidated form having reduced depth and slightly wider frontage. Where comparing the existing and proposed properties they are of comparable size and scale and are considered acceptable in the context.
- 4.5 The design of the property mimics the style and fenestration of similar rural properties in the area and, whilst not a striking design, it fits well in the context of the location. Due to the low level nature of the roof it sits down in the countryside and does not adversely affect the protected landscape.

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- 4.6 In respect of position, the existing dwelling sits within a small triangular shape piece of land and is impinged on the north-west corner by a protected Yew tree. The amenity space for the existing dwellings exists across the access track. It is proposed to locate the new dwelling on the larger garden area enabling it to be set back from the road reducing the visual impact on the lane and allowing the protected Yew tree to grow unencumbered. I agree with this approach and feel that the proposed position decreases the prominence of the site.
- 4.7 Access to the new property will continue to rely upon the existing farm access road although the radius and surface are to be improved as part of the scheme to help vehicle access to the dwelling and agricultural access to the farm. The Highway Authority has no objections the scheme.
- 4.8 The previous application was withdrawn due to the lack of a bat survey. This has now been carried out and it is concluded there are low potential for the use of the existing building by bats. However as required by PPS9, biodiversity enhancements are recommended in respect of bat boxes and foraging grounds. These can be secured by condition.
- 4.9 Drainage is considered to be acceptable at this stage, although further details of the capacity of the system will need to be submitted as part of any approval.

5.0 Conclusions and Recommendations

- 5.1 The proposed replacement dwelling is considered acceptable in size, design and siting and will not result in harm being caused to the character of the area or the Landscape Protection Area. Matters of highway safety and neighbours amenity have been considered, however it is concluded that no adverse harm will occur.
- 5.2 I therefore recommend **APPROVAL** subject to the following conditions:
1. A6 (Full with no reserved matters)
 2. A11 (Approved plans)
 3. B1 (Samples/details of materials)
 4. Prior to any demolition or works commencing on site an Arboricultural Method Statement shall be submitted to and approved in writing.

09/0541/FULL

5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) (or any order revoking and re-enacting that Order with or without modification), extensions (including porches and canopies), alterations to external elevations (including painting and cladding), alterations to the roof, construction of outbuildings or swimming pools, installation of chimneys, flues, satellite dishes, solar panels (either on the building or freestanding), or installation of ground or water source heat pump within the curtilage of the dwelling, other than those expressly authorised by this permission, shall not be carried out without express planning permission first being obtained from the Local Planning Authority.
6. B15 (Owl/bat box)
7. C6 (Landscaping – small scheme)
8. C8 (Landscape implementation)
9. Vehicular access construction
10. Driveway and/or vehicle turning area
11. Access, turning and parking
12. Parking for 2 cycles
13. Parking for site operatives and visitors

Notes

- HN1 Mud on highway
HN5 No highway works permitted
SN3 Protection of species

Reason for Approval

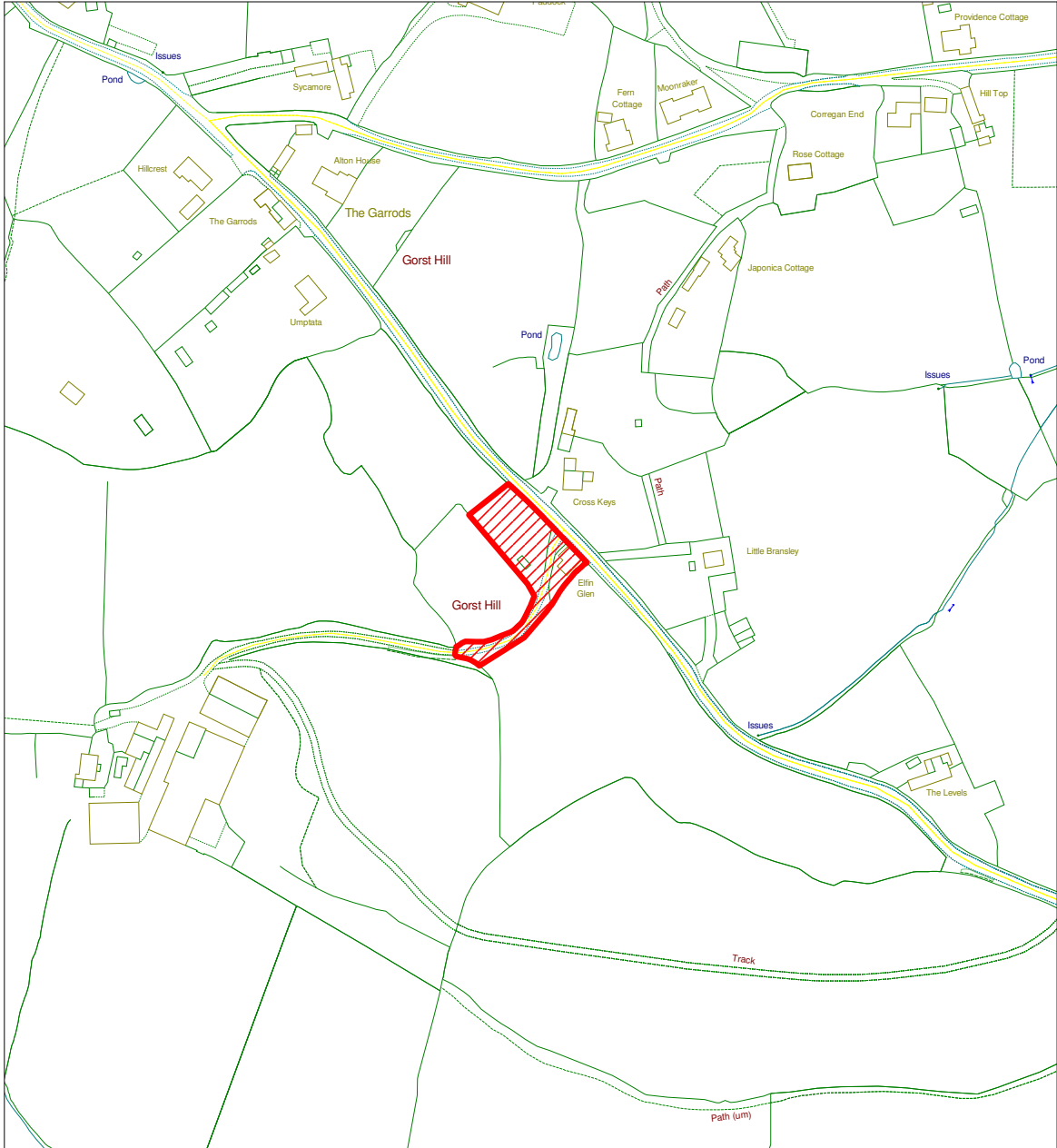
The proposed replacement dwelling is considered acceptable in size, design and siting and will not result in harm being caused to the character of the area or the Landscape Protection Area. Matters of highway safety and neighbours amenity have been considered, however it is concluded that no adverse harm will occur. For these reasons the proposal is considered to be in accordance with the above policies of the Adopted Wyre Forest District Local Plan.

Date:- 24 September 2009

OS sheet:- SO7472NW

Scale:- 1:2500

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Application Reference:	09/0551/FULL	Date Received:	03/08/2009
Ord Sheet:	384005 278273	Expiry Date:	28/09/2009
Case Officer:	James Houghton	Ward:	Broadwaters

Proposal: Erection of a single storey extension (for disabled child)

Site Address: 8 SION AVENUE, KIDDERMINSTER, DY102YJ

Applicant: Mr C Downes

Summary of Policy	D.1, D.3, D.17 (AWFDLP) QE.3 (WMRSS) Design Quality SPG PPS1
Reason for Referral to Committee	Third party has registered to speak at Committee
Recommendation	APPROVAL

1.0 Site Location and Description

1.1 The application property is a two storey, hip roofed dwelling set back from the road behind a front drive and gardens. The property benefits from a two-storey, half-hip roofed side extension as well as a single-storey, mono pitch roofed rear extension.

2.0 Planning History

- 2.1 WF/0594/03 – Erection of two-storey extension : Approved 18/07/03
- 2.2 WF/1301/03 – Retention of two storey extension (revision to WF.594/03) (Retrospective) : Approved 10/02/04
- 2.3 A mono pitch roofed single-storey rear extension has also been erected, presumably under the provisions of the Town and Country Planning (General Permitted Development) Order 1995 or its predecessor.

3.0 Consultations and Representations

3.1 Highway Authority – No objections subject to the addition of a condition requiring the provision of a further parking space, increasing the total to two spaces, to any approval issued.

09/0551/FULL

3.2 Neighbour/Site Notice – Letters of objection have been received from those representing the occupant of a neighbouring property. The objections raised are:

- The proposed extension would appear to increase the existing ground area by approximately 50% resulting in a building out of scale with those in the surrounding area.
- The creation of a further bedroom may result in the need for a further parking space.
- The appearance of the proposed extension is out of character with dwellings in the immediate area.
- The property has no rear access and as such there are concerns as to how the necessary materials will be moved on site.
- The proposed extension would reduce the levels of day light currently enjoyed by the occupant of the neighbouring property as well as to the garden of the neighbouring property.
- Could the existing garage not be utilised to provide a further bedroom.
- Guttering may overhang boundary.

4.0 Officer Comments

4.1 The applicant seeks approval for the erection of a pitch roofed single-storey rear extension providing shower room and bedroom for a disabled child.

4.2 With dimensions of 3.4 metres wide by 7.5 metres deep, the extension would be positioned along the boundary with No.7 Sion Avenue to the north of the application property. To the rear of No.7 is an existing substantial wooden outbuilding which runs along the boundary shared with No.8. In this regard, the view of the extension from the neighbouring property would be severely limited, and the 45° Code rendered somewhat irrelevant in this instance. It should be noted that should the existing outbuilding be removed the proposed extension would breach the 45° code but meet the requirements of the 25° tilt guidelines when taken from the small window to the rear of No.7, closest to No.8, which is presumed to serve a habitable room. The 45° code, when applied in respect of No.9, is considered acceptable given the distances involved.

09/0551/FULL

- 4.3 The proposed extension is to the rear of the property and as such would offer minimal detriment to the street scene and would not contribute to the application property appearing incongruous in either side or design.
- 4.4 A condition requiring that an extra parking space be provided within the curtilage of the site is recommended to ensure that the parking standards as set out in Appendix 9 of the Adopted Wyre Forest District Plan (2004) are complied with.
- 4.5 In considering the application, there are clearly emotive issues as far as the applicant is concerned, in seeking to provide a suitable level of comfortable, ground floor accommodation, for their disabled child. This, however, must be balanced against the relevant policies and guidance. It is a fact that the original property has been extended previously, as detailed earlier in this report. These already represent a 73% increase over the original floor space of the dwelling. The proposed extension would further increase this figure to a 140% increase which, given the urban context and position of the extension, is considered acceptable as there would be no detrimental impact on either the appearance of the host dwelling or the street scene.
- 4.6 It has been suggested by the neighbour that the existing garage be utilised to convert to a bedroom, and at a depth of 5.8 metres this would, at first glance, appear to have some merits; however, at just 2 metres wide this would provide little opportunity for the necessary circulation space around furniture and would have a very unpleasant and claustrophobic feel, and on this basis it is perhaps understandable why this potential option has not been seriously considered.
- 4.7 Issues concerning the position of guttering on the boundary, the movement of materials during the construction process and the use of the garage as further living accommodation rather than the extension have been taken into account but would not be considered material considerations in the determination of this application.

