

Open

Planning Committee

Agenda

6pm
Tuesday, 16th April 2019
Council Chamber
Wyre Forest House
Finepoint Way
Kidderminster



Planning Committee

Members of Committee:

Chairman: Councillor J A Hart
Vice-Chairman: Councillor D Little

Councillor J Aston

Councillor N Harris

Councillor M J Hart

Councillor F M Oborski MBE

Councillor S J Williams

Councillor S J Chambers

Councillor P Harrison

Councillor V Higgs

Councillor C Rogers

Information for Members of the Public:-

Part I of the Agenda includes items for discussion in public. You have the right to request to inspect copies of Minutes and reports on this Agenda as well as the background documents used in the preparation of these reports.

An update report is circulated at the meeting. Where members of the public have registered to speak on applications, the running order will be changed so that those applications can be considered first on their respective parts of the agenda. The revised order will be included in the update.

Part II of the Agenda (if applicable) deals with items of "Exempt Information" for which it is anticipated that the public may be excluded from the meeting and neither reports nor background papers are open to public inspection.

Delegation - All items are presumed to be matters which the Committee has delegated powers to determine. In those instances where delegation will not or is unlikely to apply an appropriate indication will be given at the meeting.

Public Speaking

Agenda items involving public speaking will have presentations made in the following order (subject to the discretion of the Chairman):

- Introduction of item by officers;
- Councillors' questions to officers to clarify detail;
- Representations by objector;
- Representations by supporter or applicant (or representative);
- Clarification of any points by officers, as necessary, after each speaker;
- Consideration of application by councillors, including questions to officers

All speakers will be called to the designated area by the Chairman and will have a maximum of 3 minutes to address the Committee.

If you have any queries about this Agenda or require any details of background papers, further documents or information you should contact Sian Burford, Assistant Committee Services Officer, Wyre Forest House, Finepoint Way, Kidderminster, DY11 7WF. Telephone: 01562 732766 or email sian.burford@wyreforestdc.gov.uk

Declaration of Interests by Members – interests of members in contracts and other matters

Declarations of Interest are a standard item on every Council and Committee agenda and each Member must provide a full record of their interests in the Public Register.

In addition, alongside the Register of Interest, the Members Code of Conduct (“the Code”) requires the Declaration of Interests at meetings. Members have to decide first whether or not they have a disclosable interest in the matter under discussion.

Please see the Members’ Code of Conduct as set out in Section 14 of the Council’s constitution for full details.

Disclosable Pecuniary Interest (DPI) / Other Disclosable Interest (ODI)

DPI’s and ODI’s are interests defined in the Code of Conduct that has been adopted by the District.

If you have a DPI (as defined in the Code) in a matter being considered at a meeting of the Council (as defined in the Code), the Council’s Standing Orders require you to leave the room where the meeting is held, for the duration of any discussion or voting on that matter.

If you have an ODI (as defined in the Code) you will need to consider whether you need to leave the room during the consideration of the matter.

WEBCASTING NOTICE

This meeting is being filmed* for live or subsequent broadcast via the Council’s website site (www.wyreforestdc.gov.uk).

At the start of the meeting the Chairman will confirm if all or part of the meeting is being filmed.

You should be aware that the Council is a Data Controller under the Data Protection Act 1998. The footage recorded will be available to view on the Council’s website for 6 months and shall be retained in accordance with the Council’s published policy.

By entering the meeting room and using the public seating area, you are consenting to be filmed and to the possible use of those images and sound recordings for webcasting and or training purposes.

If members of the public do not wish to have their image captured they should sit in the Stourport and Bewdley Room where they can still view the meeting.

If any attendee is under the age of 18 the written consent of his or her parent or guardian is required before access to the meeting room is permitted. Persons under 18 are welcome to view the meeting from the Stourport and Bewdley Room.

If you have any queries regarding this, please speak with the Council’s Legal Officer at the meeting.

*Unless there are no reports in the open session.

NOTES

- Councillors, who are not Members of the Planning Committee, but who wish to attend and to make comments on any application on this list or accompanying Agenda, are required to give notice by informing the Chairman, Solicitor to the Council, or Director: Economic Prosperity & Place before the meeting.
- Councillors who are interested in the detail of any matter to be considered are invited to consult the files with the relevant Officers to avoid unnecessary debate on such detail at the Meeting.
- Members should familiarise themselves with the location of particular sites of interest to minimise the need for Committee Site Visits.
- Please note if Members wish to have further details of any application appearing on the Schedule or would specifically like a fiche or plans to be displayed to aid the debate, could they please inform the Development Control Section not less than 24 hours before the Meeting.
- Members are respectfully reminded that applications deferred for more information should be kept to a minimum and only brought back to the Committee for determination where the matter cannot be resolved by the Director: Economic Prosperity & Place.
- Councillors and members of the public must be aware that in certain circumstances items may be taken out of order and, therefore, no certain advice can be provided about the time at which any item may be considered.
- Any members of the public wishing to make late additional representations should do so in writing or by contacting their Ward Councillor prior to the Meeting.
- For the purposes of the Local Government (Access to Information) Act 1985, unless otherwise stated against a particular report, “background papers” in accordance with Section 110D will always include the case Officer’s written report and any letters or memoranda of representation received (including correspondence from the Highway Authority, Statutory Undertakers and all internal District Council Departments).
- Letters of representation referred to in these reports, together with any other background papers, may be inspected at any time prior to the Meeting, and these papers will be available at the Meeting.
- **Members of the public** should note that any application can be determined in any manner notwithstanding any or no recommendation being made.

Wyre Forest District Council

Planning Committee

Tuesday, 16th April 2019

Council Chamber, Wyre Forest House, Finepoint Way, Kidderminster

Part 1

Open to the press and public

Agenda item	Subject	Page Number
1.	Apologies for Absence	
2.	Appointment of Substitute Members To receive the name of any Councillor who is to act as a substitute, together with the name of the Councillor for whom he/she is acting.	
3.	Declarations of Interests by Members In accordance with the Code of Conduct, to invite Members to declare the existence and nature of any Disclosable Pecuniary Interests (DPI's) and / or Other Disclosable Interests (ODI's) in the following agenda items and indicate the action that they will be taking when the item is considered. Please see the Members' Code of Conduct as set out in Section 14 of the Council's Constitution for full details.	
4.	Minutes To confirm as a correct record the Minutes of the meeting held on the 19th February 2019.	7
5.	Applications to be Determined To consider the report of the Development Manager on planning and related applications to be determined.	11
6.	Scheme of Delegation – Proposed Changes To receive a report from the Corporate Director: Economic Prosperity and Place seeking approval of the Planning Committee for proposed changes to the scheme of delegation, to help provide clarity for Officers, Councillors and members of the public.	61
7.	Planning and Related Appeals To receive a schedule showing the position in relation to those planning and related appeals currently being processed and details of the results of appeals recently received.	72

8.	<p>Section 106 Obligation Monitoring</p> <p>To consider a report from the Corporate Director: Economic Prosperity and Place that gives details of the most current Section 106 Obligations which require monitoring.</p>	93
9.	<p>To consider any other business, details of which have been communicated to the Solicitor to the Council before the commencement of the meeting, which the Chairman by reason of special circumstances considers to be of so urgent a nature that it cannot wait until the next meeting.</p>	
10.	<p>Exclusion of the Press and Public</p> <p>To consider passing the following resolution:</p> <p>“That under Section 100A(4) of the Local Government Act 1972 the press and public be excluded from the meeting during the consideration of the following item of business on the grounds that it involves the likely disclosure of “exempt information” as defined in paragraph 3 of Part 1 of Schedule 12A to the Act”.</p>	

Part 2

Not open to the Press and Public

11.	<p>To consider any other business, details of which have been communicated to the Solicitor to the Council before the commencement of the meeting, which the Chairman by reason of special circumstances considers to be of so urgent a nature that it cannot wait until the next meeting.</p>	
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WYRE FOREST DISTRICT COUNCIL

PLANNING COMMITTEE

COUNCIL CHAMBER, WYRE FOREST HOUSE, FINEPOINT WAY, KIDDERMINSTER

19TH FEBRUARY 2019 (6PM)

Present:

Councillors: J A Hart (Chairman), D Little (Vice-Chairman), J Aston, S J Chambers, P Harrison, N Harris, M J Hart, N Martin, F M Oborski MBE, C Rogers, G Webster and S J Williams.

Observers:

There were no members present as observers.

PL. 59 Apologies for Absence

Apologies for absence were received from Councillor V Higgs.

PL. 60 Appointment of Substitutes

Councillor G Webster was a substitute for Councillor V Higgs.

PL. 61 Declarations of Interests by Members

Councillor Fran Oborski declared an Other Disclosable Interest (ODI) in respect of 19/0020/LIST as Kidderminster Town Council is taking over the management of Kidderminster Town Hall and she is a Kidderminster Town Councillor and the Chair of the Town Hall Committee.

Councillor John Aston declared an Other Disclosable Interest (ODI) in respect of 19/0020/LIST as Kidderminster Town Council is taking over the management of Kidderminster Town Hall and he is a Kidderminster Town Councillor.

Councillor Sally Chambers declared an Other Disclosable Interest (ODI) in respect of 19/0020/LIST as Kidderminster Town Council is taking over the management of Kidderminster Town Hall and she is a Kidderminster Town Councillor.

Councillor Marcus Hart declared a Disclosable Pecuniary Interest (DPI) in respect of 18/0306/FULL, that the applicants are the Trustees of Chaddesley Corbett Education Foundation of which he is one. He informed the Committee he would leave the room whilst the application was determined.

Councillor Marcus Hart declared in respect of 18/0748/PIP that, as the Ward Member for Wyre Forest Rural, he had spoken to the applicant about the application but would judge the application with an open mind.

Councillor Marcus Hart declared in respect of 18/0743/FULL that, as the Leader of the Council, he had spoken to the applicant about the application but would judge the application with an open mind.

Councillor John Hart declared an Other Disclosable Interest (ODI) in respect of 18/0306/FULL that he has a family member who is a Trustee of Chaddesley Corbett

Education Foundation but he would judge the application with an open mind.

PL. 62 Minutes

Decision: The minutes of the meeting held on 11th December 2018 be confirmed as a correct record and signed by the Chairman.

PL. 63 Applications To Be Determined

The Committee considered those applications for determination (now incorporated in Development Control Schedule No. 571 attached).

Councillor M Hart left the room at 6:03pm whilst application 18/0306/FULL was considered and re-entered the room at 6:28pm.

Decision: The applications now submitted be determined, in accordance with the decisions set out in Development Control Schedule No 571 attached, subject to incorporation of any further conditions or reasons (or variations) thought to be necessary to give full effect to the Authority's wishes about any particular application.

PL. 64 Planning and Related Appeals

The Committee received details of the position with regard to planning and related appeals, still being processed, together with particulars of appeals that had been determined since the date of the last meeting.

Decision: The details be noted.

PL. 65 Land at Stanley Dental Practice, 124 Stourport Road, Kidderminster

The Committee considered a report to determine whether the Tree Preservation Order No 434 (2018) relating to four Maple Trees, within the car park of Stanley Dental Practice should be confirmed or not.

Decision:

1.1 That the Tree Preservation Order (TPO) be confirmed with the following modification:

TPO to only include:

T2 – Maple

T3 – Maple

T4 – Maple

as these trees contribute to the amenity of the locality and are considered worthy of protection.

1.2 For reasons given in the report, the following tree should be removed from the original Schedule 1 of the TPO:

T1 - Maple

There being no further business the meeting ended at 6:53pm.

WYRE FOREST DISTRICT COUNCIL

PLANNING COMMITTEE

19th February 2019 Schedule 571 Development Control

The schedule frequently refers to various standard conditions and notes for permission and standard reasons and refusals. Details of the full wording of these can be obtained from the Development Manager, Wyre Forest House, Finepoint Way, Kidderminster. However, a brief description can be seen in brackets alongside each standard condition, note or reason mentioned.

Councillor M Hart left the room at this point (6:03pm)

Application Reference: 18/0306/FULL
Site Address: THE OLD GRAMMAR SCHOOL, THE VILLAGE, CHADDESLEY CORBETT, KIDDERMINSTER, DY10 4SA
Delegated authority to APPROVE subject to the following: <ul style="list-style-type: none"> a) the signing of section 106 Agreement for Affordable Housing and; b) the following conditions: <ul style="list-style-type: none"> 1. A6 (Full with no reserved matters) 2. A11 (Approved plans) 3. Details of any new materials 4. Details of all glazing including secondary and obscure 5. Details of bin storage 6. Parking provision 7. J1 (Removal of permitted development – residential) 8. No gates

Councillor M Hart re-entered the room at this point (6:28pm)

Application Reference: 18/0748/PIP
Site Address: WOLVERLEY LODGE, LEA LANE, COOKLEY, KIDDERMINSTER, DY10 3RL
APPROVED subject to a note advising that the following items are required to be submitted as part of the Technical Details Consent application: <ul style="list-style-type: none"> 1. Location Plan (1:1250) 2. Block Plan (1:500) 3. Proposed Floor Plans (1:100) 4. Proposed Elevations (1:100) 5. Cross-Sections (at an appropriate scale) 6. Streetscene (1:200) 7. Access proposals (1:200 or 1:00) 8. Tree Survey 9. Arboricultural Impact Assessment 10. Landscape Scheme (1:200) and Planting Schedule 11. Construction and Environmental Management Plan 12. External Lighting Proposals

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| <ul style="list-style-type: none"> 13. Foul Drainage Scheme 14. Surface Water Scheme/Strategy including Sustainable Urban Drainage 15. Heritage Statement 16. Ecological Survey 17. Contaminated Land Assessment 18. Transport Statement 19. Landscape and Visual Impact Assessment |
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Application Reference: 18/0743/FULL
Site Address: 46 BARNETTS LANE, KIDDERMINSTER, DY10 3HH
APPROVED subject to the following conditions: <ul style="list-style-type: none"> 1. A6 (Full with no reserved matters) 2. A11 (Approved plans) 3. B1 (Samples/details of materials) 4. B11 (Details of enclosure) 5. B13 (Levels details) 6. Parking Provision and Access Arrangements to be provided 7. Cycle Storage to be provided 8. Landscaping scheme to be provided and implemented 9. Removal of PD Rights for Alterations to Roof and Extensions <p>Notes</p> <ul style="list-style-type: none"> A. STW – Sewer within the site. B. This permission does not authorise the applicant to carry out works within the publicly maintained highway.