5.0 Conclusions and Recommendations

- 5.1 In consideration of Articles 1 & 8 of the Human Rights Act 1998, it is recommended that this application be **APPROVED** subject to the following conditions:
1. A6 (Full with no reserved matters)
 2. A11 (Approved plans)
 3. B3 (Finishing materials to match)
 4. Parking single house 2 spaces
 5. Boundary fencing

09/0551/FULL

Note
SN12 (Neighbour's Rights)

Reason for Approval

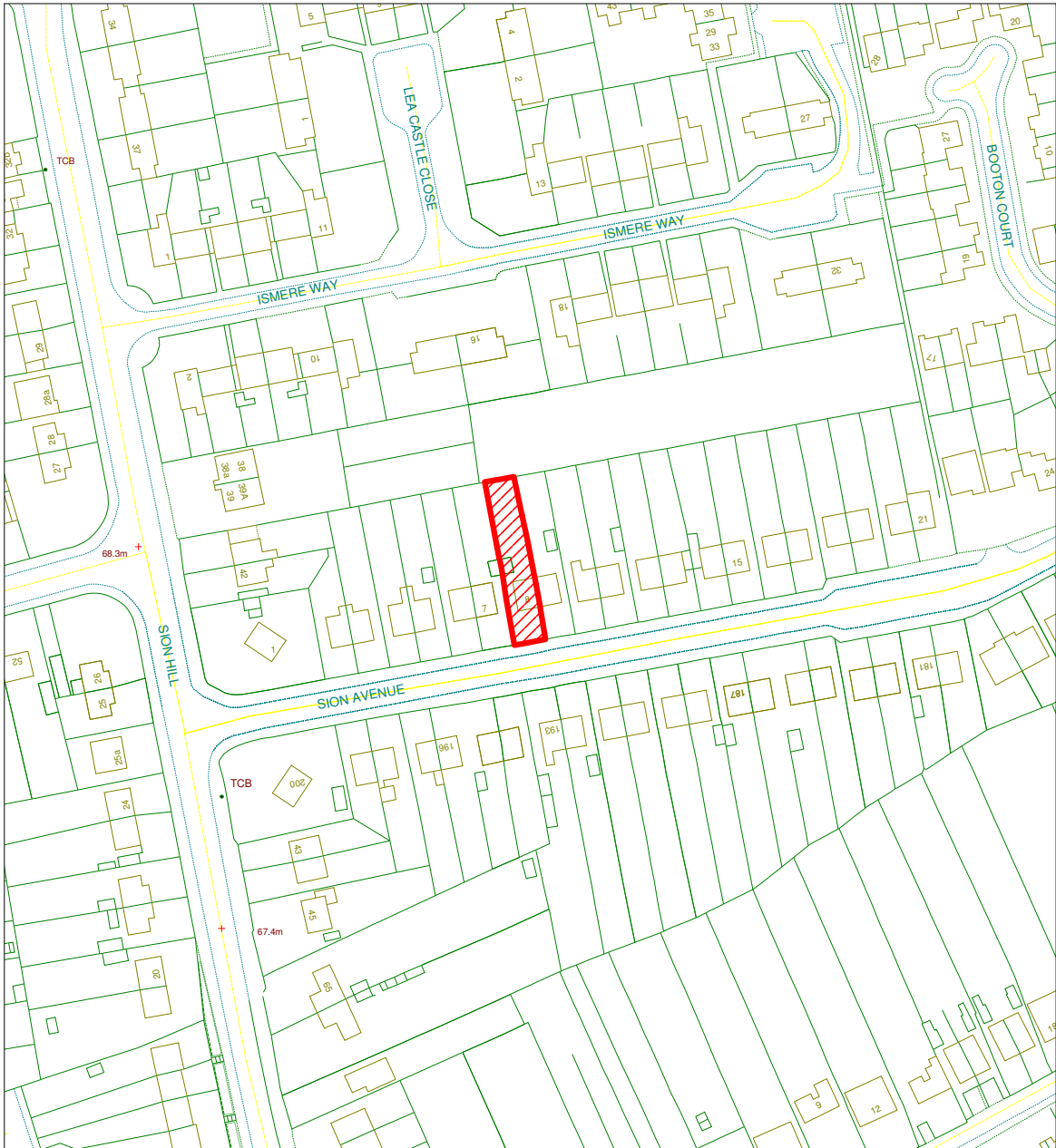
The proposed extension is considered to be of an appropriate scale and design in relation to the host dwelling and would have no detrimental impact on the street scene. The impact of the extension on the occupants of neighbouring properties has been carefully assessed and it is considered that there will be no undue impact upon their amenity, any potential for harm can be controlled through condition. For these reasons the proposal is considered to be in accordance with Policies D.1, D.3 and D.17 of the Adopted Wyre Forest District Plan.

Date:- 24 September 2009

OS sheet:- SO8478SW

Scale:- 1:1250

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WYRE FOREST DISTRICT COUNCIL

PLANNING COMMITTEE
13TH OCTOBER 2009

PART B

Application Reference:	09/0509/FULL	Date Received:	17/07/2009
Ord Sheet:	381229 271494	Expiry Date:	16/10/2009
Case Officer:	Paul Round	Ward:	Mitton

Proposal: Redevelopment to form 45 sheltered apartments for the elderly, communal facilities with access, car parking & landscaping (re-submission of 06/1239/Full)

Site Address: FORMER SHELL GARAGE, VALE ROAD, STOURPORT-ON-SEVERN, DY138YJ

Applicant: Churchill Retirement Living Ltd

Summary of Policy	H1, H2, H4, H5, H10, D1, D2, D3, D4, D10, D11, D13, NR8, NR9, NR11, TC2, LA6, TR6, TR9, TR17, IMP1, CA1, CA2, CA6, HL1, NC2, NC3, NC6 (AWFDLP) CTC5, CTC20, D6, D9, IMP1, SD3, SD4, SD5, SD6, (WCSP) CF2, CF3, CF4, CR5, QE1, QE3, QE5 (RPG11) BPS1, PPG3, PPS3, PPS6, PPG15 Design Quality SPG (2004) Stourport Public Realm Design Guide Stourport on Severn (2006) Planning Obligations SPD
Reason for Referral to Committee	'Major' planning application
Recommendation	REFUSAL

1.0 Site Location and Description

1.1 The application site is of an irregular shape and has an area of 0.228 hectares. It is located between Vale Road which lies to the east, the Staffordshire and Worcestershire Canal which lies to the west, the Esso petrol filling station which lies to the north and the War Memorial Gardens which lie to the south. The site currently vacant formerly being occupied by a petrol filling station.

1.2 The application site has common boundaries with the Stourport on Severn Conservation Area (No.2) and the Staffordshire and Worcestershire Canal Conservation Area.

09/0509/FULL

- 1.3 The application is a re-submission of the previously approved application which remains extant until March 2010. The application seeks consent for a total of 45 sheltered apartments (31 x 1 bed and 14 x 2 bed). The site would be accessed by a single point of access from Vale Road leading to an internal court yard car park of 14 spaces including 3 disabled spaces and a drop off zone.
- 1.4 The submitted plans indicate the development of a single block in a U-shaped layout with the main frontages to Vale Road, the Canal and the War Memorial Gardens.

2.0 Planning History

- 2.1 WF.438/90 – Alterations to workshop and erection of car wash: Approved 17.7.90
- 2.2 WF.785/93 – Garage use, service, repairs and supply and fitting of exhaust and tyres: Approved 14.12.93
- 2.3 WF.48/01 – Display of 1 wall unit: Refused 12.9.01
- 2.4 WF.284/04 – Change of use to car sales area on part of site: Approved 18.6.04
- 2.5 WF.06/0146/FULL – 45 Sheltered apartments for the elderly with communal facilities with access, parking and landscaping: Refused 24.4.06 Appeal Withdrawn
- 2.6 06/1249/FULL - 45 Sheltered apartments for the elderly with communal facilities with access, parking and landscaping: Approved

3.0 Consultations and Representations

- 3.1 Stourport-on-Severn Town Council – Views Awaited
- 3.2 Highway Authority – The application proposes to not offer any section 106 contributions unlike the previously consented application. The previous application contributed towards a controlled pedestrian crossing across Vale Road and it is considered that there is a desire line from the application site and the vulnerable nature of the persons that would be residing in the development warrant the promotion of a controlled crossing as it has a strong connection to application site. It is concluded that the non provision of a section 106 contribution to the provision of a controlled crossing will place vulnerable persons in conflict with motor vehicles when they are trying to cross a 3 lane carriageway.

The Applicants have agreed to the contributions required by the Highway Authority. As such the Highway Authority has verbally confirmed that they now have no objection to the scheme.

09/0509/FULL

3.3 Environment Agency – We object to the proposed development and our reasons are set out below.

BGS map 182 for Droitwich shows the site is underlain by the third Terrace deposits which are in turn underlain by Wildmoor Sandstone Formation.

The Wildmoor Sandstone is classified as a major aquifer of high vulnerability to pollution, as defined by our policy and practice for the protection of groundwater. The site is not located within a source protection zone but is situated immediately adjacent to the Staffordshire and Worcester Canal.

The developer proposes to redevelop a former Shell Garage and Petrol Filling Station into 45 sheltered apartments for the elderly with associated communal facilities, car parking and access from Vale Road. The previous use of the site is considered to be a potentially contaminating use.

The previously submitted Site Search report, ref.SCPO-10177651-1-1 (our ref: SV/2007/100438/01), unfortunately falls short of our expectations with regard to Planning Policy Statement 23: Planning and Pollution Control (PPS23) and the Environment Agency Guidance on 'Requirements for Land Contamination Reports', which can be obtained from our website. This guidance provides information on what we would expect from land contamination reports as a minimum. The information previously submitted does not address these requirements.

At present we object to this development as there is insufficient information both to demonstrate the risks to controlled waters are understood, and to demonstrate how the risks can be mitigated. We would therefore recommend that a comprehensive site investigation and assessment be submitted in line with PPS23, including Annex 2 : Development on Land Affected by Contamination, prior to any decision on this planning application

Objection:

We object to the proposed development as submitted because there is insufficient information to demonstrate that the risk of pollution to controlled waters is acceptable.

There are three strands to this objection. These are that:

- We consider the level of risk posed by this proposal to be unacceptable
- The application fails to provide assurance that the risks of pollution are understood, as a preliminary risk assessment (including a desk study, conceptual model and initial assessment of risk) has not been provided. PPS23 takes a precautionary approach. It requires a proper assessment whenever there might be a risk, not only where the risk is known
- Under PPS23, the application should not be determined until information is provided to the satisfaction of the Local Planning Authority that the risk to controlled waters has been fully understood and can be addressed through appropriate measures. This is not currently the case.

09/0509/FULL

Background:

This application is a resubmission of 06/1239/Full. We objected to this proposal due to a lack of information submitted as recommended by the precautionary principle in PPS23. However because we had suggested conditions for an earlier application it was felt unreasonable at the time to maintain our objection. Three years have passed and to date we have received no further information in order to enable us to assess the contamination present at the site and we feel that enough time has elapsed between the publication of PPS23 and the submission of this application that the requirements of the PPS have become well known enough that a proper assessment of the potential for contamination could have been completed. As such we will not be recommending conditions in this instance.

Information submitted in support of the application, namely the telefax transmission from Crossfield Consulting limited dated 12 April 2005 notes that the site is within an environmentally sensitive area. It also states there are likely to have been leakages associated with storage tanks and fuel lines used by the Petrol Filling Station and hydrocarbons in the vicinity of the drainage interceptors.

The transmission then goes on to inform the applicant that “additional investigation and monitoring will be required in order to satisfy the Environment Agency”. The telefax notes that a Quantitative Risk Assessment should be submitted and concludes by stating “it will be necessary to undertake additional investigation and to produce a report for submission in support of any planning application”. As this transmission is dated 2005 we feel that applicant was well aware of the need to produce assessments into potential contamination and the failure to do so should be taken into account when considering this application.

The sites’ previous use as a Petrol Filling Station which are often contaminative suggests that Saved Policy NR.2 of the Wyre Forest Local Plan (below) supports our position.

Policy NR.2

Applications for the development of land where contamination is known to exist or is suspected must normally be accompanied by a detailed survey identifying existing ground conditions and the remedial measures required to ensure safe development.

We would expect your Environmental Health department to provide you with their views in relation to public health as our response relates to potential risks to Controlled Waters only.

We will reassess our view on the planning application when further information is provided and would wish to be re-consulted by you when you have additional information.

09/0509/FULL

Foul sewerage:

The submitted planning application form states that the method for disposing of foul sewage is unknown. This is not acceptable, connection to mains sewers particularly in urban areas is our recommended means of foul drainage subject to Severn Trent confirming that they are able to accept the extra load without detriment to the environment.

- 3.4 Conservation Officer - I do not have any further comments to this scheme than my original comments on the application, and recommend approval for the scheme, subject to the same conditions as were placed on the original scheme.
- 3.5 Ramblers Association - We have nothing to add to our previous comments regarding the development on this site.
- 3.6 Crime Risk Manager - The area in which this proposed development is to be built is not a high crime area, however it is not a crime free area, there have been burglaries to nearby premises and damage caused to property in the area.

I do have some observations to make regarding this development.

Parking:

Considering the number of residents the parking provision seems inadequate. I am concerned that if visitors arrive to find the car park full they will be unable to turn their vehicle round and will then have to reverse out onto a busy main road.

The car park should be well lit with no areas of shadow this would deter crime and reduce the resident's fear of crime.

If the complex is to have a CCTV system I suggest that cameras cover the car park.

General Security:

The planning statement states that a Gazebo style building is provided for the storage of battery cars for use by the residents. The drawings supplied indicate that this area runs parallel with the main drive. Whilst it has gates at the front facing Vale Road, access from the resident's car park appears to be completely unprotected. Consequently intruders can simply walk in and either steal a vehicle or more likely steal the battery from it. In addition it provides a handy shelter for non residents.

The ease of access into this area makes the door from it into the flats very vulnerable to attack. The door has no natural surveillance over it. It is possible for intruders to spend a considerable amount of time forcing the door without being seen or disturbed.

09/0509/FULL

I strongly suggest that the security for this area be improved. In my opinion the best option is to place an electronically operated gate at the car park entrance. If the gate were operated by an electronic fob, it would give residents ease of access and offer increased security, both for the disabled vehicles and the door to the flats.

I understand that an access control system is to be fitted on the main entrance, however there are other entrances into the flats, specifically the door from Vale Road into stair one, the door from the battery car area and the door onto stair three. If these doors are to be used by residents it is important to ensure that the security of the complex is not compromised by unauthorised people gaining access through them. The doors should be fitted with self closing devices and I suggest that CCTV cameras be placed on all of these doors to both ensure the safety of those using them legitimately and to deter unauthorised access.

- 3.7 British Waterways - After due consideration of the application details, British Waterways has **no objections** to the proposed development, **subject to** the imposition of suitably worded **conditions** and the applicant first entering into a **legal agreement** relating to:

With a previous application British waterways welcomed the design, detailing and materials of new buildings which reflect and complemented the local historic vernacular and elements within the landscape, using simple and robust designs consistent with the character, function and scale of the waterway corridor. There is insufficient detail from the plans submitted to see if the landscaping has changed significantly from the previous design and British Waterways seeks reassurance that this is the case.

British Waterways welcomes the use of the towpath as an integral part of the residential scheme.

We wish to confirm that the previous section 106 agreement relating to this site will be unaffected and will continue to cover:

- upgrade and widen the towpath to be DDA complainant to ensure that increased pedestrian numbers can be accommodated safely as part of the development. The waterway should be treated as a 'pedestrianised street' useable by motorised wheelchairs, with the development being accessed from the towpath;
- provide a public access point which should be created between the towpath/waterside and the development to increase interest, vitality and security along the waterfront. These access points should be clearly visible from the towpath in order to give reassurance to the towpath user that easy regular exit points are available;
- to maintain the hedging and vegetation adjacent to the development.

09/0509/FULL

In addition we would seek to have conditions that reflect:

1. Barriers along the waters' edge like walls and railings should in general not be used on the towpath. In the case of an elderly scheme waterside barriers like railings should only be used where there is a high-perceived risk of falling into the water or where there is restricted space along the waterside. They should be designated to avoid visual intrusion or clutter;
2. There should be a cohesive approach to the boundary treatment, which reflects and augments the character of this particular stretch of waterway. British waterways would like to approve the final details of the materials used. New development, infill or additions can be acceptable in historic settings provided that they maintain an appropriate visual context of form, scale, texture, materials and do not reduce the cultural significance of the setting;
3. Any vegetation removal should be kept to a minimum to retain both the existing character of the area and its habitat value. However, we welcome the removal of large trees within 4 metres of the canal side to protect the integrity of the bank. Hedges and trees owned by British Waterways must not be affected without prior approval. British Waterways will require details of any planting proposed or trees to be removed from the waterside to enable assessment of any impacts on the waterway. These should be submitted to British Waterways Environment and Heritage team.
4. All new planting should seek to use locally appropriate, native species that will create viable areas for habitat development such as insects and bats along the canal corridor
5. Any imported topsoil necessary for the proposed development should be from a source this is free of invasive plants, their roots or seeds to avoid introducing them to the site and potentially spreading them along the waterway corridor
6. Great care needs to be taken during the work, in accordance with the current Environment Agency Pollution Prevention Guidelines, to guard against potential contamination of the waterway and groundwater from wind blow, seepage or spillage of materials at the site.
7. Thorough checks should be made before any works commence to determine what contamination threat exists. If contaminated land is disturbed or exposed by a development then there may be a risk of contaminants entering the surface or groundwater and an assessment of the contamination risk should take place. Further details should be forwarded to British Waterways.
8. An estates agreement will need to be in place with regard to the access steps to the site which appear to be onto BW land? The developer will need to contact British Waterways to obtain the necessary approvals.

There should be no drainage to the canal.

09/0509/FULL

British Waterways offers no right of support.

British Waterways require adequate access in order to maintain the embankment and culvert structure. We would therefore request that a buffer strip of land 3 meters from the embankment is kept clear of all buildings and permanent structures along the boundary of the site. British Waterways would require sight of the full construction drawings of the foundation to the west elevation of the buildings before giving our final approval. The developer should contact Des Harris as below with the details.

If the Council is minded to grant planning permission, it is requested that the following informative is attached to the decision notice:

“The applicant/developer is advised to contact third party works engineer, Des Harris (01827 252 038) in order to ensure that any necessary consents are obtained and the works are compliant with the current British Waterways’ ‘Code of Practice for Works affecting British Waterways”.

- 3.8 Stourport on Severn Civic Society - We cannot support this application as:
1. The changes proposed to already agreed plans are not clear
 2. The site plan is inaccurate. The adjacent Esso Petrol Station seems to have been replaced by a tree and a building belonging to St Wulstans (which is on the opposite side of the road).

- 3.9 Housing Services Manager – Views Awaited

- 3.10 Arboricultural Officer - I am in complete agreement with the Arboricultural Impact Assessment supplied by Barrell Tree Consultancy, however the proposed design doesn't take these findings into account. The group of trees that border the canal path are recommended for retention by the Arb Report, but highlighted for removal in drawing 1195/1F.

These trees are individually unimpressive, however as a group they add to the amenity of the footpath and I feel they are an important feature and therefore should be retained.

I recommend refusal on the basis that the trees along the canal path are to be removed as part of the application.

The remainder of the trees are in a poor condition and/or have low amenity so I have no objection to their removal.

- 3.11 Forward Planning Manager – Views Awaited

- 3.12 Environmental Heath – Views Awaited

- 3.13 Neighbour/Site Notice – No Comments received

09/0509/FULL

4.0 Officer Comments

- 4.1 This application is identical to the one submitted and approved in 2007, however whilst many of the considerations are the same since the time of decision there are some matters that determine that the application should be looked at in a different light.
- 4.2 For clarity I have replicated the Officers Comments on 06/1239/FULL below, and the current considerations follow directly after.

PREVIOUS OFFICER COMMENTS

1. *The agent on behalf of the applicants has advised that the provision of 45 Category 2 sheltered apartments for the elderly are designed to meet the needs of independent retired people and would provide self contained apartments for sale. Features of the scheme include:*
 - *a visiting lodge manager who would live in close proximity to the site;*
 - *a Communal owners lounge (for coffee mornings/bridge; evenings/residents meetings)*
 - *a guest suite;*
 - *a communal laundry facility;*
 - *emergency alarms fitted in each apartment and in communal areas;*
 - *1 communal lift wide enough to accommodate a wheel chair; and*
 - *communal landscaped garden areas*
2. *As stated previously this form of accommodation is described as sheltered housing or Category 2 accommodation and it is designed for independent living rather than extra care housing for older people with a high level of dependency or very sheltered/ assisted living housing often described as 2+ sheltered housing.*
3. *The agent has advised that the apartments are sold with a lease containing an age restriction which ensures that only people of 60 years or over, or those or over with a partner of at least 55 can live in a development. The accommodation would be managed by the Peverel Group, a Company which specialises in the management of retirement developments, with approximately 1500 retirement developments throughout the United Kingdom.*

09/0509/FULL

4. *Members may recall a previous application for 45 sheltered apartments which was reported to the Planning (Development Control) Committee Meeting of 11th April 2006 (06/0146/FULL). That application was refused for a total of 4 reasons relating to the following:*
- i) use of the ground floor;*
 - ii) lack of affordable housing;*
 - iii) proposed design; and the*
 - iv) failure of the proposed layout to adequately meet the needs of disabled people.*

The current application seeks to overcome these previous reasons for refusal.

USE OF THE GROUND FLOOR

5. *The starting point is the land use designation within the Adopted Local Plan (2004). In this case the application site is not allocated for any particular use. The site is however located within the inset area for Stourport on Severn and therefore is subject to Policy TC2.*
6. *Policy TC.2 states that within the Town Centre inset areas residential development will be allowed only above retail and business premises. Therefore the current scheme which proposes residential uses at ground floor is contrary to this Policy. This conflict with the Adopted Local Plan formed the first reason for refusal of the previous application.*
7. *In response to this reason for refusal the applicants have submitted a supporting Retail Statement by MWA Planning and Development Consultancy. The report sets out the following conclusions:*
- i) The site is not allocated for retail, commercial or mixed use development in the Adopted Local Plan.*
 - ii) Land to the north of the site (Esso Petrol Filling Station) is specifically identified for retail development under Policy STC.6. However the Council did not see fit to include the application site within this identified area.*
 - iii) This is an edge of centre site where a quantitative need for retail floor space on the application site does not, on the basis of the consultants assessment, exist. Without proving a quantitative need a retail scheme would be contrary to Local Plan Policy RT4 as well as Government advice in PPS6.*

09/0509/FULL

- iv) Sequentially preferable sites (premises) exist to meet the very limited quantitative need which exist, e.g. Bridge Street. These sites appear to be suitable and available for retail development.*
 - v) There appears to be limited retailer need for additional retail floorspace based on the known demand from retailers seeking space in the town.*
 - vi) The viability of any development is highly questionable given its remoteness from both the primary and secondary shopping areas, the low pedestrian flow along the frontage, the lack of any potential for linked trips and the low rateable values along Vale Road.*
 - vii) The scheme would not sustain and enhance the Town Centre. It would therefore not contribute to its economic and social role in the community.*
8. *The submitted report advises that Policy TC2 states that residential development will be permitted above retail and commercial premises within the Town Centre and in their opinion this does not apply to the site which lies outside the primary and secondary shopping areas.*
9. *Furthermore referring to Local Plan Policy RT4 this Policy states that within 300m of the primary shopping area (as this site is), new retail development should normally be limited to modest expansion of existing premises of 250 sq.m. or visually and functionally enhance existing facilities. First, a development for a mix of uses would involve the introduction of new retail units at ground floor level and, secondly, it is likely that retail development, even of a modest scale, would be in conflict with Policy RT4.*
10. *It is considered that whilst the use of the ground floor for residential accommodation conflicts with Policy TC2 and H2 the applicants have demonstrated why this site is not suitable for commercial uses. In addition it is acknowledged that the development of the site will remove a building which is defined as poor quality in the Design Quality Supplementary Planning Guidance, and that the redevelopment would improve the street scene and the frontage to the canal towpath. It is therefore considered on balance that this reason for refusal could not be sustained at appeal. The provision of affordable housing therefore is a material consideration.*
- AFFORDABLE HOUSING*
11. *The scheme proposes a total of 45 units which is above the threshold for affordable housing according to Policy H10 of the Adopted Local Plan.*

09/0509/FULL

12. *Policy H10 indicates that the District Council will seek the provision of up to 30% of dwellings to be affordable taking account of levels of housing need and economic constraints. Furthermore Circular 6/98 provides greater information on factors which should be considered when assessing the level of affordable housing provision. These factors being:*
 - *Site size*
 - *Suitability*
 - *Economics of provision*
 - *The need to achieve a successful housing development*
13. *The second reason for refusal of the previous application related to the applicants failure in adequately demonstrating that a proportion of affordable units, of some form, could not be accommodated physically or financially on the site. To reiterate no affordable housing was offered as part of the previous application.*
14. *In response the agent on behalf of the applicant has submitted a report on the provision of affordable housing, to substantiate why affordable housing units cannot be accommodated on this site.*
15. *In short this relates to the size of the site,*

“the very limited size of the site and the applicants desire to develop a sustainable category 2 private sheltered housing scheme for elderly occupiers makes the provision of affordable housing on the site, in the form and type sought by the Council to meet their identified affordable housing need, incompatible with the need to achieve a successful sheltered housing development because, the two different types of housing having separate ownership and management regimes would need to occupy separate parts of the site, each with their own access, parking and grounds.”
16. *Secondly, from a management perspective it is not practicable to offer a two tier management service to residents of different tenures in the same building which, the Agent advises:*

“would inevitably lead to disharmony and potential resentment amongst residents and no doubt cause difficulties for the developments management”

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17. *As stated by the Housing Services Manager, the site is tightly constrained in terms of its size and it is not realistically feasible to accommodate two separate developments of different tenures to resolve management issues including different service charges within this site.*
18. *In contrast to the previous application the applicants have offered £224,000 as a contribution towards off-site affordable housing provision. In light of the evidence submitted by the applicants, together with case law, both of which have been considered by the Housing Services Manager, together with the Council's Affordable Housing Consultant it is considered that it would be preferable to accept the off-site contribution rather than sustain the previous reason for refusal at appeal.*

PROPOSED DESIGN

19. *The third reason for refusal with respect to the previous application referred to the poor quality design by virtue of several detailed matters of the design, together with the height and massing of the proposed west wing and its proximity to the canal.*
20. *As stated previously the agent has submitted a Design Statement which highlights the existing site constraints and opportunities. The agent considers that:*
 - *the existing buildings have no acknowledged historical or architectural significance*
 - *further south from Vale Road is Lion Hill where the buildings are in character with the older traditional parts of the Stourport on Severn with buildings (predominantly 3 storey) positioned close to the back of footpath and facing the road where they help to reinforce the line of the road, provide an active frontage and provide a sense of enclosure to the street.*
 - *whilst the site has a 40 m boundary to the canal to the west there are currently no buildings on site which address this potential frontage.*
 - *redevelopment could address the vast expanse of tarmac present on the site.*
21. *In summary the design solutions for the development of this site in context as submitted by the agents are as follows:*