Application Reference: 19/0019/FULL
Site Address: 85A ARELEY COMMON, STOURPORT-ON-SEVERN, DY13 0NG
Application Withdrawn

Application Reference: 19/0020/LIST
Site Address: KIDDERMINSTER TOWN HALL, VICAR STREET, KIDDERMINSTER, DY10 1DB
APPROVED subject to the following conditions: <ul style="list-style-type: none"> 1. A7 (Time Limit for Listed Building Consent) 2. A11 (Approved Plans) 3. B6 (External Details – Approved Plan/Schedule of Works) 4. G1 (Details of Materials)

**EXECUTIVE SUMMARY TO REPORT OF
DEVELOPMENT MANAGER**

Planning Committee

16/04/2019

PART A Reports

Ref.	Address of Site	Recommendation	Page No.
18/0689/FULL	LAND AT STONE MEADOW BUTTS LANE STONE KIDDERMINSTER	APPROVAL	12

PART B Reports

Ref.	Address of Site	Recommendation	Page No.
18/0160/FULL	LAND NORTH OF BALDWIN ROAD STOURPORT-ON-SEVERN	DELEGATED PPROVAL	22
18/0531/FULL	56 PUXTON DRIVE KIDDERMINSTER	DELEGATED APPROVAL	30
19/0010/FULL	THE GOAT HOUSE CLEOBURY ROAD BEWDLEY	APPROVAL	35
19/0063/FULL	166 SUTTON PARK ROAD KIDDERMINSTER	APPROVAL	40
19/0097/FULL	LAND ADJACENT TO 23 SILVER BIRCH DRIVE KIDDERMINSTER	APPROVAL	47
19/0114/FULL	2 SION HILL KIDDERMINSTER	DELEGATED APPROVAL	53
19/0133/FULL	7 WESTHEAD ROAD NORTH COOKLEY KIDDERMINSTER	APPROVAL	57
19/0134/FULL	42 FRANCHE ROAD WOLVERLEY KIDDERMINSTER	APPROVAL	59

WYRE FOREST DISTRICT COUNCIL

PLANNING COMMITTEE
16TH APRIL 2019

PART A

Application Reference:	18/0689/FULL	Date Received:	30/10/2018
Ord Sheet:	385838 274241	Expiry Date:	25/12/2018
Case Officer:	Paul Round	Ward:	Wyre Forest Rural

Proposal: Proposed 3 bedroom subterranean dwelling with associated parking and landscaping

Site Address: LAND AT STONE MEADOW, BUTTS LANE, STONE, KIDDERMINSTER, DY104BH

Applicant: Mr M Daneshfar

Summary of Policy	DS04, CP01, CP02, CP03, CP11, CP12, CP14 (CS) SAL.PFSD1, SAL.DS01, SAL.DS02, SAL.CC1, SAL.CC2, SAL.CC7, SAL.UP1, SAL.UP5, SAL.UP7, SAL.PDS1 (SAAPLP) National Planning Policy Framework Planning Practice Guidance
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 site forms part of a larger site previously known as Butts Lane Depot which was an original World War 2 Royal Ordnance factory workers accommodation. The site has been slowly developed over the last few years with various permissions leading to a total of 10 units on the site. The site is now known as Stone Meadow.
- 1.2 The site is a previously developed site within the Green Belt. The area is rural in character with farm buildings to the north-east and a residential property to the east. The wider development of Stone Meadow is to the west and north-west. To the south lies open fields and beyond an educational establishment.
- 1.3 The proposal seeks to develop the final part of the site for a single subterranean dwelling along with ancillary works.

18/0689/FULL

2.0 Planning History (of relevance)

- 2.1 18/0035/FULL - Demolition of existing buildings and redevelopment to create 6 no residential units : Approved 25.6.18
- 2.2 17/0423/FULL – Change of use of building to form 2 no. Residential Dwellings : Approved 15.9.17
- 2.3 17/0422/FULL – Conversion of existing buildings to form 5 no Residential Dwellings. (Resubmission of 16/0571/FULL) : Approved 15.9.17
- 2.4 16/0571/FULL – Conversion of existing building to form 3 No. Residential dwellings with access improvements : Approved 25.1.17
- 2.5 15/0705/FULL – Proposed conversion to form dwelling with associated car parking : Approved 18.2.16
- 2.6 07/0299/FULL - Conversion of existing buildings to provide 22 live/work units & 9 affordable dwellings, business support facility for residents/community meeting room, landscape renovation & associated works including off site highway works : Approved 19.10.07

3.0 Consultations and Representations

- 3.1 Stone Parish Council – Object and recommend refusal. The original approval was specific that development would only be on existing dwellings both in site and footprint. The application exceeds that approval. The application is overdevelopment.
- 3.2 Highway Authority – Recommend refusal.
Whilst the proposed development meets with standards in terms of parking provision, the proposed new build dwelling is considered to be in an unsustainable location with the nearest town being Kidderminster at a distance of least 4.5 km. The site is therefore remote from amenities and services such as education, employment, health, leisure and retail and future occupants will be reliant on private car use. Moreover, the site is situated on the edge of 30 mph zone beyond which the national speed limit applies and there is no footway provision or street lighting on Butts Lane or Stanklyn Lane both of which are narrow with limited visibility in places. The poor quality of the route which represents highway safety hazard would be a deterrent to sustainable modes of transport i.e. walking and cycling and access to public transport links is therefore also restricted and no details of services have been provided.
- 3.3 North Worcestershire Water Management – No objections subject to conditions

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- 3.4 Conservation Officer – The proposal involves the demolition of an undesignated heritage asset related to the former use of the site and of unknown purpose. I am satisfied that the previous building recording covering this site has adequately described and evaluated this building.
- 3.5 Worcestershire County Council Archive & Archaeology Service - The loss/change of the heritage asset represents substantial harm to this asset, however its significance is low and it has previously been recorded as part of a Historic Building Record (HER) already deposited with the Worcestershire HER. We therefore, have no further comments or requirements with regard to this application.
- 3.6 Worcestershire Regulatory Services (WRS) [Contamination] - No objection subject to condition requiring reporting of unexpected contamination. WRS has reviewed available documents and records in respect of potential contaminated land (PCL) issues at the development site. Documents provided indicate the development site has a history as MOD land and previously was used as a WWII workers hostel associated with munitions factory in the vicinity.
- 3.7 Arboricultural Officer – No objections subject to a condition requiring detailed landscape scheme.
- 3.8 Countryside Manager – No objections subject to conditions
- 3.9 Neighbour/Site Notice – 1 observation received:
- We have already seen existing buildings removed and new replacements based on footprint equivalence - does this add to the footprint or use existing capacity? The building to be demolished bears no size comparison
(Officer Comment – Information has been provided explaining the Policy position. No further comments have been received)

4.0 Officer Comments

- 4.1 The application relates to the former Butts Lane depot, which is now called Stone Meadow. The former use of the site and previous planning applications have established it as being previously developed land. As set out in the planning history above, the site has gradually been developed via number of permissions through a combination of conversions and redevelopment opportunities resulting in a total of 10 properties across the whole of the site.

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POLICY CONTEXT AND PRINCIPLE OF DEVELOPMENT

- 4.2 Green Belt policy within the revised National Planning Policy Framework and the Adopted Wyre Forest Site Allocations and Policies Local Plan allow for the development of previously developed site within the Green Belt. This policy approach allows for 'limited infilling or the partial or complete redevelopment' of sites, subject to there being no greater impact on the openness of the development than the existing development. Policy SAL.PDS1 goes further in requiring development not to exceed the height of the existing buildings and trees and not giving rise to off-site infrastructure problems.
- 4.3 The application site forms part of the wider 'previously developed site' clearly being defined within both historic documents and recent applications. The specific application site contains a building of utilitarian design which is not unsubstantial, being 77 cubic metres in volume. This was identified within the historic assessment as an ancillary building, and would appear to be a substation or gatehouse structure. I have no doubt from the evidence available that the site is previously developed land.
- 4.4 The proposal seeks to utilise the contours of the ground to construct the subterranean dwelling. The total volume of over ground works will be 77 cubic metres exactly the same as the existing building on site. In addition the proposed dwelling would be approximately 2m lower than the existing building. It is therefore clear that there will be no greater impact on the Green Belt than the existing building, in fact by using of the contours of the site there will be an improvement overall to the openness of the Green Belt. The proposal is therefore appropriate development in the Green Belt.
- 4.5 It will be clear from the consultation responses that no adverse issues have been raised in respect of infrastructure aspects. When taken with the conclusion that there is no greater impact on the Green Belt, the proposal falls to be acceptable in principle and fully in line with the Development Plan. I have taken account of the views of the Parish Council, but it can be seen that the proposal is acceptable based on adopted policy.

SUSTAINABLE LOCATION OF DEVELOPMENT

- 4.6 The Highway Authority have raised objection in respect of the location of the development, particularly stating that it is remote from services resulting a reliance on the motor car. The response continues that due to the quality of the surrounding roads that alternative sustainable means of travel would not be taken up.

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- 4.7 The following table is helpful in establishing the factual basis for the location of the building:

Service	Distance	Time taken by Car	Time taken by Cycle	Time taken by Foot	Accessible by Bus
Primary School / Nursery	1.9 miles	5 minutes	9 minutes	35 minutes	Yes
Secondary School	2.0 miles	5 minutes	11 minutes	39 minutes	Yes
Convenience Store	1.9 miles	5 minutes	9 minutes	35 minutes	Yes
Chemist	1.9 miles	5 minutes	9 minutes	35 minutes	Yes
Park / Playground	1.6 miles	4 minutes	7 minutes	29 minutes	Yes
Railway Station	2.3 miles	6 minutes	12 minutes	45 minutes	Yes
Doctors Surgery	2.6 miles	6 minutes	14 minutes	48 minutes	Yes
Hospital	3.4 miles	10 minutes	19 minutes	68 minutes	Yes

- 4.8 It is of interest to note that there is a bus stop 0.3 mile from the site at the junction of Butts Lane and Bromsgrove Road, within an approximate 7 minute walk from the site. Whilst it is acknowledged that one third (180m) of this route has no footway, the user, if walking, would be on the carriage way for about 3 minutes before being able to walk the remainder of the route on adopted pavement. It is further accepted that this route is not lit by street lights, but given its rural location this would not be looked upon favourably and would have significant visual impact. From the bus stops on Stone Hill, not only can the services listed above be accessed, but also Kidderminster Town Centre within 15 minutes, Bromsgrove with 25 minutes and Redditch in less than 60 minutes. Members will also be aware of the numerous public footpaths that are within the locality, linking the site to Spennells and the wider area.
- 4.9 When taken these factual matters into account, it is difficult to see how the Highway Authority can state that the site is remote. It is clearly well connected to local services which can be accessed by different modes of transport. In addition routes are available that would allow for these services to be accessed by residents without danger.

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- 4.10 Paragraph 108 of the National Planning Policy Framework requires the determination of planning applications in respect of highway considerations to take account of the following:
- a) appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;
 - b) safe and suitable access to the site can be achieved for all users; and
 - c) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.
- 4.11 Members will note that there is no requirement to ensure that all sites to achieve maximum accessibility, but that it must be appropriate given the type of development and its location. It is accepted that this proposal for a single dwelling is in a rural location, but it is located where there are appropriate opportunities for occupants to utilise sustainable means of travel. Such measures can be promoted through the provision of welcome packs and appropriate cycle parking, secured through planning conditions. The Highway Authority has not indicated that the access to the site or the network is unable to accommodate this additional dwelling.
- 4.12 Finally, Members will note the planning history on this site. The Highway Authority has raised no objection to the location of this site on any of the previous applications. Further, the Highway Authority confirmed in January last year that they had no objection to a total of 11 units on this site, a scheme that was subsequently reduced in number. This parcel of land is in effect the final piece of previously developed land and will provide a total of 11 units across the site. There seems to be no logical or justifiable reasons to refuse this application now on sustainability grounds given the previous responses of the Highway Authority.
- 4.13 There is no policy basis for the refusal offered by the Highway Authority or in fact support from the National Planning Policy Framework given the facts of this case. It is my view that to pursue this line of argument would be extremely unreasonable. I take the view that the site is a sustainable location and it is reasonable to allow an additional dwelling given the history of the site and the appropriate opportunities to access other means of transport. On this basis I conclude that the site is appropriate and acceptable in its location for residential development and complies with Development Plan policies.

18/0689/FULL

SITING AND DESIGN

- 4.14 The proposal provides a single storey three bedroom property with ‘open-plan’ kitchen, living room and dining room. The proposal also includes a integral garage. The property will be positioned to the north-west corner of the site with the access drive coming from the north-east. Garden space is provided to the side and rear of the property with a large area for domestic curtilage. The remaining land will be used by the Applicant for amenity land and include the provision of tree planting and wildlife pond.
- 4.15 The physical building will be situated within the contours of the land resulting in the rear and sides of the building being invisible within the landscape. Visually only the front of the building will be seen, which consists of full height glazing and garage door. This minimal approach to the design is wholly consistent with the design ethos that is promoted as part of this proposal. When taking account of the design policies as set out within the Development Plan, in particular that of rural areas, it is clear that this approach is acceptable in all respects.
- 4.16 The siting of the building in the north-east corner is entirely appropriate and maintains built development with the confines of previously developed site and suitably relates to the wider development.

VISUAL IMPACT ON LANDSCAPE AND GREENBELT

- 4.17 As described above, the building will be discretely located within the contours of the land, resulting in the front elevation being the only visible element of the development. Due to way the building will be constructed into the hillside and the format of the remaining landform, only 1.3m of the building will be readily visible in close proximity. When viewed from Butts Lane, which is lower than the site, it is highly unlikely that the building will be visible. Any glimpses of the building will be set against the backdrop of the hillside.
- 4.18 On the basis of the comments above, it is concluded there will be no detrimental impact on the Green Belt or landscape, in fact there will be a improvement in visual openness with the removal of the existing building. Overall the impact on the landscape and visual amenity of the Green Belt is acceptable.

HIGHWAY ACCESS AND PARKING

- 4.19 Access to the site will be gained via the existing access for the Stone Meadow development, with an access driveway being provided as a spur off the main access drive. The access driveway will lead to a parking area and garage providing parking for up to three cars and cycle storage. Given the length of the access drive a passing bay is provided. The Highway Authority has expressed no objections to the access provision or parking levels proposed.
- 4.20 The main access is provided onto Butts Lane. The Highway Authority is satisfied that the access point and the nature of the surrounding highway network are adequate to accommodate the vehicle trips for a further dwelling.

18/0689/FULL

- 4.21 Based on these observations there is no adverse harm from a highway safety perspective and therefore the development is acceptable in highway terms.

HERITAGE IMPACT

- 4.22 Both the County Council and Conservation Officer have highlighted the importance of the site and the existing building as part of the overall heritage asset. Whilst it is acknowledged that the loss of the utilitarian building will result in harm, the significance of the asset is described as low. Overall neither the County Council nor the Conservation Officer offer an objection to the loss of the building or the proposed development. Paragraph 197 of the National Planning Policy Framework advises that where there is an effect on the significance of a non-designated heritage asset, as in this case, such harm should be taken in the overall planning balance.

DRAINAGE AND BIODIVERSITY

- 4.23 Drainage will be provided within the site with surface water being mitigated through a Sustainable Urban Drainage Scheme including rainwater harvesting and mitigation pond. Foul water drainage will be connected to the main sewerage system within the locality. These arrangements are judged to be acceptable.
- 4.24 A full ecological report has been provided along with an addendum providing clarification. The Countryside Manager has fully reviewed the impact of the development and the proposed mitigation and concludes that there will be no adverse harm to protected species or habitats.

NEIGHBOURS AMENITY

- 4.25 Due to the location of the proposed dwelling there will be no adverse impact on neighbour amenity by virtue of overlooking or loss of privacy. There may be a minimal increase in vehicular movements but this will not be perceivable and will not result in loss of amenity to surrounding residential properties.

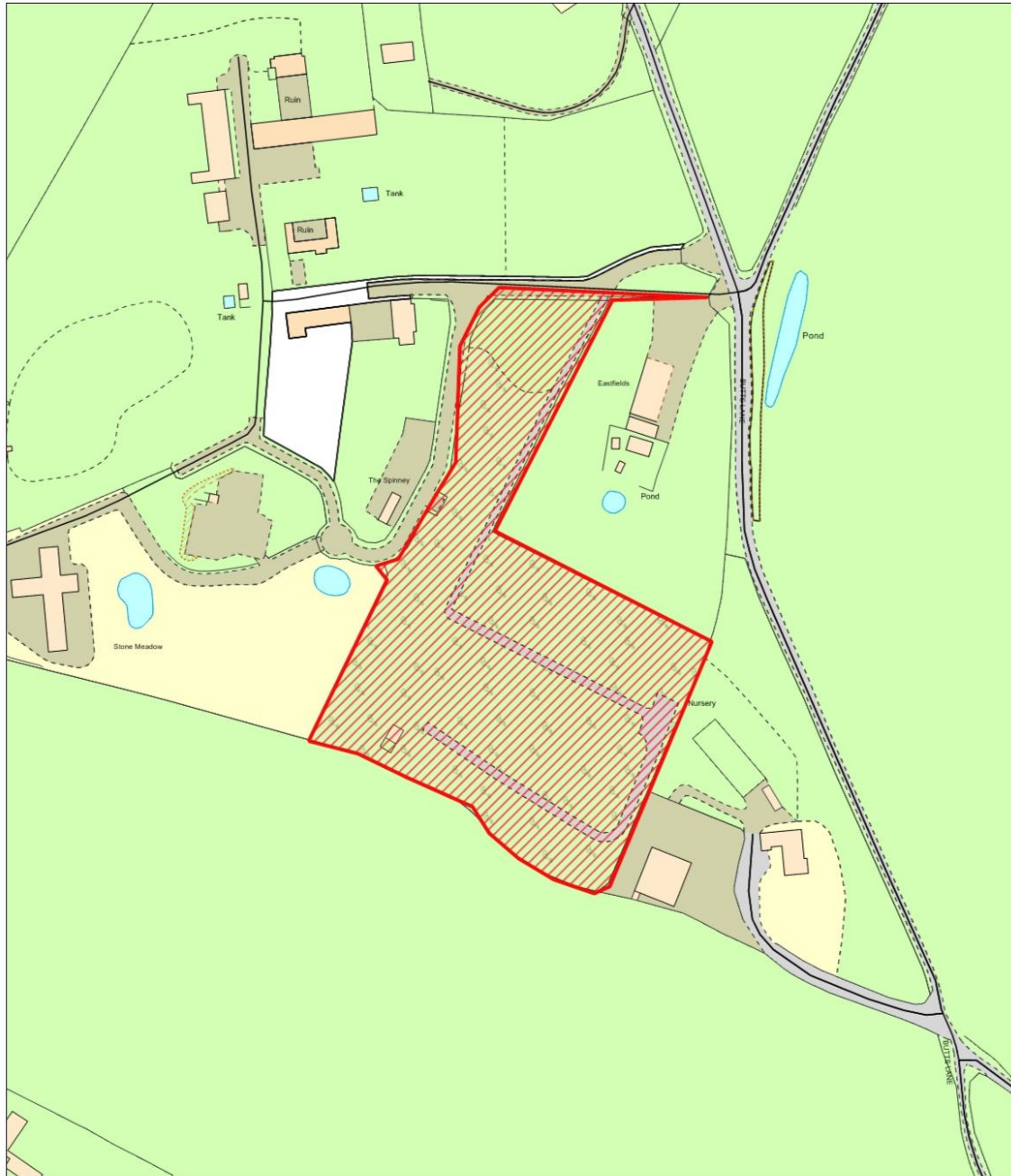
18/0689/FULL

5.0 Conclusions and Recommendations

5.1 The proposal is appropriate development in the Green Belt and is compliant with the Green Belt policies of the Development Plan and National Planning Policy Framework. The design of the building is entirely appropriate for the rural location and will be largely invisible in the landscape causing no adverse impact to the visual character or amenity of the surrounding area. The proposed development is acceptable in terms of access and highway impact. Despite the objection from the Highway Authority on the location of development, the evidence available to the Local Planning Authority demonstrates that such an objection is unfounded and that the proposed dwelling is located close to services which can be accessed by sustainable modes of transport. Technical matters of drainage and biodiversity have been fully addressed in the applicant's submission and found to be acceptable. There will be some harm in respect of the loss of building which has minor significance as non-designated heritage asset. The social, environmental and financial benefits that flow from the provision of dwelling in this location would overcome any minor harm that would be caused by allowing this development. Overall, the proposal is considered to be sustainable development.

5.2 It is therefore recommended that the application be **APPROVED** subject to the following conditions:

1. A6 (Full with no reserved matters)
2. A11 (Approved plans)
3. B1 (Samples/details of materials)
4. B11 (Details of enclosure; to define curtilage and any other fences etc.)
5. B13 (Levels details)
6. Cross-Sections of Earth movements – dwelling and pool
7. C12 (Details of earthworks)
8. C6 (Landscaping – small scheme)
9. C8 (Landscape implementation)
10. Highway - Parking and access
11. Highway – Welcome Pack
12. Highway – Garage to be used for cycle parking, garage and storage only
13. J1 (Removal of permitted development – residential)
14. Drainage – Surface water
15. Drainage – Foul water
16. Ecological Mitigation
17. Unexpected contamination



Economic Prosperity and Place Directorate

Land at Stone Meadow

Butts Lane, Stone

Kidderminster, DY10 4BH



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Wyre Forest House, Finepoint Way, Kidderminster DY11 7WF Telephone: 01562 732928, Fax: 01562 732556

WYRE FOREST DISTRICT COUNCIL

PLANNING COMMITTEE
16TH APRIL 2019

PART B

Application Reference: 18/0160/FULL **Date Received:** 04/07/2018
Ord Sheet: 381654 271647 **Expiry Date:** 03/10/2018
Case Officer: Helen Hawkes **Ward:** Mitton

Proposal: Erection of 18 dwelling houses together with new access off Baldwin Road and car parking, following demolition of existing buildings

Site Address: LAND NORTH OF BALDWIN ROAD, STOURPORT-ON-SEVERN, DY139AU

Applicant: BIRAN HOMES

Summary of Policy	DS01, DS05, CP01- CP05, CP11, CP12, CP14 (CS) SAL.PFSD1, SAL.DPL1, SAL.CC1, SAL.CC2, SAL.CC7, SAL.UP3, SAL.UP4, SAL.UP5, SAL.UP6, SAL.UP7, SAL.UP9, SAL.EA5 (SAAPLP) Design Guide SPD Parking Standards (2016) Planning Obligations SPD (2017) National Planning Policy Framework Planning Practice Guidance Circular 06/2005 The Conservation of Habitats and Species Regulations 2017 Streetscape Design Guide (2018)
Reason for Referral to Committee	'Major' planning application
Recommendation	DELEGATED APPROVAL subject to Section 106 Agreement

ADDITIONAL REPORT FOLLOWING RESOLUTION OF 18TH DECEMBER 2018
TO AMEND S106 AGREEMENT

18/0160/FULL

1.0 Site Location and Description

- 1.1 The application site lies to the north of Baldwin Road, Stourport-on-Severn and the majority of the site comprises inaccessible open space that has been recently cleared of all vegetation and trees and is bounded to the northwest by a steep wooded embankment that rises up from the site to the Staffordshire and Worcestershire Canal. The remaining part of the site relates to brownfield, which would provide the internal access road into the site from Baldwin Road through the adjoining housing development that has been granted planning permission for 9 dwellinghouses (and is subject to a Minor Material Amendment application (Section 73) to reconfigure house types in Plots 1, 2 and 9 and omit 2 houses in the approved application 15/0429/FULL, in order to create a wider internal access road to serve the proposed development in this application.
- 1.2 The surrounding area is characterised by a mix of residential and industrial uses. To the west of the site are two cottages at 7 and 9 Baldwin Road and a tyre workshop and to the south, on the opposite side of Baldwin Road, are industrial premises within Riverside Business Centre. To the southeast and east of the site is an area of derelict land, which has been cleared of all buildings and there are extant planning permissions to redevelop this brownfield land for 11 dwellings in total under applications 15/0716/FULL and 16/0603/FULL. Beyond this land, is housing development on Baldwin Road and within Baldwin Gardens and to the northeast, are the rear gardens belonging to two cottages and the Bird In Hand Public House, which are accessed off Holly Road. To the north, is the canal and River Stour and to the west, beyond an area of open space and vacant brownfield land (which has extant planning permission for 36 dwellings under application WC/0481/05) is a row of terrace houses that face onto the Gilgal and form part of the Gilgal Conservation Area.
- 1.3 The proposed development is for the erection of 18 dwellinghouses, together with a new access road and associated works. The development would provide a mix of dwellings across the site, comprising of 2, 3 and 4 bedroomed houses. A total of 5 dwellinghouses would be affordable (comprising 3 social rent units and 2 as intermediate units), which represents 27% in total with a 70/30 tenure split. The applicant has also agreed to provide a contribution of £19,174.32 towards the provision and maintenance of off-site public open space (in line with the Adopted Planning Obligations SPD) and a contribution of £36,237.00 towards health services (as requested by the NHS) although no specific 'project' has been demonstrated and further evidence would be need to progress this matter.

18/0160/FULL

- 1.4 The site layout would comprise a terrace of 5 dwellinghouses, ranging in scale from two-storey to three storey, on both sides of a landscaped area at the head of the new cul-de-sac. A further terrace of 3 dwellinghouses would be sited to the west of the access road, with frontage parking and rear gardens backing onto the retained open space. To the east of the access road, there would be five dwellinghouses, comprising a mix of detached and semi-detached houses that would all front onto a parking courtyard.
- 1.5 A revised site plan has been submitted with 'Pedestrian Prioritised Street' indicated on the plan, which shows a road measuring 4.8 metres in width to allow two way traffic and a 2 metre wide footpath provided to one side of the road. A total of 39 car parking spaces would be provided, which equates to 200% parking provision.