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- i) *A three storey building has been designed and positioned close to the back of the footpath facing Vale Road, reinforcing the line of the road, providing an active frontage and helping to provide a sense of enclosure to the street.*
 - ii) *An active frontage has also been provided along the boundary with the canal to provide policing to the towpath and an attractive backdrop to the Conservation Area.*
 - iii) *Brickwork projections, arched window heads, regular spaced windows and exposed steel work provide the building with an identity which relates to elements of existing buildings in the location such as the Warehouse and Mill on the opposite side of the canal.*
 - iv) *The building has been positioned away from the southern boundary to allow a sitting out area to be provided with a south facing aspect.*
 - v) *A comprehensive landscaping scheme has been prepared.*
22. *In response to the previous reason for refusal Officers have negotiated a revised scheme with changes to be detailed elevations including:*
- *brickwork gables to replace timber clad gables*
 - *The removal of an inactive frontage to the south elevation facing the War Memorial Gardens*
 - *The replacement of the previous flat roof with a pitched roof facing War Memorial Gardens*
 - *A reduction in the appearance of the massing and height of the block fronting the canal by the introduction of gables to break up the roofscape.*
 - *The provision of detailed elevations to the south elevation facing the War Memorial Gardens and north elevation facing Esso Petrol Filling Station with the provision of windows and dummy windows to provide attractive frontages;*
 - *The provision of French windows facing the canal*
 - *Dummy windows replaced by real windows facing the War Memorial Gardens.*

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- *A full landscaping scheme to provide trees and shrubs to the canal, identified in the Draft Conservation Area Appraisal for the Staffordshire and Worcestershire Canal Conservation Area.*
 - *A full boundary treatment plan to ensure a quality finish to the prominent frontages including the retention of the sandstone wall to the canal.*
 - *Details of the steps to the canal towpath.*
23. *It is considered that the provision of these improvements to the detailed design of the proposed development outweighs the previous concerns regarding the impact upon the Conservation Area, and the Conservation Officer is able to support the scheme in its current form. The proposed design of the scheme fits its context and will improve the existing frontages to Vale Road and the canal. Elements of the design can also be seen to have been drawn from existing parts of Stourport on Severn, notably Lion Hill and the existing warehouse on the opposite side of the canal.*
- DISABLED ACCESS*
24. *The final reason for refusal referred to the proposed layout and the entrances to the building conflicting with guidance regarding access for disabled people.*
25. *In response the current application has been submitted following extensive negotiations with the Council's Access Officer. The application has been submitted with an Access Statement which sets out how the design has been changed to achieve access by disabled people. It also acknowledges the limitations of the scheme.*
26. *In short the scheme includes:*
- *The provision of 3 disabled car parking spaces close to the principal entrance complete with cross hatched access zones to one side and the rear;*
 - *a drop off zone within the car park to cater for taxis, minibuses, ambulances and helpers;*
 - *a prominent courtyard entrance with an unobstructed line of site from the entrance to the courtyard;*
 - *a footpath surrounding the car park which is able to accommodate scooters;*
 - *a designated parking area for scooters;*

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- *level approaches to all entrances or ramps if necessary*
 - *where reasonably achievable pathways have been extended on the ground floor to link patio areas for the convenience of those in wheelchairs and with scooters;*
 - *all patios and balcony areas have a level approach;*
 - *the entrance door has automatic opening;*
 - *the internal corridors are wide enough to accept wheelchairs*
 - *the lift will accommodate independent usage by someone in a wheelchair*
 - *ambulant steps have been designed to lead to the canal towpath*
27. *In the light of the amendments to the scheme which has been designed to meet Category 2 sheltered accommodation, rather than extra care 2+ accommodation it is considered that the revised scheme is acceptable in terms of disabled access.*
- HIGHWAYS AND ACCESS*
28. *The scheme proposes a single point of access of Vale Road with the provision of 14 car parking spaces in a central court yard to serve the proposed 45 flats.*
29. *The proposed parking provision is one space short of the Adopted Wyre Forest District Local Plan Parking Standards of one car space per three units. It is however not considered that a reason for refusal on parking grounds could be substantiated in light of the location of the site adjacent to the Town Centre, and its close proximity to the Vale Road car park.*
30. *The agent on behalf of the applicant has also submitted evidence from recent research indicating that the average age of occupancy for similar developments is 76 and that within six months of occupation those people who move into the development with a car have generally sold it due to lack of need and proximity to services.*
31. *Finally an offer of £10,000 has been made towards sustainable transport measures which may include the provision of a pedestrian crossing at Vale Road.*
- OFF-SITE CONTRIBUTIONS*
32. *In order to support the current application the applicants have agreed to the following contributions:*

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- £224,000 towards off site affordable housing
- £10,000 towards sustainable transport measures within Stourport
- £2,733 towards upgrading the canal towpath (41 m of frontage x £100 per 1.5 m)

These would need to be secured through a Section 106 obligation.

OFFICER COMMENTS ON CURRENT APPLICATION

- 4.3 The applicants accept that the current application is almost a mirror of the proposal previously submitted. However they submit that changes in the financial market have result in difficulties in the valuation of the site and the ability to provide all of the S.106 contributions that were offered. To this end whilst accepting those contributions towards highways and the canal towpath are essential they are proposing to drop the contribution (£224.000) for affordable housing.
- 4.4 During the life of the application other issues have arisen which have also brought in to question the acceptability of the scheme, namely contaminated land and tree issues.
- 4.5 For clarity it is accepted that the design, layout and impact of the building has not altered and as such remains acceptable, as does the highway impact of the development.

CONTAMINATED LAND

- 4.6 The advice given by the Environment Agency above is clear that there is a significant lack of detail in respect of contaminated land and drainage. Government Guidance in PPS23 requires Local Planning Authority's to be satisfied about these issues before granting planning permission. The lack of additional surveys since the granting of the permission along with the growing knowledge of the Governments requirements leaves the Local Planning Authority as the decision maker with little choice but to follow the firm advice of the Environment Agency. Officers are of the opinion that the application falls on this ground alone.

TREES

- 4.7 A new Arboricultural Survey has been conducted to review the status of the trees. The Arboricultural Officer fully agrees with the new report which recommends the retention of the trees along the boundary of the site. Unfortunately whilst the report indicates how the trees can be retained, this has not been transposed on the proposed drawings which clearly show them as being removed. The applicants have acknowledged that the trees will remain but have failed to rectify the submitted drawings. I therefore feel that an additional refusal reason can be mounted on the basis of inaccurate and incompatible plans.

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AFFORDABLE HOUSING CONTRIBUTION

- 4.8 The nil contribution towards affordable housing has been justified by the Applicants on the basis of the valuation of the land and a financial assessment has been submitted to justify this case. The Council has employed the services of an independent expert to verify or otherwise this assessment and at the time of writing this report has not been received.
- 4.9 The lack of contribution is strictly contrary to policy H10 and advice in the Council's Supplementary Planning Document on Planning Obligations. However policy H10 does require the financial constraints of the site to be taken into account, this has been confirmed through case law and circular 6/98. We are looking for the Independent Experts report to confirm whether a nil contribution is applicable, or if a reduced contribution is more appropriate or whether the Local Planning Authority needs to look at an innovative way of dealing with the S.106 agreement The findings and recommendations of the Councils Independent Consultant will be reported via the Addenda and Corrections along with a recommendation on this particular issue.

5.0 Conclusions and Recommendations

- 5.1 Notwithstanding the delay on the affordable housing contribution advice, I am satisfied that the lack of detail on contaminated land and inaccuracies in respect of trees are sufficient reasons in their own right to justify refusal of the application.
- 5.2 I therefore recommend **REFUSAL** for the following reasons:
1. Insufficient information, including the lack of technical reports, has been submitted to fully assess the risk to controlled waters as required by policy NR2 of the Adopted Wyre Forest District Local Plan and Government Advice in PPS23, including Annex 2. As such it is considered that in the absence of such detail the level of risk posed by this development is unacceptable and contrary to policy NR2 of the Adopted Wyre Forest District Local Plan and Government Advice in PPS23, including Annex 2 (a copy of the Environment Agency's response is attached which gives background information on this refusal reason).
 2. Notwithstanding the submission of an acceptable Arboricultural Report, the proposed plans and details fail to conform to the submitted report and show the loss of substantial trees along the boundary with the Canal Conservation Area. These trees form a high amenity group which should be retained as part of the scheme. To lose these trees would cause harm to the visual amenities of the locality and be contrary to Policies D.3 and D.4 of the Adopted Wyre Forest District Local Plan.

Agenda Item No. 5

Application Reference: 09/0595/FULL **Date Received:** 21/08/2009
Ord Sheet: 385806 274980 **Expiry Date:** 16/10/2009
Case Officer: James Houghton **Ward:** Blakedown and Chaddesley

Proposal: Erection of a rear single storey extension.

Site Address: 94 STANKLYN LANE, STONE, KIDDERMINSTER, DY104AP

Applicant: Mr M Walker

Summary of Policy	D.1, D.3, D.17, GB.2, GB.6 (AWFDLP) QE.3 (WCSP) Wyre Forest District Design Quality SPG Planning Policy Statement 1 Planning Policy Guidance Note 2: Green Belts
Reason for Referral to Committee	Statutory or non-statutory Consultee has objected and the application is recommended for approval
Recommendation	APPROVAL

1.0 Site Location and Description

- 1.1 The application property is a semi detached, pitch roofed, brick built dwelling set back from the road behind a substantial front drive. The property benefits from a single storey flat roofed outbuilding to the rear which is mirrored at the adjoining neighbouring property no. 96.
- 1.2 The property as with other properties in the immediate vicinity benefits from a generous rear garden depth of in excess of 50 metres deep.

2.0 Planning History

- 2.1 WF/0867/01 – New vehicular access : Approved 19/11/01.

3.0 Consultations and Representations

- 3.1 Stone Parish Council – Object to the proposed development and recommend refusal on the grounds that the proposed extension is too large for the site and may result in the loss of amenity for neighbouring properties.
- 3.2 Neighbour/Site Notice – No representations received.

09/0595/FULL

4.0 Officer Comments

- 4.1 The applicant seeks approval for the removal of the existing single storey flat roofed out building and the erection of a pitch roofed single storey rear extension providing an extended breakfast kitchen.
- 4.2 At a depth of 3.5 metres and spanning the width of the original property, the proposed extension is considered appropriate in terms of both scale and design. The proposed extension would have a minimal impact on the privacy, outlook or daylight enjoyed at neighbouring properties and the 45^o Code guidelines would not be breached. The impact of the proposed extension on the neighbouring property no.96 would be further reduced by the existing single storey outbuilding which stands within the boundary of no.94. The proposal is considered to accord with the requirements of Policies D.1, D.3 and D.17 of the Adopted Wyre Forest Local Plan (2004).
- 4.3 The proposed extension would not form a disproportionate addition over and above the size of the original building and would not offer any impact to the character and openness of the Green Belt as such the proposed extension would be considered to accord with the requirements of Policies GB.2 and GB.6 of the Adopted Wyre Forest District Local Plan (2004) and the provisions of Planning Policy Guidance Note 2: Green Belts.

5.0 Conclusions and Recommendations

- 5.1 It is recommended that the application is **APPROVED** subject to the following conditions:
1. A6 (Full with No Reserved Matters)
 2. A11 (Approved Plans)
 3. B3 (Materials)

Note
SN12 (Neighbours)

Reason for Approval

The proposed extension is considered to be of an appropriate scale and design in relation to the host dwelling and would have no detrimental impact on the street scene. The impact of the extension on the occupants of neighbouring properties has been carefully assessed and it is considered that there will be no undue impact upon their amenity, any potential for harm can be controlled through condition. For these reasons the proposal is considered to be in accordance with Policies D.1, D.3 D.17 GB.2 and GB.6 of the Adopted Wyre Forest District Plan (2004) and the guidance laid out in Planning Policy Guidance Note 2: Green Belts.

Application Reference: 09/0602/S106	Date Received: 24/08/2009
Ord Sheet: 383425 276305	Expiry Date: 19/10/2009
Case Officer: John Baggott	Ward: Greenhill

Proposal: Variation of Section 106 Agreement to enable a change to the maximum stay and the introduction of a pay and display system on the store car park

Site Address: WM MORRISON SUPERMARKETS PLC, GREEN STREET, KIDDERMINSTER, DY101AZ

Applicant: Wm Morrison Supermarkets PLC

Summary of Policy	D.1, D.3, D.4, D.7, D.9, D.10, D.11, D.12, D.13, D.15, LA.6, NR.2, NR.5, NR.6, NR.9-NR.12, LB.1, LB.2, LB.5, CA.6, AR.3, NC.2-NC.8, TR.1, TR.6, TR.7, TR.8, TR.9, TR.17, TR.19, LR.1, RT.1, RT.3, RT.4, RT.13, KTC.4, IMP.1 (AWFDP) SD.2 SD.3 SD.4 SD.7 SD.9 CTC.5 CTC.6 CTC.8 CTC.9, CTC.11, CTC.12, CTC.14, CTC.19, CTC.21, D.31, D.32, T.1, T.4, T.5, T.10 IMP.1 (WCSP) UR.2, PA.11, QE.1-QE.8 (WMRSS) PPS1, PPS6, PPS9, PPG13, PPG15, PPS25 Design Quality SPG Planning Obligations SPD
Reason for Referral to Committee	Application involving proposed Section 106 obligation
Recommendation	DELEGATED APPROVAL

1.0 Site Location and Description

- 1.1 The application site is located on the south eastern side of Green Street in Kidderminster backing onto the Ring Road, which is located at an elevated level beyond a wooded escarpment.
- 1.2 The site, including listed buildings, was developed as a new Morrison's store following the granting of planning permission in 2006, as detailed below. The new store has been trading for approximately one year.

09/0602/S106

2.0 Planning History

- 2.1 06/0590/FULL - Part demolition of existing buildings; construction of supermarket (use class A1) with car park & works to highway; extension to Woodward Grosvenor building fronting Green Street & change of use to museum (use class D1) : Approved.
- 2.2 06/0591/LIST - Renovation & extension of Woodward Grosvenor Building fronting Green Street : Approved.

3.0 Consultations and Representations

- 3.1 Parking Services Manager – No objection. Nearby Council car park is not used to its capacity due to free parking at Morrison's. It is proposed that they charge the same fee as the Council car parks, but with a 2 hour maximum stay as the pricing structure will be the equivalent of the Council's (which takes effect from 1st October 2009). The Council car parks offer all day parking local to Morrison's. This may encourage visitors to use Council car parks as they are closer to the town centre.
- 3.2 Policy and Regeneration Manager – At the time of the original application for the Morrison's store the improved link to the town centre was an important factor in the decision making process in determining the store's position as edge-of-centre. Our consultants had some concerns and the link was improved and the 2 hr 40 mins reflects the distance to ensure linked trips can genuinely be made with the town centre. I'm fairly sure that their older store (opposite) which is closer to the town centre had a 2hr 30min max stay. Also taking in to account the improved offer of their new store which includes more extensive product lines across convenience and comparison sectors and a restaurant (which didn't exist in their previous store) and the potential is clearly there for customers to spend more time in the store. If you take 20mins off for the return walk to Vicar Street...? The chances are people will not risk it... jump in their car and drive to another town centre car park or worse still leave without visiting the town centre. Furthermore, as far as I am aware, all other supermarkets including Tesco have up to 2hr 30 min maximum stay.

(Officer Comment: To clarify, both the existing Tesco and Sainsbury's supermarkets actually operate a 2hr maximum stay regimes).

- 3.3 Neighbour/Site Notice – No representations received.

09/0602/S106

4.0 Officer Comments

- 4.1 Section 106A of the Town and Country Planning Act 1990 (as amended) gives developers the ability to amend or modify a Section 106 agreement. Under the terms of this section such an application can only be considered after a five year period, with any adverse decision being made open to an appeal under S.106B.
- 4.2 As this application has been submitted within 5 years, the Local planning Authority has the ability to consider whether a deed of variation can be approved, without any reprisals under S.106B in respect of appeals.
- 4.3 Clause 10.1.5 of the Section 106 obligation which accompanied the approval for the Morrison's store stated that:

"The Owners and the Developer will control and manage the Morrison's Car Park as a short stay car park for a maximum use for two hours and forty minutes at no charge and thereafter subject to appropriate charges or penalties as the Owners and The Developer may consider reasonably necessary from time to time provided that such charges or penalties shall not be less than those imposed by the District Council on car parks managed by the District Council in Kidderminster Town Centre (or in accordance with such other car parking scheme as maybe agreed with the District Council (acting reasonably))."

- 4.4 The applicants, Morrison's, have stated that they have experienced problems with availability of car parking spaces for their customers due to non-customers taking advantage of up to 2hr and 40 mins of free parking and opting to use the Morrison's car park as opposed to other Town Centre pay and display car parks. Officers have no firm evidence before them to either confirm or refute this assertion. In submitting this application to vary Clause 10.1.5 of the Section 106, as detailed above, the applicants have sought approval for the introduction of a parking fee and the reduction in the maximum stay on their car park. These issues are addressed, in turn, below.

INTRODUCTION OF A PARKING FEE

- 4.5 The existing Clause 10.1.5 clearly gives some scope for considering the introduction of parking charges, provided that they shall not be less than those charges imposed upon Council operated pay and display car parks. In this regard, Members are advised that as of 1st October 2009, the Council's own car parking price structure for short stay car parks in Kidderminster Town Centre will be as follows:

70p for up to 1 hour; £1.00 for up to 2 hours; and, £1.80 for up to 3 hours;

as confirmed by the Council's Parking Services Manager.

09/0602/S106

- 4.6 In submitting the application to vary the Section 106, the applicants have suggested the introduction of a charge of £1.00 for up to 2 hours (maximum) stay, with this fee being refundable to Morrison's customers subject to a minimum spend in the store. Clearly, such a charge would be consistent with the Council's own parking charges.

REDUCTION IN MAXIMUM STAY

- 4.7 The existing Clause 10.1.5 stipulates a maximum stay of 2 hours and 40 minutes. As already identified under paragraph 4.6 of this report, the applicants have applied for this maximum stay to be reduced to 2 hours.
- 4.8 At the time of the original application's consideration, despite the Morrison's store's location at the "edge of town centre", it was recognised that there was an opportunity for customers of the store to make "linked trips" to other stores in the Town Centre. At that time it was acknowledged that only the Tesco store offered such an opportunity for linked trips. The Tesco store operates a 2 hour maximum stay for its car park. However, in light of the Morrison's store location it was considered appropriate to make allowance for pedestrian walking time between the store and other shops and facilities within the Town Centre, resulting in the suggested 2 hour 40 minute figure.
- 4.9 Members are advised that whilst the applicants would prefer to seek a variation to allow the maximum stay to be reduced to 2 hours as originally sought, through negotiation they have now accepted the suggestion that the maximum stay be reduced only fractionally to 2 hours and 30 minutes, with a fee charge of £1.50, which again would be refunded to customers of the store. Members will note that the suggestion of £1.50 for 2 hours and 30 minutes would actually make the Morrison's car park slightly more expensive when compared to the Council's charge of £1.80 for 3 hours, which may in itself make it a less attractive proposition for non-customers of the store.
- 4.10 In accepting this compromise, the applicants have commented as follows:

"As you are aware the reason for proposing the amendment to the parking hours are due to the large volume of spaces being filled in the car park making it difficult for shoppers to the store to find a place to park. It is our belief that the current conditions make Morrison's car park a uniquely attractive proposition to town centre shoppers and providing an opportunity to avoid the Council's town centre car parks where possible. We believe our car park is attractive, in particular, when measured against the local Tesco who operate a 2 hour maximum stay control.

By introducing the pay & display we believe it will bring the car park in line with other car parks in the area managed by the Council and hopefully reduce its attractiveness as a place to park for free, whilst visiting the town centre when not shopping at the store.

09/0602/S106

We note that the reasoning for your request of 2.30hrs over 2hrs is to maximise the opportunity for shoppers to link their trips to Morrison's and the town centre. We believe that 2 hrs is sufficient to allow linked trips to take place but, as a gesture of cooperation, we are willing to accept the amendment to the application to 2.30hrs with a charge of £1.50 (refunded in store for WmM shoppers) as you have suggested; however, if these controls do not prove successful in improving the availability of parking space for Customers of our Superstore we do foresee a need to review the agreement and seek a further variation as originally discussed".

- 4.11 Officers are of the opinion that the adoption of a 2 hour and 30 minute maximum stay, with a £1.50 charge (which would be refunded to customers of the store) is a reasonable and acceptable proposal. At the same time, and being mindful of the applicant's comments regarding a potential further variation as set out above, it would give both the applicants and the Council the opportunity to gather evidence regarding the use of the car park once the new charges have been imposed, to assess the effectiveness.
- 4.12 The revised proposals emanating from negotiations, and the scope for monitoring their effectiveness, have been welcomed by the Policy and Regeneration Manager.

5.0 Conclusions and Recommendations

- 5.1 Officers consider that the revised proposals, which would introduce a flat parking charge of £1.50 for up to 2 hours and 30 minutes (which would be refunded to store customers) are acceptable. Such a charge would not undercut the Council's own parking charges, and in that respect the proposal would be consistent with the requirements of the original Clause 10.1.5 of the Section 106 obligation which accompanied planning permission 06/0590/FULL.
- 5.2 It is therefore recommended that **delegated authority** be given to the Director of Legal and Corporate Services, in consultation with the Director of Planning and Regulatory Services, **to vary the Section 106 agreement.**

Agenda Item No. 5

Application Reference: 09/0639/FULL **Date Received:** 08/09/2009
Ord Sheet: 381280 272688 **Expiry Date:** 08/12/2009
Case Officer: Paul Round **Ward:** Lickhill

Proposal: Installation of new 1.5km long tarmac surfaced cycle track and associated landscaping works.

Site Address: STOURPORT SPORTS CLUB LTD, KINGSWAY,
STOURPORT-ON-SEVERN, DY138BQ

Applicant: STOURPORT SPORTS CLUB LTD

Summary of Policy	D5, LA1, LA2, GB1, GB2, GB3, GB6, NC2, NC3, NC5, LR10, TR9, TR17 (AWFDLP) CTC.1, CTC.12, RST.1 (WCSP) PA10, UR3 (WMRSS) PPG2, PPS7, PPG17
Reason for Referral to Committee	The applicant is Wyre Forest District Council or is made on land owned by Wyre Forest District Council 'Major' planning application
Recommendation	APPROVAL

1.0 Site Location and Description

- 1.1 The application site being the Stourport Sports Club forms a triangular piece of land bounded by Kingsway, Minster Road and the Wyre Forest Golf Course. The land is owned by Wyre Forest District Council and leased to the Sports Club. The site has in part been subject to in filling via a lease to Wyre Forest Golf Club.
- 1.2 The site is located within the Green Belt and Landscape Protection Area and is allocated within the Local Plan as part of the Minster Road outdoor sports area.
- 1.3 The application seeks for the construction of 1.5km cycle track and associated landscaping works.

2.0 Planning History

- 2.1 Various none of relevance

09/0639/FULL

3.0 Consultations and Representations

- 3.1 Stourport-on-Severn Town Council – Views awaited
- 3.2 Highway Authority – No objections
- 3.3 Sport England - No objection
- 3.4 Environmental Health – No adverse comments
- 3.5 County Council (Footpaths) – Object; lack of detail concerning Public Right of Way. (*Officer Comment: Further details have been sent to the County Council and their additional views are awaited*).
- 3.6 Neighbour/Site Notice – No representations received.

4.0 Officer Comments

- 4.1 The application site falls within the Green Belt. Government guidance in PPG2, which is replicated in policy GB1 of the Adopted Wyre Forest District Local Plan, shows outdoor sport and recreation as being an appropriate use of the land within the Green Belt. There are no structures proposed as part of this application. A further application (09/0642/FULL) proposes buildings including new changing rooms and a fitness suite that will be considered later in this agenda.
- 4.2 There is further policy support for the proposal through policy LR.10 of the Adopted Wyre Forest District Local Plan which openly encourages such developments in this area.
- 4.3 The proposed cycle track snakes around the west and partially around the south of the site and is 1.5km in length. The course will involve crossovers to give the opportunity to split the track into 2 or 3 smaller tracks. Due to the nature of the track and its location it will have no adverse impact on the openness of the Green Belt or the character of the Landscape Protection Area.
- 4.4 Due to the proximity of the site to Burlish Top Nature Reserve and the inherent requirements of PPS9, an Ecological Walk over survey has been conducted. Whilst there would be a loss of habitat as part of the proposal it is considered that such losses can be mitigated. To this end a large 20m wide ecologically managed strip is proposed to provide replacement and enhancement of the biodiversity in this location.
- 4.5 The site has sufficient capabilities in respect of parking and access to accommodate this activity without resulting in highway safety concerns. There are no residential properties that will be directly affected by the proposal.

09/0639/FULL

- 4.6 The concerns expressed by the County Council (Footpaths) have been addressed and additional information supplied to them to demonstrate that the public Right of Way will not be affected by the proposal.
- 4.7 This is an exciting high profile scheme for the District providing a size of track that can not be found any where else in the West Midlands Region and would compete with the 1km track at Shrewsbury and the 0.9km track at Solihull. British Cycling have advised that both these tracks are ideal for use by children, youth competitors and lower category seniors, but they are both too short to be attractive to senior riders in the higher ability categories. They feel that the proposed 1.5 km track in Wyre Forest would be the premier closed circuit in the West Midlands, and would allow its use by riders of all levels of experience and ability.