2.0 Planning History

- 2.1 18/0447/S73 - Minor material amendment to planning approval 15/0429/FULL for alterations to access road, substitution of house types and omission of 2 dwellings : Awaiting decision.
- 2.2 16/0603/FULL - Demolition of existing garage/workshop premises and erection of 4no. New residential dwellings with associated access and other works : Approved 14.07.17
- 2.3 15/0716/FULL - Demolition of existing office/workshop building and erection of 7no. New residential dwellings with associated access and other works : Approved 04.10.16
- 2.4 15/0429/FULL - Construction of 9 residential dwellings with associated access and other works : Approved 10.05.16
- 2.5 WF/0481/05 – Development of thirty-six dwellings with new vehicular access, parking and associated landscaping (resubmission of WF.203/04) : Approved 4.05.05

3.0 Consultations and Representations

- 3.1 Stourport-on-Severn Town Council – No objection and recommend approval.

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- 3.2 Highway Authority – No objections subject to conditions. It is advised that further to the refusal comment, the applicant has submitted a revised plan to demonstrate a consistent design approach in accordance with the Streetscape Design Guide Pedestrian Prioritised Street and has addressed the issues of pedestrian connectivity and statutory services provision by providing a 2m footway on both sides of the carriageway. Two sections of build out on the access road, highlighted by contrasting block work will function as a speed reduction measure towards achieving the design speed of 15 mph.
- 3.3 Environment Agency – No objection and it is advised that all of the dwellinghouses would be located within Flood Zone 1, which has the lowest risk of flooding. They also do not pre-empt the development to be at risk of fluvial flooding as a result of climate change. It is also advised that they do not comment on the safety of the access in the event of a flood or object on this basis. It is recommended that the local planning authority consults their Emergency Planners and the Emergency Services to determine whether they consider this to be safe in accordance with the guiding principles of the National Planning Practice Guidance (NPPG). They also note that the access and egress by vehicular means is also a matter for your Emergency Planners and the Emergency Services.
- 3.4 Council's Emergency Officer – Raise no objection to the application.
- 3.5 Canal & River Trust – No objection subject to conditions in relation to boundary treatment and landscaping; Construction methodology; removal of permitted development rights; drainage details; Construction Environmental Management Plan; and lighting details. Informatives should also be attached to make the applicant aware that they necessary consents maybe need in order to comply with the Canal & River Trust “Code of Practice for Works affecting the Canal & River Trust” and to make the applicant aware that there are restrictive covenants in place on the land.
- 3.6 Countryside Manager - No objections subject to conditions. It is advised that the a recent badger survey has been submitted which confirms the presence of an active badger set and that the proposed development is within close proximity to the sett that it would require the applicant to apply for a Natural England Licence prior to any work commencing.
- 3.7 Natural England – No objection in terms of the impact of the proposal on statutorily protected sites or landscapes. However they advise that they have not assessed this application in terms of the impact on protected species and that the local planning authority should apply Natural England’s Standing Advice to this application as it is a material consideration in the determination of applications in the same way as any individual response received from Natural England following consultation.

18/0160/FULL

- 3.8 Arboricultural Officer – No objection and it appears that the current site layout can provide sufficient space for tree planting.
- 3.9 Worcestershire Regulatory Services (Contaminated Land) – No objection subject to a condition to ensure risks from contamination are adequately investigated and mitigated where necessary.
- 3.10 North Worcestershire Water Management – Objects to the application on the grounds that no safe ‘dry’ access route is provided. It is considered that the only route in/out the site is at risk of flooding, which means that in a flood event the development would become a so called ‘dry island’. It is requested that a safe access/egress route should be provided to allow occupants of the site to safely exit and enter the buildings via a ‘dry’ route above 1 in 100 year flood level to reach land outside the flooded area (e.g. Flood Zone 1) using public rights of way without the intervention of the emergency services or others.

In terms of drainage, the surface water strategy sets out two options for the site. I have strong preference for option 1 providing the ground conditions are suitable as this proposes the use of infiltration (which reduces the amount of runoff leaving the site) and provides sufficient water quality treatment. I believe that a detailed drainage design can be conditioned.

- 3.11 West Mercia Police Designing Out Crime Officer – No objection subject to a condition to secure appropriate boundary treatment details.
- 3.12 NHS – No objection and request that a financial contribution of £36,237.00 is provided towards additional services to meet patient demand and the short term funding gap for health services as a result of this ad-hoc housing development.
(Officer Comment – The contribution needs clarified in respect of the amount and the exact project to ensure CIL Regulations are met)
- 3.13 Worcestershire County Council’s Archive & Archaeology Service – No objection subject to conditions to require an appropriate programme of archaeological work including a Written Scheme of Investigation is submitted to and agreed by the local planning authority and implemented.
- 3.14 Conservation Officer – No objection.
- 3.15 Severn Trent Water – No objection subject to a condition to require drainage details.

18/0160/FULL

3.16 Neighbour/Site Notice – 7 letters of objection have been received from nearby occupiers stating the following concerns:

- Impact on privacy
- Over dominant properties in Baldwin Gardens
- Presence of Japanese Knotweed and spread of this invasive plant species
- Loss of trees and wildlife
- Noise and Dust during construction work
- Additional traffic in the area
- Impact on pedestrian safety
- Noise from additional cars and people
- Conservation area would be reduced significantly
- Loss of a quiet, peaceful and secluded environment
- Impact on neighbouring business as the new access road would be directly opposite where multiple vehicles await to load and unload goods

4.0 Officer Comments

4.1 Members will recall that they recommended approval of this application on the 18th December 2018, following additional information that was submitted to overcome the impact on biodiversity and to address Highways objection.

4.2 The approval of the application was subject to conditions and a S106 Agreement to secure 27% affordable housing; a contribution of 19,174.32 towards off-site public open space (in line with the Adopted Planning Obligations SPD) and a contribution of £36,237.00 towards health care services (as requested by the NHS) to meet the additional demand on services and capacity as a result of the proposed development in the first year of occupation, although no specific 'project' had been identified by the NHS and further evidence was needed from the NHS to progress this matter.

4.3 The NHS (Worcestershire Acute Hospitals NHS Trust's) had advised in their comments to the application that they currently operate at full capacity in the provision of acute and planned healthcare and that their contracts (and therefore budgets) are set based upon the previous year's activity and that they cannot plan for unanticipated additional growth in the short to medium term. It is also advised that the following year's contract does not pay previous year's increased activity. They consider that without such a contribution the development is not sustainable and that the proposal should be refused.

18/0160/FULL

- 4.4 Since the committee meeting your Officers have held meetings with the NHS to establish whether the request made by the NHS meets the tests for such Section 106 contributions in particular the necessity test (Regulation 122.(2)(a), which requires contributions to only be sought when they are considered to be necessary in order to make the development acceptable in planning terms. Your Officers have sought further information from the NHS in terms of whether they take into account the Council's published information (such as the Housing and Economic Land Availability Assessment (HELAA) and inward migration of residents that are already served by the NHS in this region in order to plan for population growth.
- 4.5 Unfortunately no information has been forthcoming and on this basis, the NHS has not provided robust evidence to demonstrate the required tests under Regulation 122 have been met.
- 4.6 Discussions with the NHS are continuing on this matter in order for the District Council to understand the full impacts on the NHS from housing growth and whether this can be embedded into an emerging Local Plan policy.
- 4.7 As no justification has been provided by the NHS and following a two month wait since the initial meeting with the NHS it is considered that it would not be reasonable to delay the determination of this application any further.

5.0 Conclusions and Recommendations

- 5.1 The proposed development would deliver 19 homes on a site which has been identified as being suitable for housing and is an allocated site for residential development on the Adopted Proposals Map. The proposed development would create a well-designed residential environment and subject to appropriate conditions to mitigate any potential harm to biodiversity, flood risk and highway safety, would result in a sustainable development that would contribute to protecting and enhancing the built and natural environment. No other harm has been identified that would significantly and demonstrably outweigh the benefits of the scheme and the planning balance is firmly in favour of the development. Therefore, subject to a revised S106 resolution to secure affordable housing provision and a contribution towards off-site public open space, I recommend approval of the application as previously agreed by Members.

18/0160/FULL

5.2 It is therefore recommended that this application be granted **delegated** authority to **APPROVE** subject to the following:

- a) the signing of a **Section 106 Agreement**; and
- b) the following conditions:
 1. A6 (Full with no reserved matters)
 2. A11 (Approved plans)
 3. To require details of external materials, including hard surfacing
 4. To require details of site and finished floor levels
 5. To secure boundary treatment details
 6. Except for the details agreed under Condition 6, no other fences, gates or walls shall be erected within the curtilage of any dwellinghouse forward of any wall of that dwellinghouse which fronts onto a highway (including a shared surface or footpath)
 7. To require details of external lighting
 8. To require details of landscaping scheme
 9. To require landscape management and maintenance plan
 10. Access, turning and parking facilities to be provided.
 11. To require details of cycle storage
 12. To require details of 'Residential Welcome Pack' to promote sustainable forms of access
 13. Construction Environmental Management Plan for highway safety during the construction phase
 14. Construction Environmental Management Plan for safety of canal embankment
 15. To require details of a surface water drainage scheme
 16. To require details of foul and surface water drainage
 17. To require a further badger survey to be undertaken prior to any works commencing.
 18. To require mitigation measures to prevent badgers from entering the site during construction works and for good working practice during the works.
 19. To require ecological enhancement measures.
 20. Removal of Permitted Development Rights
 21. To require details of emergency access plan
 22. To require a preliminary risk assessment for contamination and 23. remediation scheme
 23. Programme of Archaeological Work including Written Scheme of Investigation
 24. Implementation of approved Written Scheme of Investigation

Application Reference:	18/0531/FULL	Date Received:	13/08/2018
Ord Sheet:	382767 277924	Expiry Date:	08/10/2018
Case Officer:	Julia McKenzie-Watts	Ward:	Franche & Habberley North

Proposal: Erection of dwellinghouse, with parking provision

Site Address: 56 PUXTON DRIVE, KIDDERMINSTER, DY115HY

Applicant: Mr Chris Gait

Summary of Policy	DS01, CP03, CP11, CP12 (CS) SAL.PFS1, SAL.DPL1, SAL.CC1, SAL.CC2, SAL.CC7, SAL.UP5, SAL.UP7, SAL.UP9 (SAPLP) Design Guidance, Supplementary Planning Document National Planning Policy Framework Planning Practice Guidance
Reason for Referral to Committee	Planning application represents Departure from the Development Plan
Recommendation	DELEGATED APPROVAL

1.0 Site Location and Description

- 1.1 The application site comprises garden land belonging to No. 56 Puxton Drive which is a semi detached property. The site is adjacent to Puxton Marsh Nature reserve in a residential area of Kidderminster. The properties on the north side of the road adjacent to number 56 are mostly semi detached whereas the ones on the south side of the road are mainly terraced.
- 1.2 The application seeks for the erection of a semi detached property at the end of the row with two parking spaces to the front.

2.0 Planning History

- 2.1 No planning history for this site.

3.0 Consultations and Representations

- 3.1 Kidderminster Town Council – Awaiting comments.
- 3.2 Highway Authority - No objection subject to conditions to secure the provision of parking within the site.

18/0531/FULL

- 3.3 Countryside Manager - The application site is adjacent to Puxton Marsh SSSI. We need some assurances through the provision of a Construction Environment Plan of how the works can be delivered without impacting on the SSSI, either through the need to access the SSSI with plant or through materials which have been washed or blown onto the SSSI, this will need to be a pre commencement condition.

The application site is adjacent to the SSSI's only maintenance vehicle access point. If this is obstructed the site cannot be managed. We need to have details that demonstrate that the development can be delivered without the access being obstructed.

The built aspect of this application is immediately against land with public access we need assurances to demonstrate that this proposal can be delivered without endangering public safety.

- 3.4 North Worcestershire Water Management – I have reviewed the additional information that has been submitted for application 18/0531/FULL following my original comments dated 6th Sep 2018.

As requested, the revised block plan (email 13 Sep 2018) shows the proposed soakaway drainage including the design criteria of 1 in 100 year return period event + 30% climate change allowance. As details regarding the siting and design of this soakaway will be adequately covered by a Building Control application I believe that it will not be required to attach a surface water drainage condition to a future approval.

The submitted flood risk assessment has identified the extent of the surface water flood risk and has proposed a suite of mitigation measures, which includes the raising of ground levels to provide a continuous bund in the front garden, a sufficiently high finished floor level and installation of a special flood door and special air bricks if air bricks are to be used. I believe that with the mitigation measures proposed there would no longer be a reason to withhold approval of this application on flood risk grounds.

To ensure that the mitigation measures will be incorporated in the build, can you please refer to the submitted flood risk assessment in the decision document, or attach a specific condition such as:

“The surface water flooding mitigation measures as detailed in the submitted flood risk assessment (document titled Surface water protection – dated 14 Feb 2019) shall be implemented prior to the first use of the development.”

- 3.5 Worcestershire Regulatory Services (Land Contamination) – No objection

18/0531/FULL

- 3.6 Severn Trent Water – As the proposal has minimal impact on the public sewerage system I can advise we have no objections to the proposals and do not require a drainage condition to be applied.