5.0 Conclusions and Recommendations

- 5.1 The scheme provides outdoor sporting activities that are appropriate in the Green Belt and do not cause harm to its openness or the character of the Landscape Protection Area. The site has sufficient capabilities in respect of parking and access to accommodate this activity without resulting in highway safety concerns. The sites biodiversity quality has been assessed and any potential losses have been mitigated within the proposal. There are no residential properties that will be directly affected by the proposal.
- 5.2 I therefore recommend **APPROVAL** subject to the following conditions:
1. A6 (Full with No Reserved Matters)
 2. A11 (Approved Plans)
 3. B6 (Materials)
 4. Ecological Area Management

Note
Public Right of Way

Reason for Approval

The scheme provides outdoor sporting activities that are appropriate in the Green Belt and do not cause harm to its openness or the character of the Landscape Protection Area. The site has sufficient capabilities in respect of parking and access to accommodate this activity without resulting in highway safety concerns. The sites biodiversity quality has been assessed and any potential losses have been mitigated within the proposal. There are no residential properties that will be directly affected by the proposal. For these reasons the proposal is considered to be compliant with the policies listed above.

Application Reference:	09/0641/FULL	Date Received:	03/09/2009
Ord Sheet:	384425 275843	Expiry Date:	29/10/2009
Case Officer:	Paul Wrigglesworth	Ward:	Offmore and Comberton

Proposal: Erection of 6No. two bedroom apartments with new access and parking area.

Site Address: 44 BARNETTS LANE, KIDDERMINSTER, DY103HH

Applicant: Mr Clive Fletcher

Summary of Policy	H.2, H.5, H.10, D.1, D.3, D.4, D.9, D.10, D.11, D.12, D.14, D.19, TR.7, TR.9, TR.17 (AWFDLP) T.4, T.10 (WCSP) QE.3 (WMRSS)
Reason for Referral to Committee	Development Manager considers that application should be considered by Committee
Recommendation	DELEGATED APPROVAL subject to Section 106 Agreement

1.0 Site Location and Description

- 1.1 Number 44 Barnetts Lane is located on the north side of Barnetts Lane some 130 metres away from the junction with Comberton Road. This is a large detached dwelling set in extensive grounds with an overall area of approximately 0.24 hectares.
- 1.2 Vehicular access is gained to the site from Barnetts Lane.
- 1.3 This is a low density residential area characterised by substantial detached properties within large plots. Adjacent on one side is a detached bungalow and on the other a detached house. Beyond the 41 metre length rear garden of No 44 Barnetts Lane lies the boundary of a detached house situated at the end of Barnetts Grove.

2.0 Planning History

- 2.1 WF50/94 - House extensions & detached garage : Approved: 07/03/94
- 2.2 07/1070/OUTL - Demolition of existing dwelling and construction of six apartments (all matters reserved) : Withdrawn: 29/11/07

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- 2.3 08/0521/OUTL - Demolition of existing dwelling and construction of six apartments (all matters reserved) : Refused: 11/09/08; Appeal dismissed: 26/08/09
- 2.4 08/1074/FULL - Erection of 6No two bed apartments with new access and parking area : Refused: 06/02/09

3.0 Consultations and Representations

- 3.1 Highway Authority – No objection subject to conditions
- 3.2 Severn Trent Water – No objections subject to conditions
- 3.3 Arboricultural Officer – Views awaited (previous views reported under ‘Officer Comment’)
- 3.4 Countryside and Conservation Officer – Views awaited
- 3.5 Worcestershire Wildlife Trust – Views awaited (previous views reported under ‘Officer Comment’)
- 3.6 Neighbour/Site Notice – Four letters of objection received:
- *The lane is already too dangerous for the school children and other pedestrians – no footpaths and in most of the length two cars cannot pass because the lane is extremely narrow. Even more children walking due to closure of King Charles and expansion of Comberton Lane is a rabbit run and not suitable for more traffic and much of the traffic exceeds the speed limit.*
 - *We would like to object as in previous applications, to the erection of 6 No. two bedroom apartments on the site of 44 Barnetts Lane Kidderminster, for the following reasons:*
 1. *The development would change the overall character of Barnetts Lane, being the only apartments accessed from the lane.*
 2. *The proposed development would increase traffic considerably and the lane is already abused by through traffic at the present time.*
 3. *The Comberton Road end of the lane is already used as a pickup point for school children from the local Schools in Borrington Road and the egress of vehicles from Barnetts Close and Barnetts Grove.*

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4. *We believe, from local councillors' comments, that the Council would NOT be in agreement to further apartments either in Oldnall Road or Barnetts Lane.*
5. *The definite increase in traffic would put pedestrians and drivers at increased risk as there are no footways or lighting in the Lane.*
6. *There are several apartment developments within the town, that are not selling, and some have been part completed and left in an unfinished state. We consider that it would be unwise to allow further apartment development anywhere in the town at this time.*
7. *We feel that, if this application is approved, it would set a precedent for other properties in Barnetts Lane to follow the same route.*
8. *Barnetts Lane is one of the only few remaining mature, pretty and relatively unspoiled roads within the town boundaries for walkers and residents to enjoy and is also home to much wildlife. The addition of six apartments, together with the extra vehicle use of the Lane, would only be of detriment to the area.*

• We are surprised and dismayed that this application has been resubmitted. We ask you to seriously consider the overwhelming opposition from the residents of Barnetts Lane, to this proposal and thus to reject it. To do otherwise is to dismiss the wishes of the local council tax payers whom the Council serves.

We reiterate our views concerning the proposal below.

We wish to object to this planning application and we call on the Council to refuse permission. The proposal if permitted, would set an unacceptable precedent and be against advice already received from your planning department.

Our objections are as follows:

1. Barnetts Lane is made up entirely of large residential houses and bungalows. It does not have any apartment blocks. The existing character should be retained. Our discussions with residents have all indicated that to change this long established character is against their wishes. Such wishes should not be ignored. Indeed to do so would make a mockery of local democracy
2. The proposed building would occupy between 2 and 3 times the ground area of the existing house. This has serious implications for neighbouring properties especially loss of amenity, privacy and increased noise from a considerable increase in number of residents and traffic
3. Point 2 is further reflected in your letter to us dated 5th December 2002 (reference PR/CP/GE.766/02) when we sought your views regarding an additional building on our land at number 42. Your official comments clearly apply to the current proposal – adverse impact on the area, private amenity space considerably reduced, loss of amenity due to increased vehicular noise, overlooking adjacent properties and potential for tandem development

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4. The point number 4 in your letter clearly states that tandem development is contrary to policy. Because of this obvious danger the current application should be refused
5. Traffic flow in the Lane is already unacceptable. Encouraging additional vehicles, which this proposal does, would constitute a danger to pedestrians who use the Lane, many of whom are schoolchildren walking to and from local schools
6. Barnetts Lane provides a significant amenity for local people who use it for walking and cycling. This leisure use should not be jeopardised by allowing and thus encouraging an increase in vehicle movements. Indeed it is Council policy to encourage safe walking and cycling
7. The Council has a policy to protect biodiversity but to double the building's footprint and tarmac over most of the front garden clearly contradicts this principle. It is accepted by many councils and all environmental groups that urban garden space is now a most valuable resource for wildlife especially as the countryside is gradually being lost to intensive agriculture, new housing developments, business parks and new roads. Such developments have taken place, and continue to do so, in Wyre Forest. At the very least garden biodiversity should be protected
8. There are empty and disused buildings and brownfield sites in Kidderminster that could be developed. These should be the first 'port of call' for new residential development, not urban green space
9. Flats built in Oldnall Road and Barnetts Close are still not all occupied. There is clearly no need for more in the locality. New developments in Oldnall Road have increased traffic flow in Barnetts Lane considerably
10. We believe that there may be covenants on the land in question restricting further development. Whilst this may not be a planning matter we do not wish to see ratepayers money used on dealing with this application if other legal restrictions apply

The principle involved in this applications is so important that any decision must be made by elected members and not delegated to officers.

I wish to register my strong objection to this Planning Application. My comments remain as in my previous letters dated 3rd November, 2007, and 11th June, 2008

I have lived in Oldnall Road and Barnetts Lane for more than thirty years and know the area very well. I have therefore witnessed the gradual demise of Oldnall Road from a peaceful residential area into a busy thoroughfare as more and more substantial houses have been demolished to make way for flats. This has had a knock-on effect with increased traffic using Barnetts Lane to get to or from Oldnall Road. (Not to mention those who choose to use Barnetts Lane as a short cut – which has been a subject for discussion for many years.)

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Barnetts Lane is a "lane" and any further increase in traffic will make it even more dangerous. I walk my dog daily and have had to jump on several occasions to avoid being hit by passing cars. It can be frightening. Then there is the obvious erosion of the embankment and hedgerows. The Shuttle will not deliver to me as they say "it is unsafe as there are no street lamps or pavement". There are a lot of dog walkers (some elderly) and school children using the lane on a daily basis. No 44 is at one of the narrowest points in the Lane where visibility is restricted in both directions. Of course there has always been the possibility of a Road Traffic Accident when a vehicle is emerging but assuming there are twelve when there were only two then the odds would be much greater.

I feel that an additional five households in Barnetts Lane (most likely with two cars each) is five too many. Lets keep the Lane a "lane" so that it remains available for everyone to enjoy.

4.0 Officer Comments

- 4.1 This is a Full application for the demolition of the existing dwelling and detached double garage and replacement with six two-bedroom apartments. The development is two storeys high and has the appearance of a very large house. The plans show a new central vehicular access; the closure of the existing access point and modification to the existing hedgerow to improve visibility. Parking is provided for seven cars one being wide enough for a disabled vehicle.
- 4.2 This site constitutes previous developed land within an area allocated for residential development and the principle of the development is acceptable under the terms of Policy H2 of the Adopted Wyre Forest District Local Plan.
- 4.3 The submitted plans are identical to those that were refused permission in February of this year (see 08/1074). However, an earlier outline application (08/0521) for six apartments was dismissed on appeal in August of this year on the basis of a technicality, namely, that there was no 106 Agreement in place for contributions towards education and open space.
- 4.4 Clearly, the current application needs to be considered in the light of the Inspectors Decision Letter, since this establishes clear principles with regard to the development and has significant implications when revisiting the refusal reasons associated with application 08/1074.

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- 4.5 In the interests of completeness the Inspector's Decision Letter is set out in full below:

Appeal Decision

1. *I dismiss the appeal.*

Procedural matter

2. *The application was made in outline with layout, scale, appearance, access and landscaping to be determined at a later stage.*

Main issues

3. *These are the effect of the proposed development on: (a) highway safety; (b) the provision of accessible homes; (c) the character and appearance of the area; and (d) the living conditions of neighbours in relation to visual impact, overlooking, and daylight.*

Reasons

Highway safety

4. *Barnetts Lane is a narrow highway which runs between two larger roads that carry traffic into and out of the centre of Kidderminster. It provides access to the properties on Barnetts Lane and to the streets that have junctions with it. The closest of these to No.44 is Barnetts Grove and the proposal would be expected to re-site the access further from this junction. There is adequate land available within the appeal site to provide off-street parking and enable vehicles to turn. This is reflected within the Council officer report which highlights that the Highway Authority has no objection to the proposal subject to the imposition of certain conditions.*
5. *Although much of Barnetts Lane does not have a footway, a section begins opposite to No.45 and provides pedestrian access to Barnetts Close and Comberton Road beyond. Re-siting the entrance to No.44 would increase the distance that future occupiers of the apartments would be required to travel along the lane to access the footway. Nonetheless, representations indicate that pedestrians use Barnetts Lane without a footway. It has not been demonstrated that this has caused a particularly high accident record in this location, or that any likely increase in vehicular and pedestrian flows associated with the proposed development would result in such a record. It is therefore my view that the proposed development would not be unacceptably harmful to highway safety and complies with Policies TR.9, TR.7 and D.9 of the Wyre Forest District Adopted Local Plan – January 2004 (LP).*

Accessibility

6. *The Design and Access Statement (DAS) that accompanies this outline scheme notes that two disabled parking spaces would be provided close to the building and consideration would be given to the needs of the visually impaired. Circular 01/06 – Guidance on Changes to the Development Control System addresses the role of the DAS and is clear that it is not required to deal with the internal aspects of buildings. Nonetheless, in this instance the DAS indicates that the ground floor of the development would be accessible by wheelchair users. This would increase the number of such dwellings in this location from potentially one to three.*
7. *Circular 01/06 also states that local planning authorities should consider imposing a condition where additional information that builds on the original statement would be necessary at reserved matters stage. In this case the Council access officer consultation response on the application notes that the incorporation of Lifetime Homes standards into the scheme would enable the staircase to accept a stair lift that would make the development both accessible and sustainable. Given that this is an outline scheme with all matters reserved such detailed design requirements could be the subject of a condition.*
8. *LP Policies D.19 and D.1 seek developments to be flexible and accessible by all members of the local community. It has not been demonstrated that this development would fail to meet local planning policy objectives in respect of accessibility. I find therefore that in this respect the proposed development would comply with LP Policies D.19 and D.1.*

Character and appearance

9. *Barnetts Lane has characteristically large dwellings set in substantial plots with mature gardens. However, there is also a degree of variety in the street scene, due to the scale, type and in some instances smaller plot sizes of the dwellings around the junction with Comberton Road. Purpose-built apartment buildings are evident elsewhere in the locality.*
10. *Although I found Barnetts Lane to be a quiet highway, it has not been demonstrated that the additional traffic associated with the proposal would be sufficient to detract from the present character of the lane.*
11. *The existing dwelling at No.44 provides living accommodation on two floors above ground level. It is principally massed across the plot which provides extensive gardens to the rear and a large area for parking within the landscaped grounds to the front.*

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12. *The DAS and indicative drawings that accompany the application describe a structure that would have a considerably larger footprint and massing than the existing dwelling at No.44. Nonetheless, it would be expected to leave similar separation distances to the property boundaries on either side of it. In addition, the plot is of sufficient size for such a development to retain significant areas of amenity space to the front and rear of the building.*
13. *The proposal would be a two storey residential structure like others in the vicinity of the appeal site. Whilst it would be larger than the buildings next to it, it does not follow that such a proposal would necessarily depart from the character and appearance of the area. The DAS indicates the apartment block would not be of a scale that would necessarily prevent detailed design proposals at reserved matters stage providing a building that would be sympathetic in style to those around it and the area in which it would stand.*
14. *The Council officer report states that the building described within the application could be adequately accommodated within the plot. I consider that given the circumstances of the appeal site, it would be possible to retain characteristic areas of amenity space around the proposed development. Although trees within the appeal site are not the subject of a Tree Preservation Order, landscaping is a reserved matter that would address the vegetation and appearance of the grounds that the development would stand within.*
15. *Reference has been made to building lines shown on property documents, but the potential relevance of these papers to this case has not been adequately explained. The application drawings indicate that the front building line of the apartment block could reflect those on either side of it, even if drawn back to provide additional protection to the root zone of the existing Sycamore identified as tree 1589.*
16. *National policy in Planning Policy Statement 1 – Delivering Sustainable Development is clear that development should be appropriate for its context and this is reflected in LP policies D.3 and D.1. The proposal would intensify the residential use in this location. I therefore conclude that the outline proposal would not be unacceptably harmful to the character and appearance of the locality and in this respect complies with LP Policies D.3 and D.1.*
17. *Although previous residential activity on the appeal site may have been limited, No.44 is a large dwelling with a considerable area for vehicle parking at the front of the house. Future occupation of the existing dwelling could increase considerably the level of domestic activity at the property. The proposal would intensify the residential use of the appeal site, but this must be considered against the existing potential use of the land and the likely increase in activity associated with the apartment block. Within this context it has not been established that the proposal would result in an unacceptable increase in residential noise and disturbance.*

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Living conditions

18. *The proposal would noticeably increase the depth of the built form on the appeal site in views from neighbouring windows and private amenity space. However, in common with the building that it would replace, it would be a two-storey structure and the indicative drawings show a design that would concentrate the mass of the building towards the centre of the site.*
19. *Given the separation distances that it would be possible to achieve from neighbouring development and the potential positioning of the building on this site, I consider that it would be possible to ensure that the proposal would neither be unacceptably visually intrusive, nor cause a significant loss of daylight at neighbouring windows and amenity space. The presence of existing vegetation, boundary treatments and buildings around the appeal site adds weight to this.*
20. *As an outline proposal with all matters reserved, the size, number, location and function of windows in the proposed building are yet to be known. At present there are first floor windows at the rear of No.44 that have the potential to cause overlooking of neighbouring properties. The presence of first floor windows in the proposed development in combination with the intensification of the residential use would be expected to increase the level of overlooking of neighbouring amenity space. However, this is a suburban area where a degree of such overlooking is likely to occur.*
21. *The current potential for a loss of privacy to occur at ground floor level is reduced by vegetation and existing boundary treatments. Nonetheless, there are existing neighbouring windows that face toward the appeal site that could be overlooked by new fenestration. However, it has not been established that the apartments could not be designed in such a way as to prevent unacceptably increased levels of overlooking occurring. I therefore conclude that the outline proposal would not be unacceptably harmful to the living conditions of neighbours and in this respect complies with LP Policy D.1.*

Other matters

22. *Other local plan policies have been referred to within the representations that are before me. The proposed development is the replacement of the existing dwelling with an apartment building. It is therefore not a form of backland development where the existing dwelling would remain, nor would it involve the subdivision of an existing building or an extension of it. In addition, Barnetts Lane is surfaced and consequently not an unmade road. I therefore consider the policies referred to in my reasoning above to be more relevant to the main issues that pertain to this proposal.*

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23. *LP Policy IMP.1 states that in appropriate circumstances the Council will seek planning obligations to secure sums of money to be paid in respect of certain impacts associated with proposed development. The policy is supported by a Planning Obligations Supplementary Planning Document - Adopted February 2007 (SPD).*
24. *The SPD indicates that education and open space contributions would be required for outline proposals of five or more family sized dwellings. It also highlights that in such circumstances the Council will require a planning obligation to be entered into to secure an education contribution that would then be calculated at the reserved matters stage. In this case, the officer report notes the applicant's agreement to enter into a planning obligation in respect of contributions of £5,733.60 and £2,469.60 toward education and open space respectively.*
25. *The County Council's consultation response identifies the schools that would be affected by the proposal and the SPD highlights that open space contributions address the increased pressures on recreational facilities that result from new residential development. The intensification of the residential use of the appeal site would be expected to place additional demands on both educational and open space facilities in the locality.*
26. *I therefore consider that a planning obligation in respect of and open space contributions is necessary to make the development proposed acceptable in planning terms. However, an obligation that addresses the requirements of LP Policy IMP1 and the SPD is not before me and I attribute significant weight to its absence.*
27. *Circular 11/95 – The Use of Conditions in Planning Permissions indicates that no payment of money or other consideration can be required when granting a planning permission. The Circular also highlights that such permission cannot be granted subject to a condition that the applicant enters into a planning obligation. Consequently, it is my view that this is not a matter that can be addressed by the imposition of a condition. I find that the absence of an executed planning obligation in respect of education and open space contributions outweighs the lack of harm in respect of the main issues identified above.*

Conclusion

28. *For the reasons given above and having considered all other matters raised, I conclude the appeal should be dismissed.*

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4.6 As can be seen the Inspector is of the view that:

- There are no grounds to refuse the application on highway grounds.
- With regard to accessibility this needs to be looked at, at the detailed stage, but provided that it is built to Lifetime Homes standards there is no reason in principle why the development should not be compliant.
- It has not been demonstrated that additional traffic would harm the character of the lane.
- The outline proposals (which comprised a block plan view only with all matters reserved) would not be unacceptably harmful to the character and appearance of the locality and would be compliant with Local Plan policies D1 and D3.
- It has not established that the development would cause an unacceptable increase in noise and disturbance.
- It would be possible to ensure that the proposal would neither be unacceptably visually intrusive nor cause a significant loss of daylight at neighbouring windows and amenity space.
- The outline proposal would not be unacceptably harmful to the living conditions of neighbours and there is no reason why the apartments could not be designed to prevent unacceptable levels of overlooking.
- This is not a form of backland development.
- A Planning Obligation with respect to education and open space contributions is necessary.

4.7 As stated, the current application is identical to the previous Full application 08/1074. That application was refused for the following reasons:

1. The proposed development of the site would result in an increase in vehicular movements into and out of the site and along Barnetts Lane, which is a narrow road with no pedestrian footway or refuge within the vicinity of the site, and would therefore be likely to be detrimental to pedestrian safety. The development would therefore be contrary to Policies D.1, D.9 and TR.7 of the Adopted Wyre Forest District Local Plan and the aims of the Adopted Design Quality Supplementary Planning Guidance.

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2. The proposed development replaces a single accessible dwelling, with potential as a lifetime home with six dwellings of which only 50% would be fully accessible, and insufficient evidence has been submitted in the Design and Access Statement to substantiate its acceptance. It is therefore contrary to Policies D.1a and D.19 of the Adopted Wyre Forest District Local Plan, the guidance within PPS1 and the Adopted Design Quality Supplementary Planning Guidance.
 3. The demolition of the existing single dwelling to be replaced by a single substantial building to house six dwellings would be out of scale and character with the existing properties in the immediate vicinity of the site. Barnetts Lane is characterised by a predominance of sizeable single dwellings positioned within large single plots. The proposed development would not be in keeping with the character and local distinctiveness of Barnetts Lane and would therefore be contrary to Policies D.1 and D.3 of the Adopted Wyre Forest District Local Plan, the guidance within PPS1 and PPS3 and the Adopted Design Quality Supplementary Planning Guidance.
- 4.8 With regard to refusal reason No.1, in the light of the Inspector's Decision Letter this refusal reason has in effect been considered and overturned by the Inspector. It should also be noted that the Highway Authority has no objection to the development, subject to conditions.
- 4.9 The second refusal reason relates to accessibility. The applicant's agent has stated that it is not economically viable to incorporate a lift. However, the Inspector did not refer to the need for this but could see no reason why the development would not comply if it were to be built to a Lifetime Homes standard. Although the stair lift is not straight, there is plenty of space around it to incorporate a staircase lift, should this be necessary and the applicant's Agent has stated that the partitions either side will be suitably reinforced to cater for them. In addition, electrical fused spurs will be provided for ease of future fitting to the stair lift. It is therefore capable of being adapted to meet the needs of any future disabled person living on the first floor as alluded to by the Inspector. All ground floor apartments will be designed to Lifetime Homes Standards. This floor has level thresholds, wide doors and corridors. A disabled car parking space is to be provided. Although the plans are identical to the last application it is felt that the plans cover the points raised by the Inspector and I am of the view that a refusal reason couldn't now be sustained on these grounds.

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4.10 The third refusal reason concerns itself with the development being out of character with the area by dint of a large single house being replaced with a substantial building to have six flats. This matter, as can be seen, has been addressed by the Inspector and he is clearly of the view that an appropriately designed block of six flats could be in character with the area.

4.11 In terms of size and scale, although the Inspector was looking at a Block Plan (and all matters were reserved) the following table is helpful when drawing comparisons.

	Ground floor	First floor	Total area	% increase
Area of existing house	154.85 sq.m	130.26 sq.m	285.11 sq.m	-
Area of outline proposal 08/0521/OUTL (approximate measurements as taken off site plan)	328.5 sq.m	328.5 sq.m	657 sq.m	130.4%
Area of current proposal (and application 08/1074/FULL)	318.5 sq.m	288 sq.m	606.5 sq.m	112.7%

4.12 The table above reveals that although the footprint now proposed is significantly larger than the existing property it is in fact marginally smaller than the indicative plan the Inspector looked at when considering the outline application (08/0521). In terms of scale the building now proposed is wider than the outline plan (20.6 metres as opposed to 19 metres) but because the roof is now designed with in effect a double pitch and a series of gables the roof span of each element is only about 5 metres deep as opposed to 11m in the case of the outline plan. The proposed building is consequently lower than the outline plan indicated and a letter attached to the outline application stated that the building would have had an eaves height of 5.5 metres and a ridge height of 9 metres, whereas the current application shows an eaves height of 5.2 metres and a ridge height of 8 metres.

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- 4.13 The existing property (without the double garage and outbuildings) is 20.4 metres wide so there is little difference compared with the current proposal. In terms of height the existing and proposed are effectively the same. Although the proposed development is considerably deeper than the existing this extra massing will not readily be visible from Barnetts Lane.
- 4.14 The last application (08/1074) was not refused in terms of its architectural detailing nevertheless it is worth mentioning that the proposal has absorbed some of the design features of the existing dwelling and because it has one central door on the front elevation it will for all intents and purposes look like one large house.
- 4.15 All things considered it is felt that refusal reason number three could not be sustained and that the design of the proposed apartments fulfils the Inspectors requirements as set out in the last sentence of paragraph 13 of his Decision Letter.
- 4.16 It is important to be aware of the fact that the previous application was not refused on the grounds of the effect on neighbouring property, the impact on trees or various other matters that were raised at that time and given the fact that the proposed plans are identical, Council policy and the circumstances on the ground are the same now as they were then it would be unreasonable in my view to reconsider these issues and reach a different conclusion. Nevertheless, these matters are set out again below by copying these related extracts from the previous report:
- IMPACT ON NEIGHBOURS*
- 4.17 *Policy D.1 of the Adopted Local Plan states that new development must, amongst other criteria, complement and respect any adjacent development and not give rise to serious detrimental impact on the amenity of nearby residents.*
- 4.18 *Letters of objections have been received from the two most affected properties on either side of No.44. Objections to the development include loss of amenity and privacy, noise and disruption from the increase in vehicular access and impact on biodiversity.*
- 4.19 *The site is allocated as primarily for residential use within the Local Plan and as such the principle of residential development in this location conforms with Policy H2(i).*
- 4.20 *It is considered that the size of the proposed building would have sufficient amenity space.*