Severn Trent Water advise that there may be a public sewer located within the application site. Although our statutory sewer records do not show any public sewers within the area you have specified, there may be sewers that have been recently adopted under the Transfer Of Sewer Regulations 2011. Public sewers have statutory protection and may not be built close to, directly over or be diverted without consent and contact must be made with Severn Trent Water to discuss the proposals. Severn Trent will seek to assist in obtaining a solution which protects both the public sewer and the building.

- 3.7 Neighbour/Site Notice – 1 letter of objection received:

- As the kitchen will be on the front of the house upstairs, I feel it would be an invasion of privacy. It would look straight through into my son's bedroom.

4.0 Officer Comments

4.1 PRINCIPLE OF DEVELOPMENT/ POLICY CONTEXT

The application site relates to an existing residential garden belonging to number 56 Puxton Drive which is within a residential area of Kidderminster. The site is located within an urban area close to a parade of shops with good transport links into Kidderminster town centre and other services and as such the site is considered acceptable for additional housing development. As the site is considered to be garden land, Policy DS01 of the Adopted Core Strategy and Policy SAL.DPL1 of the Adopted Site Allocations and Policies Local Plan advise that new residential development is normally allowed subject to the site comprising previously developed land. As the application site comprises garden land it is not a previously developed site, and therefore contrary to Policy SAL.DPL1.

- 4.2 Housing numbers within the Adopted Wyre Forest Core Strategy were set based on data derived from the Regional Spatial Strategy, which was subsequently been withdrawn. The current need is based upon Objectively Assessed Housing Need Assessment, however the Council has failed for the last 3 years to meet its assessed need. The National Planning Policy Framework advises that based on these circumstances relevant policies for the supply of housing are therefore out of date. Based on the latest Housing Residential Land Availability data, whilst the Council is able to demonstrate a 5 year supply of deliverable housing sites there still is a need to maintain and boost this supply. In any case, the 'out of date' nature of the plan results in the presumption in favour of sustainable development set in paragraph 11 of the National Planning Policy Framework being engaged. Applications should therefore be approved unless any identified harm significantly and demonstrably outweighs the benefits including that of boosting housing land supply. This application is to be considered in this context.

18/0531/FULL

4.3 DESIGN AND IMPACT ON LOCAL CHARACTER

The proposed two storey dwelling would be constructed in materials to match the attached property at number 56 which is brick with interlocking concrete tiles and upvc windows. The ground floor accommodation would consist of a hall, three bedrooms and a family bathroom with open plan kitchen, dining and sitting room at first floor level in order to maximise views over Puxton Marsh to the rear. The plot size is of a sufficient size for one dwellinghouse and the design and fenestration of the dwelling would reflect the adjoining and surrounding properties.

- 4.4 The erection of a dwellinghouse on this site is unlikely to have an adverse impact on neighbouring properties in terms of privacy and light given the proposed plot size and degree of separation from the neighbouring properties to the side and rear.

HIGHWAYS AND ACCESS

- 4.5 The Highway Authority have raised no objection to the revised scheme subject to the inclusion of two conditions and a note. The plans show that the development would be capable of providing adequate parking provision for the proposed and existing dwellinghouse. I therefore consider that the proposed development would not have any detrimental impact on highway safety in the area.

OTHER MATTERS

- 4.6 North Worcestershire Water Management has offered no objection to the scheme subject to the inclusion of a condition.

5.0 Conclusions and Recommendations

- 5.1 Having assessed the principle of the development and identifying no harm, it is considered acceptable. The proposed dwellinghouse will, along with other similar windfall sites, boost the supply of housing, which is also considered to be a benefit in favour of the development. On this basis it is considered that there are sufficient grounds to support a departure from Local Plan policy.

- 5.2 It is therefore recommended that the application be granted **delegated APPROVAL** subject to a 'no objection' response from Kidderminster Town Council and the following conditions:

1. A6 (Full with no reserved matters)
2. A11 (Approved plans)
3. B1 (samples/details of materials)
4. Highways
5. Highways
6. Details of walls, fences and other means of enclosure to be submitted
7. Details of hard and soft landscaping to be submitted
8. Drainage

18/0531/FULL

9. Submission of a CEMP prior to the commencement of works on site
10. No obstruction to the vehicular access of the SSSI adjacent to the site
11. Proposal to be carried out without endangering public safety
12. Cattle water stop tap must be protected from works on site

Note

This permission does not confer on the Applicant the right to put scaffolding up on land owned by a third party or without the third party's consent. You should therefore contact Worcestershire County Council for their consent prior to erecting any scaffolding.

Agenda Item No. 5

Application Reference: 19/0010/FULL **Date Received:** 03/01/2019
Ord Sheet: 377076 274681 **Expiry Date:** 28/02/2019
Case Officer: Kelly Davies **Ward:** Bewdley & Rock

Proposal: Erection of a summer house

Site Address: The Goat House, Cleobury Road, Bewdley, DY12 2QT

Applicant: Mr D Conway & Miss N Dalley

Summary of Policy	DS01, CP03, CP11, CP12 (CS) SAL.UP6, SAL.UP7, SAL.UP9, SAL.UP11 (SAAPLP) Design Guidance SPD National Planning Policy Framework Planning Practice Guidance
Reason for Referral to Committee	Planning application represents Departure from the Development Plan
Recommendation	APPROVAL

1.0 Site Location and Description

- 1.1 The application site 'The Goat House' is considered a designated heritage asset by virtue of its curtilage relationship to the Grade II Listed Wharton's Park Farmhouse. The 'Goat House' was formerly a small stone barn which forms part of a wider group of farm buildings.
- 1.2 The barn was converted under planning consent WF/0295/97 to a small two bed dwelling, although a simple structure, the barn still possess some of its original architectural merits including the original stone walls.
- 1.3 The 'Goat House' sits on an elevated position when viewed via the private drive which serves both the dwellinghouse and neighbouring barns. The barn sits in a prominent position and is clearly visible when entering the communal parking area. The dwellinghouse sits in quite an open position with the only garden area to the side elevation which fronts the access road. Limited foliage means that this site is easily visible to neighbouring properties.
- 1.4 The application seeks consent for a summer house adjacent the main dwellinghouse and has supplied very special circumstances to support the application.

2.0 Planning History

- 2.1 WF/0294/97 – Conversion of barn to two bed dwellinghouse : Approved
- 2.2 14/0240/LIST – Retention of single storey extension to rear and new door to extension : Approved

19/0010/FULL

3.0 Consultations and Representations

3.1 Bewdley Town Council – No objection

3.2 Conservation Officer –

RURAL BUILDINGS CONSIDERATIONS

The application is for the erection of a summer house within the curtilage of a converted rural building. This is in conflict with Policy SAL.UP11 i) of the adopted Local Plan of 2013 and emerging Policy 28A F in the Local Plan 2016-2036 pre-submission publication document. These policies exist to protect the visual amenity of the Districts historic farmsteads and to maintain their architectural characteristics.

The applicant has submitted documentation which the Planning Committee may decide warrant the consideration of very special circumstances and the setting aside of the adopted policy in this specific case.

HISTORIC ENVIRONMENT CONSIDERATIONS

Policy SAL.UP6 parts i) and ii) of the adopted Local Plan of 2013 states that proposals for development should not have a detrimental impact on the significance of a heritage asset or its setting, and any harm or loss of significance will require clear and convincing justification.

Emerging Policy 26 of the Local Plan 2016-2036 pre-submission publication document states that any development proposals causing harm or loss of significance to a heritage asset will be resisted unless clear and convincing justification is provided, to permit assessment against the NPPF criteria, relevant legislation and published local and national guidance.

In 2014 this Council approved the retention of an unauthorised extension to the Goat House under WF/14/0240/LIST. I commented on that application as follows:

Recent interpretation of Policy SAL.UP6 has led to approval to the introduction of detached “storage” sheds, outbuildings etc, within the curtilage of converted rural buildings, one assumes to achieve their optimum use. In this instance I think that the introduction of a detached structure somewhere else within the plot belonging to the Goat House would compromise the setting of the group of curtilage listed buildings as a whole, and be visible to a much wider population. Relocation of this lean-to is thus not an option.

In this specific instance, (and not to set a precedent), I consider that there are public benefits from keeping the “lean-to” as close to the building as possible; in accord with NPPF para. 134; to secure optimum use of the building.

I maintain the position I took in 2014: “The introduction of a detached structure within the plot belonging to the Goat House would compromise the setting of the group of curtilage listed buildings as a whole”.

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That setting not only contributes to the significance of the group of farm buildings themselves but also their positive impact on the setting of Wharton's Farmhouse.

The proposed detached structure is a domestic-type ancillary building which has no precedent in this setting: it has no positive heritage value to contribute to the farmstead group as a whole and will cause less than substantial harm to the element of their significance which is derived from their setting.

The Goat House has already been extended contrary to policy and its significance may be further compromised if this detached structure is built adjacent to it.

MITIGATING CIRCUMSTANCES

The NPPF does allow (at paragraph 196) decision makers to consider mitigating circumstances:

"Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use".

The applicant has submitted documentation which the Planning Committee may decide warrants the consideration of very special circumstances and the setting aside of adopted policies in this specific case.

A further consideration is that there may be public benefits arising should the Committee approve this application. These may be related to the specific issues raised by the applicants in their supporting documentation.

In this case the level of harm is "less than substantial" and is not caused directly to any heritage assets themselves but to their setting.

In this specific case, given the special circumstances outlined by the applicants, a more flexible interpretation of WFDC Policies SAL.UP11 and SAL.UP6 may be justified.

Should the Planning Committee determine that the special circumstances outlined by the applicant warrant that approach, and considering there may be tangible public benefits which can also be considered in mitigation (from NPPF paragraph 192), then my advice is to approve the application.

3.3 Neighbour/Site Notice – No representations received

19/0010/FULL

4.0 Officer Comments

PRINCIPLE OF DEVELOPMENT/ POLICY CONTEXT

- 4.1 The proposal is for a summer house within the curtilage of a converted rural building. SAL.UP11 of the Adopted Wyre Forest District Site Allocations and Policies Local Plan states that conversions of rural buildings should only be considered when they are of a suitable size, fit for conversion and will not require the need for extensions or substantial alterations or additions of new buildings within the curtilage.
- 4.2 The 'Goat House' is also curtilage listed, SAL.UP6 of the Adopted Wyre Forest District Site Allocations and Policies Local Plan states that proposal should not have a detrimental impact upon the significance of a listed building without clear and convincing justifications.
- 4.3 The proposed summer house will be 3 metres in length and 2.4 metres wide and will be located in the north/west part of the garden curtilage in front of an existing previously approved wooden lean-to extension. The proposed summer house will be constructed from Cedar joinery, with a mixture of slate tiles and glazed areas to the roof. The front and one side elevation will be predominately glazing. It is considered that in its own right that the building is not unattractive, however given its setting in a open context with no outbuildings, it is considered that some harm will result to the wider surroundings of the group of barn conversions.
- 4.4 The Conservation Officer's comments are clearly set out indentifying that less than substantial harm will be caused to the setting of the Listed Building. As set out within his comments the National Planning Policy Framework at paragraph 196 allows for consideration of public benefits, in addition there is the general planning balancing of material considerations.
- 4.5 The applicant has provided the circumstances behind the need for this summerhouse. A relative of the applicant is entirely wheelchair bound and lives alone being wholly dependant on friends and family with the applicant being the primary carer. The Goat House has an internal layout that prevents wheelchair access and therefore unless taken out for the day is 'a prisoner in the four walls' of the flat where they reside. The importance of 'family time' is hugely important and the ability to be able to bring the relative to the 'family home' is put forward as being very important for all concerned. It is acknowledged that some harm will be caused by as detached structure this is considered to be a less harmful position in comparison with an extension. The Applicants offer that should they sell the property they would be willing to remove the summerhouse if required.

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- 4.6 It is considered that these circumstances are compelling and provide significant consideration in respect of care in the community. Such impact will relieve the burden on health and social care providers and is of public benefit. The offer to remove the structure should the property be sold also adds weight to the consideration as the structure will not be permanent and the harm, albeit less than substantial, will be removed at a future point.
- 4.7 The erection of a summerhouse in this location is unlikely to have an adverse impact on neighbouring properties and no additional harm has been identified.
- 4.8 It is considered that cumulatively the harm that is caused to the setting of the listed building and the surrounding area is outweighed by the personal circumstances that have been submitted and the other material circumstances in this case. It is therefore concluded that on this occasion based on these reasons the application can proceed.

5.0 Conclusions and Recommendations

- 5.1 Having assessed the principle of the development, although the proposal is contrary to planning policy the proposal has been carefully assessed and the very special circumstances submitted have been taken into consideration, it is therefore considered that the proposal would result in minimal harm to the listed building Wharton Park Farm and the wider curtilage listed buildings, it is therefore considered acceptable.
- 5.2 The proposed summerhouse will, serve to mask an existing previously approved side extension which is considered to be out of character with the host dwelling and wider curtilage listed properties. On this basis it is considered that there are sufficient grounds to support a departure from Development Plan policy.
- 5.3 It is therefore recommended that the application be **APPROVED** subject to the following conditions:
1. A6 (Full with no reserved matters)
 2. A11 (Approved plans)
 3. A10 (Personal permission)
 4. J3 (Restriction on separate use)
 5. J6 (Domestic purposes on)
 6. J10 (Disabled Access)

Application Reference:	19/0063/FULL	Date Received:	28/01/2019
Ord Sheet:	381651 275454	Expiry Date:	25/03/2019
Case Officer:	Helen Hawkes	Ward:	Foley Park & Hoobrook

Proposal: Demolition of existing bungalow to be replaced with 2 detached dwellings and associated works

Site Address: 166 SUTTON PARK ROAD, KIDDERMINSTER, DY116LF

Applicant: Mr P Webb

Summary of Policy	DS01, CP01, CP02, CP03, CP11, CP12 (CS) SAL.PFSD1, SAL.DPL1, SAL.CC1, SAL.CC2, SAL.CC7, SAL.UP5, SAL.UP7, SAL.UP9 (SAAPLP) Design Guidance SPD National Planning Policy Framework Planning Practice Guidance
Reason for Referral to Committee	Planning application represents departure from the Development Plan
Recommendation	APPROVAL

1.0 Site Location and Description

1.1 The application site relates to a pebble-dash rendered bungalow with rooms within the roof space and an attached garage, which is situated in a relatively large plot on the north side of Sutton Park Road. The site has vehicular access off Sutton Park Road and has off-street parking for up to three cars. The site slopes up from southeast to northwest by approximately 1.5 metres and contains a number of mature trees within its front and rear garden, including 7 trees covered by a Tree Preservation Order (TPO 267). The side boundaries of the property are also defined by hedgerows. The surrounding area is predominantly residential in character and comprises a mix of detached and semi-detached dwellinghouses. There is also a residential care home located on the opposite of the neighbouring property at 165 Sutton Park Road.

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- 1.2 The proposed development seeks full planning permission for the demolition of the existing dwellinghouse and its replacement with two, five-bed, detached dwellinghouses with parking provision and alterations to the existing access point. The proposed dwellings would have a traditional design style and would be identical except the main architectural features would be handed and a change in the first floor materials to create some variance between the two dwellinghouses.

2.0 Planning History

- 2.1 18/0730/FULL – Demolition of existing bungalow and construction of 3 detached dwellings and associated works: Withdrawn 9.01.19.

3.0 Consultations and Representations

- 3.1 Kidderminster Town Council – No objection and recommend approval.
- 3.2 Highway Authority – No objection subject to conditions to require turning and parking facilities, access arrangements and appropriate pedestrian visibility splays to be provided prior to first occupation. They also recommend an informative to inform the applicant that this permission does not allow them to carry out works within the publicly maintained highway.
- 3.3 Countryside Manager – No objection subject to a condition to require works to the existing roof of the bungalow to be undertaken before September 2019 of for an additional bat survey to be submitted and approved by the Local Planning Authority. A condition is also recommended to secure the two bat boxes as recommended by the submitted Bat Survey Report and to require a lighting scheme to be submitted and agreed in order to ensure the lighting does not cause harm or disturbance to bat foraging or bat roost provision. An informative is also recommended to make the applicant aware that a Qualified ecologist should be on call during the time of demolition and for all works to cease if a bat is found to be present.
- 3.4 North Worcestershire Water Management Officer – No objection subject to a condition to ensure the surface water from the development discharges to soakaway drainage that is designed to cope with a 1 in 100 year event plus 30% allowance for climate change.
- 3.5 Worcestershire Regulatory Services - No objection and recommends that the applicant should refer to the WRS Demolition & Construction Guidance in order to minimise any nuisance during the demolition and construction phases from noise, vibration and dust.

19/0063/FULL

3.6 Severn Trent Water – No objection and do not require a drainage condition to be applied. They advise that there may be a public sewer located within the site and that the applicant should be made aware of this in an informative.

3.7 Arboricultural Officer (Initial response) - No objection and broadly supportive of the development, subject to an updated Arboricultural Impact Assessment (AIA) to reflect the implications of the current layout and a site specific Arboricultural Method Statement (AMS) to show how the trees affected, are to be protected for the demolition and construction phases.

(*Second response*) – Following the submission of an updated Arboricultural Impact Assessment (AIA) and receipt of an Arboricultural Method Statement, I raise no objection to the approval of this development providing conditions are attached to prevent any of the retained/protected trees from being damaged during demolition and construction phases.

3.8 Neighbour/Site Notice – No responses received from public participation.

4.0 Officer Comments

4.1 The main considerations for this application are whether the principle of development is acceptable and whether the development would have a detrimental impact on the character and appearance of the local area, on the amenities of existing and future occupiers, on biodiversity, trees and highway upon safety.

4.2 This application represents a revised scheme to a previous withdrawn application (reference 18/0730/FULL) which previously sought three detached dwellinghouses, following the demolition of the bungalow. The previous application was withdrawn following concerns raised by your Officers that the development would have appeared cramped, over-intensive, and out of keeping with the local area due to small plot sizes, inadequate space between dwellings, the siting of the dwellings close to protected trees, and limited space for front gardens.

PRINCIPLE OF DEVELOPMENT

4.3 The application site is allocated for residential development within the Adopted Policies Map and partly relates to the redevelopment of previously developed land once the existing bungalow and garage have been demolished. As the site is located within an urban area of Kidderminster and has good accessibility to local shops and services, it is considered to be a suitable and sustainable location for additional housing development. However, as part of the site relates to existing garden land, there is some conflict with Policy DS01 of the Adopted Core Strategy and Policy SAL.DPL1 of the Adopted Site Allocations and Policies Local Plan which only permits new housing on previously developed land.

19/0063/FULL

- 4.4 It should also be highlighted that the housing numbers within the Adopted Wyre Forest Core Strategy were set based on data derived from the Regional Spatial Strategy, which was subsequently been withdrawn. The current need is based upon Objectively Assessed Housing Need Assessment, however the Council has failed for the last 3 years to meet its assessed need. The National Planning Policy Framework advises that based on these circumstances relevant policies for the supply of housing are therefore out of date. Based on the latest Housing Residential Land Availability data, whilst the Council is able to demonstrate a 5 year supply of deliverable housing sites there still is a need to maintain and boost this supply. In any case, the 'out of date' nature of the plan results in the presumption in favour of sustainable development set in paragraph 11 of the National Planning Policy Framework being engaged.
- 4.5 Applications should therefore be approved unless any identified harm significantly and demonstrably outweighs the benefits including that of boosting housing land supply. This application is to be considered in this context.

IMPACT ON LOCAL CHARACTER

- 4.6 Sutton Park Road comprises mainly large two-storey detached and semi-detached dwellinghouses that are set back behind deep front gardens which gives the area a spacious and leafy character. The proposed dwellinghouses would be set back at least 16 metres from the road to retain the deep frontage of the site and would respect the common building line on this side of Sutton Park Road.
- 4.7 The plot sizes for the proposed dwellings would be similar in size as neighbouring properties and sufficient spacing would be provided between the dwellinghouses to ensure they do not appear cramped within the street scene. The existing vehicular access would serve both dwellinghouses and the existing planting along the road frontage would be maintained. The dwellinghouses would be two-storeys in height, with forward projecting gables and double height bay windows, and would be constructed in either facing brickwork or a mix of brick and render to complement the neighbouring properties. The finished floor levels of the proposed dwellinghouses would also reflect the natural rise in the ground levels along this part of Sutton Park Road.
- 4.8 I therefore consider that the proposed dwellinghouses would be visually acceptable and would not detract from the character and appearance of the area, in accordance with Policy CP11 of the Adopted Core Strategy, Policy SAL.UP7 of the Adopted Site Allocations and Policies Local Plan, the Design Guidance SPD and the National Planning Policy Framework, which seeks to ensure new developments are of good design and which help to add to the overall quality of an area.

19/0063/FULL

RESIDENTIAL AMENITY

- 4.9 The proposed development would not breach the 45 degree code in relation to the nearest habitable room windows in the adjoining properties to cause any overshadowing. At first floor the proposed dwellinghouses would have side facing windows serving non-habitable rooms and a condition is recommended to ensure these windows are installed with obscure glazing in order to prevent any potential overlooking.
- 4.10 I note from the finished floor level of the proposed dwelling nearest to 167 Sutton Park Road would be 1.1 metres higher than the ground level of 167 Sutton Park Road. However, I do not consider that this would result in any undue harm to the neighbouring residents outlook or privacy given that the proposed dwelling would be sited over 4.5 metres from the shared boundary.. The raised decking to the rear of the proposed dwelling has also been amended to ensure it is sited 5 metres from the side boundary and a condition is recommended to require the existing 5 metre evergreen hedgerow to be retained at a height of at least 3 metres as it provides good screening.
- 4.11 In terms of the proposed living conditions, I consider that the internal layout, room sizes and the proposed outdoor amenity space would be acceptable to ensure a good living environment is provided for future occupiers.

IMPACT ON BIODIVERSITY AND TREES

- 4.12 The application has been submitted with a Bat Survey which confirmed that no bats were observed roosting within the existing bungalow during the surveys carried out on the 31st August 2018 and 18th September 2018, and that no short or long terms impacts on bats are predicted as a result of the proposed development. However, it does make a number of recommendations including the need for an updated survey to be undertaken if demolition or development works do not commence before September 2019 (12 months after the initial survey was completed). The Countryside Manager agrees with this recommendation and a suitable condition is recommended along with a condition to secure the recommended bat boxes to be provided.
- 4.13 There are a number of trees within the site that are subject to a Tree Preservation Order 257, which includes a significant Oak tree located within the middle of the rear garden. It is proposed to subdivide the garden to create two relatively even plot sizes and erect a boundary fence down the centre of the garden close to the existing Oak tree. The Arboricultural Officer has raised no objection to the proposed development and supports the necessary tree works, which includes the removal of 3 Category 'C' trees in order to facilitate the development. The Tree Officer is also satisfied that the proposed dwellinghouses can sit comfortably within the site without resulting in any future pressure on the Council to have the retained trees removed. Conditions are recommended to secure the recommendations set out within the tree reports and to ensure appropriate measures are taken to protect the retained and protected trees during the demolition and construction phases.

19/0063/FULL

HIGHWAY SAFETY

- 4.14 The existing access off Sutton Park Road would serve both dwellinghouses and would be extended to provide adequate pedestrian visibility splays. The Highway Authority has raised no objection to the proposed access arrangements or to the proposed parking provision. I concur with this view and consider that the development would accord with Policies SAL.CC1 and SAL.CC2 of the Adopted Site Allocations and Policies Local Plan and the National Planning Policy Framework, which seek to protect highway safety.

PLANNING BALANCE

- 4.15 As the proposed development would result in some conflict with the Development Plan policies being partly on non-previously developed land, I do not consider that there are any adverse impacts arising from the development that would significantly or demonstrably outweigh the benefits of the scheme. The proposed development would provide a number of benefits including the provision of additional housing and economic benefits during the construction works and following development by future occupier's expenditure in the local economy. New bat boxes would be provided to enhance the biodiversity value of the site and existing trees of high amenity value would be retained. The dwellinghouses have also been designed to be in keeping with the local character and would help to add to the quality of the area. I therefore consider that the planning balance is clearly in favour of this development.

5.0 Conclusions and Recommendations

- 5.1 The proposed development would make more efficient use of an existing residential site within Kidderminster, which has good accessibility to local shops and services. No harm arising from the development has been identified and it is considered that the proposed dwellinghouses would add to the overall quality of the area and would help to boost the supply of housing within Kidderminster. It is therefore considered that the planning balance is clearly in favour of the development and that there are sufficient grounds to support a departure from the Development Plan policy.

19/0063/FULL

5.2 It is therefore recommended that the application be **APPROVED** subject to the following conditions:

1. A6 (Full with no reserved matters)
2. A11 (Approved plans) and AIA
3. Building and hard surfacing materials
4. Boundary treatment
5. Site and finished floor levels
6. Obscure glazing to first floor side facing windows
7. Hedgerow Protection
8. Secure recommendations set out in Arboricultural Method Statement
9. Pre-commencement Tree Site Meeting
10. Landscaping scheme
11. Landscaping Implementation
12. Pedestrian visibility splays
13. Access, turning area and parking facilities
14. Removal of PD Rights for Alterations to Roof, Windows and Extensions
15. Lighting scheme
16. Require two bat boxes
17. Additional bat survey required if demolition does not commence before September 2019.
18. Drainage scheme

Notes

- A Highways
- B Ecology
- C WRS Demolition
- D Severn Trent Water

Application Reference:	19/0097/FULL	Date Received:	06/02/2019
Ord Sheet:	385141 276338	Expiry Date:	03/04/2019
Case Officer:	Helen Hawkes	Ward:	Offmore & Comberton

Proposal: Proposed one bedroom dwelling on land adjacent to the existing dwelling of 23 Silver Birch Drive

Site Address: LAND ADJACENT TO 23 SILVER BIRCH DRIVE,
KIDDERMINSTER, DY103XD

Applicant: Mrs J Wicks

Summary of Policy	DS01, CP01, CP02, CP03, CP11, CP12 (CS) SAL.PFSD1, SAL.DPL1, SAL.CC1, SAL.CC2, SAL.CC7, SAL.UP5, SAL.UP7, SAL.UP9 (SAAPLP) Design Guidance SPD National Planning Policy Framework Planning Practice Guidance
Reason for Referral to Committee	Planning application represents departure from the Development Plan
Recommendation	APPROVAL

1.0 Site Location and Description

- 1.1 The application site relates to a semi-detached dormer bungalow located on a corner plot, with road frontages to Silver Birch Drive and Tennyson Way. The site includes a detached garage and has vehicular access off Silver Birch Drive. The side boundary to Tennyson Way currently comprises a 1.8 metre high close boarded fence with planting adjacent to the footpath. The surrounding area is predominantly residential in character and comprises similar house types which are set on a linear building line behind front gardens and parking areas.
- 1.2 The application is for the erection of a one-bedroom dormer bungalow on land to the side of the existing semi-detached dormer bungalow, 23 Silver Birch Drive. Off-street parking for two cars would be provided to the front and a private rear garden measuring 53sqm would be provided for the proposed bungalow. A rear garden measuring 64sqm would be retained for 23 Silver Birch Drive. The existing side boundary fence and planting along the back of the footpath to Tennyson Way would remain unchanged.