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- 4.21 *In terms of the relationship between dwellings, the proposed apartment block would be set back from the highway similarly to other dwellings in this vicinity of Barnetts Lane. Potential overlooking issues occurring from side windows is a matter of concern for the neighbours. Now that the application has been submitted with further details it can be seen that there would be relatively few side windows, two at first floor level which would be obscurely glazed providing a light source to en-suite bathrooms. I do not feel that there would be any overlooking issues from the ground floor windows shown on the plan. I therefore feel that the overlooking issues concern which were raised at outline stage have been addressed with the majority of the windows to be positioned within the primary front and rear elevations.*
- 4.22 *A neighbour to the rear has raised concern that these rear windows would in fact affect privacy to his property. However, in response, I must comment that, due to the large separation distance between the rear wall of the proposed apartment block and the dwelling in question, which is located in Barnetts Grove, and in addition the existing tree coverage, I do not consider that overlooking in that particular instance is an issue. In the majority of residential dwellings, most habitable rooms are located to the front and rear of the property with minimal windows to the sides mainly providing light sources to the hall, landing and WC and in this regard the proposed apartment block is no different to this.*
- 4.23 *With respect to issues of precedent, each application is treated on its merits and comments obtained from relevant consultees, I therefore cannot comment further on points raised relating to further development in the locality without precise information being made available.*

IMPACT ON TREES

- 4.24 *Policy D.4 of the Adopted Local Plan deals with Design considerations and trees. This policy states that proposals involving the felling of trees of amenity value will be unacceptable unless there is clear justification.*
- 4.25 *In accordance with Policy D.4, a detailed tree survey accompanied the application. The Council's Arboricultural Officer has visited the site and comments that the site is very well treed and has a number of small ornamental trees at the front and larger trees with high amenity at the back of the site. There is currently no Tree Preservation Order on the site and he does not feel one necessary at the present time as none of the trees with high amenity value are at risk.*

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- 4.26 *Although very few trees are directly affected by the development, trees numbered from 1600 to 1612, 1589 and 1591 and the Leylandii hedge on the boundary with number 45 Barnetts Lane should be protected during the development process to prevent damage during the construction works.*
- 4.27 *The Arboricultural Officer offers no objection to the principle of the proposed development, as there is enough space on the site to demolish the existing dwelling and construct the new development without the removal of any trees with high amenity value. The location of the building should allow for the root protection distances recommended within the Tree Survey, which was submitted as part of the planning application. A suitably worded condition would require the submission of a plan showing the location of protective fencing to be submitted with the full application in accordance with BS5837:2005.*

OTHER ISSUES

- 4.28 *Issues concerning covenants on the land are not material planning considerations.*
- 4.29 *The Council's Countryside and Conservation Officer and also Worcestershire Wildlife Trust have been consulted due to the sighting of numerous animal species in the immediate vicinity. A bat survey has been carried out and the response from Worcestershire Wildlife Trust is of no objection. However, they feel it necessary to make two observations: the first that a bat licence will be necessary prior to the commencement of works on site and, secondly, that given the presence of bats on site, Worcestershire Wildlife Trust would expect that in the event of the application being approved, a condition be attached to cover mitigation and enhancement (regardless of the need for a licence) in line with PPS9. Details of the exact works should be submitted to the Local Authority before work commences, whether as a formal method statement as required under licence or as a schedule or works covering types and locations of bat boxes/loft access and timing of works.*
- 4.30 *Regarding the removal of a traffic hump at the Comberton Road end of Barnetts Lane this is not considered to be a planning issue.*
- 4.31 *A neighbour raises the issue of brownfield sites and not allowing the erection of an apartment block on an urban green space. As stated above under the policy background section of the report, the site satisfies the generally accepted definition of a brownfield site which is also defined within the Local Plan as an area allocated for housing. Therefore, by virtue of the fact that the site is part of the residential curtilage of the existing dwelling, it is considered to be previously developed land and therefore the principle of development is acceptable in this location.*

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4.32 *It is worth nothing that an outline application was refused for the demolition of two existing dwellings and the erection of a 72 bedroom residential care home for the elderly, including car parking provision and new access arrangements in Oldnall Road. It has been suggested by an objector, that the current Barnetts Lane application be considered alongside this application. Each site is considered independently on its merits and the relevant bodies consulted for their views, it would be impossible to give exactly the same consideration to two completely different sites and application types.*

SECTION 106 CONTRIBUTIONS

4.33 In line with the adopted Supplementary Planning Document (SPD) on Planning Obligations the applicant has agreed to enter into an agreement to secure the following items:

S106 Requirement	Offered Provision	Required by the SPD
Education facilities	Contribution of £5,556 towards education provision	Yes
Open space	Contribution of £2,469.60 towards Council owned playing fields	Yes

5.0 Conclusions and Recommendations

5.1 The Inspector’s Decision on an earlier outline application has been applied to a more recent refusal of a Full application the plans of which are the same as the current application, and it is considered that in the light of the Inspector’s decision (and the fact that a Draft 106 is now in place) the refusal reasons would not now be sustainable should the application be refused. No new issues have come to light since the last application from either neighbours or other consultees and there has been no material changes to policy or circumstances on the ground since those decisions.

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5.2 It is recommended that **delegated** authority be given to **APPROVE** the application subject to the signing of the **Section 106 Agreement** and subject to the following conditions :

1. A6 (Full with no reserved matters)
2. A11 (Approved plans)
3. B1 (Samples/details of materials)
4. B9 (Details of windows and doors)
5. B11 (Details of enclosure)
6. B13 (Levels details)
7. Provision of Bat boxes
8. Landscaping
9. Tree and hedge protection
10. Details of driveway construction to be approved (to safeguard trees)
11. Severn Trent Water condition regarding sustainable drainage
12. F5 (Construction site noise/vibration/hours of working)
13. Highway conditions

Notes

- A Reminding applicant of duties with regard to protected species
- B SN12 (Neighbours' rights)
- C Highway notes
- D Advisory note regarding route of heavy goods vehicles

Reason for Approval

The application has been carefully considered against the background of an Inspector's Decision Letter on a previous application (08/0521/FULL) and in terms of the principle of allowing the development in land use terms, the appropriateness of six flats in this low density residential area, the scale and design of the proposed development, the implications for highway safety, accessibility, impact on neighbouring property, the effect on trees, wildlife and Section 106 obligations and the application is now considered to be acceptable and in conformity with the Inspector's Decision Letter and in the light of this, the development is considered to be in accordance with Policies H.2, H.5, H.10, D.1, D.3, D.4, D.9, D.10, D.11, D.12, D.14, D.19, TR.7, TR.9, TR.17 of the Adopted Wyre Forest District Local Plan.

5.3 In the event that the Section 106 Agreement is not completed by 29 October 2009 to secure contributions for education facilities and a contribution to public open space, it is recommended that delegated authority be given to REFUSE the application.

Application Reference: 09/0642/FULL	Date Received: 08/09/2009
Ord Sheet: 381280 272688	Expiry Date: 08/12/2009
Case Officer: Paul Round	Ward: Lickhill

Proposal: Erection of new changing facilities and new fitness suite with associated car parking, storage facilities and floodlighting to sports pitch

Site Address: STOURPORT SPORTS CLUB LTD, KINGSWAY,
STOURPORT-ON-SEVERN, DY138BQ

Applicant: STOURPORT SPORTS CLUB

Summary of Policy	D1, D3, D5, LA1, LA2, GB1, GB2, GB3, GB6, NC2, NC3, NC5, LR10, TR9, TR17 (AWFDLP) CTC1, CTC12, RST1 (WCSP) PA10, UR3 (WMRSS) PPG2, PPS7, PPG17
Reason for Referral to Committee	The applicant is Wyre Forest District Council or is made on land owned by Wyre Forest District Council 'Major' planning application
Recommendation	APPROVAL

1.0 Site Location and Description

- 1.1 The application site, being the Stourport Sports Club, forms a triangular piece of land bounded by Kingsway, Minster Road and the Wyre Forest Golf Course. The land is owned by Wyre Forest District Council and leased to the Sports Club. The site has in part been subject to infilling via a lease to Wyre Forest Golf Club.

- 1.2 The site is located within the Green Belt and Landscape Protection Area and is allocated within the Local Plan as part of the Minster Road outdoor sports area.

2.0 Planning History

- 2.1 None of relevance.

3.0 Consultations and Representations

- 3.1 Stourport-on-Severn Town Council – Views awaited
- 3.2 Highway Authority – No objection

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- 3.3 Crime Risk Manager – No objection. Various Crime Risk measures recommended which have been forwarded to the Applicant.
- 3.4 Sport England – No objection
- 3.5 Environmental Health – No adverse comments
- 3.6 Worcestershire Wildlife Trust – Views awaited
- 3.7 Neighbour/Site Notice – No representations received

4.0 Officer Comments

- 4.1 The application site falls within the Green Belt. Government guidance in PPG2, which is replicated in Policy GB.1 of the Adopted Wyre Forest District Local Plan, shows outdoor sport and recreation as being an appropriate use of the land within the Green Belt. Any structures that are proposed should be essential and of the minimum size necessary.
- 4.2 There is further policy support for the proposal through Policy LR.10 of the Adopted Wyre Forest District Local Plan which openly encourages such developments in this area.
- 4.3 The proposal essentially falls into three main areas proposed for buildings. Firstly for changing rooms, secondly for the fitness suite and thirdly for car parking and storage facilities. I will consider each element separately with Green Belt Policy.

CHANGING ROOMS (155 sq.m. – footprint)

- 4.4 The changing rooms are required as a direct result of the creation of rugby pitches within this location. Whilst there are already changing facilities at the sports club these are regularly used by athletics and hockey participants. The additional usage results in the need for additional changing facilities, as I judge them as being essential. In respect of size, the changing facilities have been designed to the minimum specification as required by the relevant sporting body and as such it is clear that they are of the minimum size necessary. On this basis I consider that the proposed changing rooms are appropriate development.

THE FITNESS SUITE (200 sq.m. – footprint)

- 4.5 The fitness suite, whilst desirable for the Sports Village concept, cannot be judged as being essential for outdoor facilities. PPG2 gives examples of such facilities as being small scale changing facilities and unobtrusive spectator stands. As such I judge the fitness suite as being inappropriate development.

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CAR PARKING AND STORAGE FACILITIES

- 4.6 The additional car parking and storage facilities are clearly needed and appropriate to the amount of sporting facilities at this location and can be provided without detriment to the club. I am satisfied that these also are appropriate development in the Green Belt.

DESIGN OF BUILDINGS

- 4.7 The design of the buildings has been carefully considered in respect of their external appearance and siting, in conjunction with the considerations of other sites. The buildings are aligned across the central axis of the existing building (597 sq.m. floorspace) resulting in harmony of the front elevation. The design of the changing room utilises the theme of the existing building and results in a subdominant building of 6m high compared to the existing club being 7m and, as such, sits down from the main building. The fitness suite is proposed to be constructed of lightweight materials and is a smaller, being 5m in height, refined structure that completes the progression of buildings in a clear and neat way.
- 4.8 Due to the position of the buildings adjacent to the existing buildings and the proximity to public vantage points at close range being limited, any views would be read against the existing sports complex. Whilst I appreciate that there will be a small loss of openness, I do not consider this a being overly harmful in the wider context of the sports club and the surrounding area.

SPECIAL CIRCUMSTANCES

- 4.9 Having established that the fitness suite creates 'in principle' harm by virtue of its inappropriateness, it falls to consider the circumstances in support of the development. The Design and Access Statement emphasises that the structure is purely required as a result of the activities that are being established or that already exist at Stourport Sports Club. The building is a multi-functional building that will be used for a fitness suite, educational area, spectator / judging / ceremony area, for use by any of the sports that take place on the site. In addition, taking into account the presence of the Indoor Netball Arena at the nearby school site, a regional centre of excellence, and the proposed cycle track, (subject of a separate application on this agenda – 09/0639/FULL) which will be the premier track in the region, I do feel that the proposed fitness suite is a natural requirement in establishing Stourport Sports Club as a regional sports village. Taking the regional context that this proposal sits and in the context of the other appropriate structures as part of this proposal, I do feel that these circumstances outweigh the harm and amount to very special circumstances.

OTHER ISSUES

- 4.10 The Highway Authority is satisfied with the additional car parking and access arrangements, and there are no neighbouring properties that will be directly affected by the proposal.

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- 4.11 Through the establishment of the rugby pitches it is proposed to have one of these floodlit. The floodlit area will be directly adjacent to the existing sports track which is also floodlit and, as a result, will not result in significant increase in harm to the Green Belt or the Landscape Protection Area.

5.0 Conclusions and Recommendations

- 5.1 The proposals are considered to be acceptable and provide an exciting prospect of establishing a Sports Village of regional significance in this area. The design of the buildings and their impact on the surroundings has been fully considered and found to be acceptable with any harm being outweighed by Very Special Circumstances. There is no significant highway or neighbour amenity issues in this case.

- 5.2 I therefore recommend **APPROVAL** subject to the following conditions:

1. A6 (Full with no reserved matters)
2. A11 (Approved plans)
3. B6 (External details – approved plan)
4. Use for Sports Facilities and associated education purposes only
5. No fencing
6. No change in levels without prior written consent
7. Details of flood lighting

Reason for Approval

The proposals are considered to be acceptable and are necessary in establishing a Sports Village of regional significance in this area. The design of the buildings and their impact on the surroundings has been fully considered and found to be acceptable with any harm being outweighed by Very Special Circumstances. There is no significant highway or neighbour amenity issues in this case. For these reasons the proposal complies with the policies listed above.