2.0 Planning History

- 2.1 18/0565/FULL - Proposed one bedroom dwelling on land adjacent to the existing dwelling of 23 Silver Birch Drive: Refused 29.10.18.

19/0097/FULL

2.2 13/0239/FULL – Erection of new boundary fence: Approved 10.07.13.

3.0 Consultations and Representations

3.1 Kidderminster Town Council – Recommend Approval.

3.2 Highway Authority – No objection subject to conditions to require the access and parking facilities for both dwellings to be provided and to remain available for parking at all times and to require cycle storage provision. An informative is recommended to make the applicant aware that this permission does not authorise works within the publicly maintained highway.

3.3 Severn Trent Water – No objection and do not require a drainage condition to be applied. An informative is recommended to make the applicant aware that there may be a public sewer located within the application site.

3.4 Neighbour/Site Notice – 1 letter of objection received stating that the current application does not appear to have addressed the previous reasons given for refusal. The layout is still the same because the plot is restricted. It still remains cramped, shoehorned in and out of keeping with the spatial character of the area, particularly in such a prominent position. Only a cosmetic change to the design of the building has been made. In addition, the need for more housing should not damage the existing character of the area.

4.0 Officer Comments

4.1 The main considerations for this application are whether the principle of development is acceptable and whether the development would have a detrimental impact on the local character, on the amenities of existing and future occupiers and upon highway safety.

PRINCIPLE OF DEVELOPMENT

4.2 The site lies within a residential area of Kidderminster where Policy DS01 of the Adopted Core Strategy and Policy SAL.DPL1 of the Adopted Site Allocations and Policies Local Plan seek to concentrate new residential development albeit only on previously developed land. As the development would be on existing garden land which falls outside of the definition of previously developed land, it fails to accord with these relevant policies and is considered to be a departure from the Development Plan.

4.3 Whilst the Development Plan is always a starting point for decision makers, it is recognised that the relevant policies contained within the Development Plan for the supply of housing are now considered to be out of date. This is because the housing numbers within the Adopted Core Strategy (2010) were set based on data derived from the Regional Spatial Strategy, which has subsequently been withdrawn.

19/0097/FULL

- 4.4 The 'out of date' nature of the development plan results in the presumption in favour of sustainable development set out in Paragraph 11 of the National Planning Policy Framework being engaged. This requires a balance to be undertaken whereby planning applications should be approved unless any identified harm significantly and demonstrably outweighs the benefits including that of boosting housing land supply. This application is to be considered in this context.

IMPACT ON LOCAL CHARACTER

- 4.5 The National Planning Policy Framework seeks (amongst other things) to ensure new developments are visually attractive, sympathetic to the local character and of good design which adds to the overall quality of the area. Policy CP11 of the Adopted Core Strategy and Policy SAL.UP7 of the Adopted Site Allocations and Policies Local Plan also requires good design in all new developments and Policy SAL.UP7 specifically requires new developments to maximise the use of corner plots and to have appropriate regards to the common building line, historic street pattern and skyline.
- 4.6 The proposed dormer bungalow would be sited next to 23 Silver Birch Drive and would adhere to the regular building line on this side of the road. Whilst I acknowledge that the existing corner plot has been given more space to the side to enable a degree of openness at the junction with Tennyson Way, I do not consider that the subdivision of this plot and the erection of a new dormer bungalow alongside 23 Silver Birch Drive would result in a development that would appear cramped or shoehorned in to the detriment of the local character.
- 4.7 The previous application (reference 18/0565/FULL) for the erection of a bungalow to the side of 23 Silver Birch Drive was refused solely on the grounds that the development would have a detrimental impact on the local character, particularly due to its design style, built form and prominence when viewed from Tennyson Way. In the current application, the design of the proposed dormer bungalow has been amended to ensure it has a similar pitched roof and front bay and dormer windows as 23 Silver Birch Drive and neighbouring properties. The external materials have been revised to ensure harmony with 23 Silver Birch Drive. The building depth has been reduced by 552mm to ensure the building retains the open aspect to Tennyson Way and does not appear prominent in the street scene as you approach the site along Tennyson Way. A gap of over one metre would be provided between the proposed dormer bungalow and the side boundary fence to Tennyson Way and the proposed dormer bungalow would clearly form a continuation of the built development in Silver Birch Drive. I further note that the existing side boundary fencing and shrubs along Tennyson Way would remain unchanged and the parking area to the front would not dominant the street scene.

19/0097/FULL

- 4.8 I therefore consider that the proposed development would achieve a high quality design that would be in keeping with the local character and would add to the overall quality of the area in accordance with the National Planning Policy Framework, Policy CP11 of the Adopted Core Strategy, Policy SAL.UP7 of the Site Allocations and Policies Local Plan and the Design Guidance in the Supplementary Planning Document. I have recommended a condition to remove permitted development rights for extensions to the building and the construction of any outbuildings in order to avoid an over-development of the site in the future. In addition an 'open plan' condition is also recommended in order to continue the control across the surrounding area.
- 4.9 It is also noted that the applicant intends to “... *build a sustainable, affordable, high quality, energy efficient home, aiming for passivhaus standard*” and that *the development “... it will provide a platform and learning opportunity for other people in the area with a similar interest”*.
- 4.10 The Passivhaus standard is an entirely voluntary building performance standard that anyone wishing to build can adopt during the construction of the new building and it is based around the principles of reducing heating demand to a very low level rather than relying on renewable, thereby resulting in a ultra-low energy home. The National Planning Policy Framework advises that weight should be given to innovative designs which promote high levels of sustainability, or help raise the standard of design more generally in an area, so long as they fit in with the overall form and layout of their surroundings (paragraph 131).

RESIDENTIAL AMENITY

- 4.11 The proposed dormer bungalow would comply with the 45 degree code in relation to the rear facing bedroom window at 23 Silver Birch Drive and would not result in any loss of privacy to the adjoining property to the rear of the site (1 Ashdene Close). I am also satisfied that the internal layout and room sizes of the proposed dormer bungalow, together with the size of the outdoor amenity spaces, would provide a good standard of living for future occupiers. The retained rear garden for 23 Silver Birch Drive would also be of an acceptable size and in proportion to the size of the property.

HIGHWAY SAFETY

- 4.12 The proposal would provide adequate parking provision and access arrangements for the existing and proposed bungalow and no objections have been raised by the Highways Authority subject to safeguarding conditions. I therefore consider that the proposed development would have no detrimental impact on highway safety, in accordance with Policies SAL.CC1 and SAL.CC2 of the Adopted Site Allocations and Policies Local Plan and the National Planning Policy Framework.

19/0097/FULL

PLANNING BALANCE

- 4.13 The 'out of date' nature of the development plan results in the presumption in favour of sustainable development set out in Paragraph 11 of the National Planning Policy Framework being engaged. The National Planning Policy Framework advises that there are three roles of sustainable development; being economic, social and environmental.
- 4.14 In the case of this proposal, it is considered that the proposed development would bring positive economic and social benefits as it would lead to the creation of construction work; support local services and facilities arising from future occupiers; and would add to the housing supply. In addition, the proposal would provide a low-maintenance, energy efficient one bed home, which would be suitable for those wishing to downsize.
- 4.15 In terms of the environmental role of sustainable development, the application site is located within a sustainable location within Kidderminster, where new housing is encouraged. The site has good accessibility to local shops and services, and although it would result in development on non-previously developed land its loss would not be significant in terms of visual harm or impacts on ecology. I therefore consider that any adverse impacts arising from this development would not be significant or demonstrable to outweigh the planning benefits. The development therefore represents sustainable development.

5.0 Conclusions and Recommendations

- 5.1 As the site relates to garden land, which is not previously developed land, it is not of the preferred type for development as set out by the Development Plan. However, its loss would not be significant and the proposed dormer bungalow would be located in a sustainable location, close to local shops and services where new housing is encouraged. The design and siting of the proposed dormer bungalow would integrate well with the existing housing development in Silver Birch Drive and would add to the overall quality of the surrounding built environment. No adverse impacts have been identified and the benefits in terms of the need to boost the supply of housing results in a 'tilted balance', that clearly is in favour of the development.

19/0097/FULL

5.2 It is therefore recommended that the application be **APPROVED** subject to the following conditions:

1. A6 (Full with no reserved matters)
2. A11 (Approved plans)
3. B1 (Samples/details of materials)
4. B11 (Details of enclosure)
5. B13 (Levels details)
6. Parking Provision and Access Arrangements to be provided
7. Cycle Storage to be provided
8. Landscaping scheme
9. Landscaping scheme to be implemented
10. J1 (Removal of PD Rights for Alterations to Roof and Extensions)
11. J9 (Open plan frontages)

Notes

A Severn Trent Water

B Highways

Application Reference:	19/0114/FULL	Date Received:	19/02/2019
Ord Sheet:	383985 278009	Expiry Date:	16/04/2019
Case Officer:	Julia McKenzie-Watts	Ward:	Broadwaters

Proposal: Proposed 4 bed detached dwelling and retention of log cabin for occupation of applicant for a temporary period during construction works

Site Address: 2 SION HILL, KIDDERMINSTER, DY102XS

Applicant: Mrs T Lingard

Summary of Policy	DS01, CP03, CP04, CP11, CP13, CP14 (CS) SAL.DPL1, SAL.UP5, SAL.UP7, SAL.CC1 (SAAPLP) Design Guidance SPD Sections 5, 12, 15 (NPPF)
Reason for Referral to Committee	Application involving proposed Section 106 obligation
Recommendation	DELEGATED APPROVAL subject to Section 106 Agreement

1.0 Site Location and Description

- 1.1 The application site in its originally state contained a Victorian school house and most recently utilised as licensed premises along with outbuildings in the north east corner of the site. The site is set considerably lower than Homfray Road which runs parallel with the site.

- 1.2 Permission has previously been granted for the conversion of the former licensed club building into two dwellings and for the erection of a pair of semi detached dwellings, and a further approval for the substitution of the 2 houses for 1 single dwelling. The current application seeks to relocate the approved four bedroom dwelling to the location of the previously approved pair of semi detached dwellings.

2.0 Planning History

- 2.1 12/0093/FULL - Conversion of former licensed club building to two flats and the construction of a pair of two bed houses Conversion of existing building to bin and bicycle store : Approved 08.08.12

- 2.2 12/0750/FULL - Demolition of existing licensed club building and erection of a pair of 2no. bed houses : Approved 28.01.15

19/0114/FULL

- 2.3 18/0483/FULL - Proposed 4 bedroom detached dwelling. (Substitution of 2 houses for 1 as previously approved under 12/0750/FULL) : Approved 26.11.18

3.0 Consultations and Representations

- 3.1 Kidderminster Town Council – No comments received
- 3.2 Highway Authority – It is noted that there is an extant permission (18/0483/FULL) on this site for a 4no. bedroom dwelling therefore there is no objection to the proposed development and the vehicle and cycle parking complies with standards.
- 3.3 Countryside Manager - No objection subject to conditions attached to previous approval (18/0483/FULL)
- 3.4 North Worcestershire Water Management - The proposed dwelling has already been approved under 18/0483/FULL and therefore has no drainage implications and I have no adverse comments to make
- 3.5 Neighbour/Site Notice – No representations received

4.0 Officer Comments

- 4.1 Approval was granted in 2018 for the erection of a 4 bed detached dwelling which was a substitution of 2 houses which were previously approved in 2012 after the demolition of the existing former licensed club building. The current application seeks to relocate the previously approved 4 bedroom dwelling forward on the site which would no longer allow the erection of the two semi detached dwellings. The design of the dwelling would not change, and therefore the current application is solely for the re-location of the previously approved dwelling and the retention of a log cabin for occupation of the applicant for temporary period during construction works. A Section 106 Agreement is required to ensure that both 4 bedroom dwellings are not erected on the site.
- 4.2 The principle of residential development on the site is acceptable in view of Policy SAL.DPL1. The principle of development has been allowed through the previous application as whilst development at the rear of properties can sometimes be problematic and is resisted by policy, on this occasion due to the former use of the site, the land was considered to constitute previously developed land and the use of the site for housing development was therefore considered to be acceptable.

19/0114/FULL

- 4.3 The proposed dwelling albeit moved towards the front of application site is still set back well into the site and as such would not be viewed in comparison to other dwellings in the vicinity and is therefore considered appropriate in terms of its size and design. The property would benefit from adequate parking spaces and a 2x3m garden shed which would house the required 4 cycles for the property.
- 4.4 The impact of the dwelling on the neighbouring properties has been carefully assessed. The closest property on Sion Hill is approximately 38 metres away from the new dwellings and the closest property on Homfray Road would be approximately 41m away. These separation distances are considered acceptable and would minimise any chance of overlooking or loss of privacy. The topography of the site ensures that the proposed new dwelling would have no impact on the levels of light enjoyed by the occupants of nearby houses. The existing tree screen around the northern boundary of the site is to be retained.
- 4.5 The application site is on a wildlife corridor that runs between two SSSIs and as such there is potential for the development to have an impact on protected species. The applicant provided a bat and otter survey at the request of the Council's Countryside Manager for the previous application (18/0483/FULL) and this is still valid for the current application. The requested bat box and bat roost ridge roost tiles are shown on the submitted drawings and a lighting assessment will be required before any lighting is installed on the site.
- 4.6 The application also seeks the retention of a log cabin for occupation of the applicant for a temporary period during construction works. It is considered that this would be acceptable subject to a two year time period.

5.0 Conclusions and Recommendations

- 5.1 The impact of the dwelling upon the amenity enjoyed by the occupants of neighbouring dwellings has been carefully assessed and it is considered that there will be no undue impact. The development would be considered to accord with the requirements of Policies SAL.DPL1, SAL.CC1, SAL.UP5 and SAL.UP7 of the Adopted Wyre Forest District Site Allocations and Policies Local Plan and Policies DS01, CP03, CP04, CP11, CP13 and CP14 of the Adopted Wyre Forest District Core Strategy and Sections 5, 12 and 15 of the National Planning Policy Framework.

19/0114/FULL

5.2 It is therefore recommended that the application be granted **delegated APPROVAL** subject to:

- a) the signing of a **Section 106 Agreement** to prevent the previously approved Planning Permission being implented; and
- b) the following conditions:
 - 1. A6 (Full with no reserved matters)
 - 2. A11 (Approved plans)
 - 3. B1 (Samples/details of materials)
 - 4. Bat box to be provided
 - 5. Lighting assessment to be provided
 - 6. Access, turning and parking facilities to be provided
 - 7. Temporary permission for two year period for a Log cabin

Application Reference:	19/0133/FULL	Date Received:	22/02/2019
Ord Sheet:	384340 279780	Expiry Date:	19/04/2019
Case Officer:	Julia McKenzie-Watts	Ward:	Wyre Forest Rural

Proposal: Proposed two storey side extension and front porch (previously approved 18/0258/FULL)

Site Address: 7 WESTHEAD ROAD NORTH, COOKLEY, KIDDERMINSTER, DY103TQ

Applicant: MR & MRS WRIGHT

Summary of Policy	CP03, CP11 (CS) SAL.CC1, SAL.UP7, SAL.UP8 (SAAPLP)
Reason for Referral to Committee	The applicant is a serving Wyre Forest District Council Officer or is an immediate family member
Recommendation	APPROVAL

1.0 Site Location and Description

- 1.1 Number 7 Westhead Road is a semi detached dwelling situated in a residential area of Cookley. There have been no previous extensions at the property.

- 1.2 The proposal is a resubmission of a previously approved application. The current proposal is for the erection of first floor extension and new walls to the existing garage and ground floor beneath the proposed extension with a small projection to the front of the garage with porch and pitched roof over. The extension would be set back at first floor by the required 0.75m, 2.7m in width extending the entire depth of the property. Due to the close proximity with the adjacent neighbour, a parapet wall is proposed to ensure that no gutter will overhang the boundary

2.0 Planning History

- 2.1 18/0258/FULL – Proposed two storey side extension : Approved 17.5.18

3.0 Consultations and Representations

- 3.1 Wolverley and Cookley Parish Council – No objection
- 3.2 Highway Authority – No objection subject to a condition
- 3.3 Neighbour/Site Notice – No representations received

19/0133/FULL

4.0 Officer Comments

- 4.1 Policy SAL.UP7 of the Adopted Wyre Forest Site Allocations and Policies Local Plan requires that residential extensions should be in scale and in keeping with the form, materials and detailing of the original building; be subservient to and not overwhelm the original building, which should retain its visual dominance; harmonise with the existing landscape or townscape and not create incongruous features and not have a serious adverse effect on the amenity of neighbouring residents or occupiers. The adopted Supplementary Planning Guidance document on Design Quality includes a section on householder extensions and supports the view that extensions should be visually subservient and should ideally be positioned to the rear or side of properties where the effect of the new building is less likely to impact on the street scene.
- 4.2 Policy SAL.UP8 of the Adopted Wyre Forest District Site Allocations and Policies Local Plan relates to the design of extensions. The policy requires that additions to a property are in scale and keeping with the form, materials, architectural characteristics and detailing of the original building and should be subservient to and not overwhelm the original building, which should retain its visual dominance.
- 4.3 The extension has been designed to be subservient to the original and would appear as an acceptable addition when viewed in the street scene and would have no adverse impact on the immediate neighbours and as such is considered to be in accordance with the requirements of Policy CP11 of the Adopted Core Strategy and Policies SAL.UP7 and SAL.UP8 of the Adopted Wyre Forest District Site Allocations and Policies Local Plan.

5.0 Conclusions and Recommendations

- 5.1 The extension has been designed to be subservient to the original and would appear as an acceptable addition when viewed in the street scene and would have no adverse impact on the immediate neighbours. As such it is considered to be in accordance with the requirements of Policy CP11 of the Adopted Core Strategy and Policies SAL.UP7 and SAL.UP8 of the Adopted Wyre Forest District Site Allocations and Policies Local Plan
- 5.2 It is therefore recommended that the application is **APPROVED** subject to the following conditions:
1. A6 (Full with no reserved matters)
 2. A11 (Approved plans)
 3. B6 (External details – approved plan)
 4. Access and parking facilities

Agenda Item No. 5

Application Reference: 19/0134/FULL **Date Received:** 25/02/2019
Ord Sheet: 382465 279071 **Expiry Date:** 22/04/2019
Case Officer: Imogen Hopkin **Ward:** Wyre Forest Rural

Proposal: Two storey side extension and single storey rear extension

Site Address: 42 FRANCHE ROAD, WOLVERLEY, KIDDERMINSTER,
DY115TP

Applicant: Mr and Mrs S Hawkes

Summary of Policy	CP11 (CS) SAL.UP7, SAL.UP8 (SAAPLP) Section 12 (NPPF) Design Quality SPD
Reason for Referral to Committee	The applicant is a serving Wyre Forest District Council Officer or is an immediate family member
Recommendation	APPROVAL

1.0 Site Location and Description

- 1.1 The site refers to a semi-detached property located on the Wolverley part of Franche Road where the road curves towards Fairfield Lane. There is a distinct rhythm to the streetscene and many houses have a similar appearance. This property has a side extension and has not been extended at the rear.
- 1.2 It is proposed to erect a two storey side extension and a single storey rear extension. This proposal will extend the kitchen, create a utility room and games room at ground floor and an extra bedroom and extended bathroom at first floor.

2.0 Planning History

- 2.1 WF/0986/01 – Erection of single storey extension : Approved: 4.12.01

3.0 Consultations and Representations

- 3.1 Wolverley and Cookley Parish Council – No objection
- 3.2 Highway Authority – No objection.

19/0134/FULL

4.0 Officer Comments

- 4.1 The proposed two storey side extension is considered appropriate in terms of scale and design in relation to the original semi-detached dwelling. The first floor of the proposed extension would be set back by 0.75m from the front elevation of the original property, resulting in a clear demarcation between the original building and the proposed extension which would appear subservient in line with Wyre Forest District Council's Design Guidance. The additions would also appear proportionate and not overwhelm the original building. The proposal would not be detrimental to the character or appearance of the property, streetscene of character of the street and as such is considered to be in accordance with the requirements of Policy CP11 of the Adopted Core Strategy and Policies SAL.UP7 and SAL.UP8 of the Adopted Wyre Forest District Site Allocations and Policies Local Plan.
- 4.2 The proposed single storey ground floor rear extension is similar to the neighbouring properties and would comply with the 45 degree code not causing loss of light or amenity to neighbouring properties.
- 4.3 There is one side facing window at first floor which can be conditioned to be obscure glazed and top hung to ensure the neighbouring property maintains its privacy and amenity.
- 4.4 The proposal is not creating additional bedrooms but is creating an ensuite at first floor and an extra bathroom and therefore would not cause a displacement of parking or additional parking requirements.

5.0 Conclusions and Recommendations

- 5.1 The proposed extensions are considered acceptable in terms of scale and design. The extensions would be proportionate to, and would not overwhelm, the original dwelling. The impact on the amenity enjoyed by the neighbouring dwellings has been assessed and is considered that there would be no significant detrimental impact. The proposal will not result in any impact on highway safety.
- 5.2 It is therefore recommended that the 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. J3 (Obscure glazing on side elevation)

WYRE FOREST DISTRICT COUNCIL

PLANNING COMMITTEE

16th April 2019

Scheme of Delegation – Proposed Changes

OPEN	
CORPORATE DIRECTOR:	Corporate Director: Economic Prosperity and Place
CONTACT OFFICER:	Paul Round - Extension 2516 Paul.Round@wyreforestdc.gov.uk
APPENDICES:	1. Existing Scheme of Delegation 2. Proposed Scheme of Delegation

1. PURPOSE OF REPORT

- 1.1 To seek the approval of Planning Committee for proposed changes to the scheme of delegation, to help provide clarity for Officers, Councillors and members of the public.

2. RECOMMENDATION

- 2.1 **To recommend to Council that they APPROVE the proposed changes to the Scheme of Delegation as set out in Appendix 2.**

3. BACKGROUND

- 3.1 The Scheme of Delegation forms part of the Council's Constitution and provides the clear position of planning matters that can be determined by Officer Delegation. The scheme has been amended a number of times most recently by Council on 30th July 2014 (copy at Appendix 1).
- 3.2 The scheme sets out exceptions when matters will be referred to Planning Committee. The scheme is important to allow Officers to determine applications in a timely way, particularly in light of the Government's drive towards improving performance and delivering development without delay.

4. KEY ISSUES

- 4.1 In order to highlight the changes this report will go through each section and highlight any changes. Where numbered exceptions are referred this relates to the existing scheme at Appendix 1. The scheme has been re-ordered to make sure that it is user friendly for Members, Officers and the public.

LEGISLATION

- 4.2 Changes have been made to bring the legislation references up to date. There are no major changes and no main areas that are worthy of note to highlight.

DEFINITIONS

- 4.3 In order to provide clarity to the scheme the following two definitions have been introduced;
- ‘emerging plan’ is any plan for the District that has been submitted to the Secretary of State
 - ‘Planning Application’ excludes;
 - any notification under the above mentioned Acts or Orders;
 - applications under S.73 of the Planning Act where the nature of the original development permitted remains substantially unaltered;
 - Certificate of Lawfulness under S.191 or S.192 of the Planning Act;
 - applications for non material amendments;
 - applications for approval of conditions;
 - consultations from neighbouring authorities or the County Council; or
 - notification of proposed works to trees in a conservation area.

CONDITIONS OF DELEGATION

- 4.4 In order to make the scheme clearer, the scheme has been re-ordered so that the conditions are presented before the exceptions. This allows a clear reading of the powers of delegation without ambiguity. Condition A has been amended to allow emerging Development Plan policies to be taken account without the need for reporting such matters to committee. The term ‘emerging plan’ is defined as “...any plan for the District that has been submitted to the Secretary of State.” Condition B remains unaltered. Condition C has been updated to reflect changes in legislation. In addition due to the timescales involved in Works to Trees in Conservation Area’s applications and in line with adopted Practice Notices, the requirement for consultation with Ward Members and Parish Councils has been removed.

EXCEPTIONS

- 4.5 Exception 1 – No changes
- 4.6 Exception 2 – The existing wording requires the Parish Council to provide notification of a desire to speak within 21 days from validation. This has caused some difficulties where consultation has been delayed. It is therefore considered that 21 days from the date the Parish was notified about the application is a fair timescale.
- 4.7 Exception 3 – The term ‘Officer’ has been changed to ‘Development Manager’ to ensure that consistent approach is taken.
- 4.8 Exception 4 – The phrase ‘Planning Application’ has been inserted to clarify the types of applications to which this exception relates.
- 4.9 Exception 5 – Again, the phrase ‘Planning Application’ has been inserted to clarify the types of applications to which this exception relates.
- 4.10 Exception 6 – This exception has been attempted to be refined on a number of occasions and had led to difficulty in interpretation and ambiguity in application. Following full consideration it has been decided that bringing this exception back to a simple position of reporting any application which relates to a Council employee. The planning application forms set out a specific question in this respect that allows this exception to be highlighted.
- 4.11 Exception 7 – In respect of major applications, the existing provision was considered to be ambiguous due to the inclusion of exceptions to the exception. The proposed wording provides a specific simplistic approach to the ‘major’ applications require to be reported to planning committee. This is now clarified as being an increase of ten or more residential units or 1000 sq m of non-residential floor space.
- 4.12 Exception 8 – This existing exception required any departure from the Development Plan to be reported to committee. This exception is considered to be a duplication of Condition A that requires all decisions to be in accordance with the plan. Therefore it is considered that this exception can be deleted.
- 4.13 Exception 9 – This exception deals with consultee objections. This was amended in 2014 to allow discretion of the Development Manager in conjunction with the Chairman of the Planning Committee. The changes were brought about to avoid reports to committee where a spurious objection is raised or where the Highway Authority are objecting purely on policy grounds (drop kerbs where the majority of properties already have the facility installed). In the majority of occasions these matters are householder related applications and where needed there has always been agreement from the Chairman. It is considered that in order to streamline this process that householder applications can be removed from this exception and the Councilors and Parish Council’s still have the ability to ‘call in’ a householder application through the exception 1 or 2 route should this be required.

In addition any spurious comment can be discounted as not being a 'clearly made planning objection'. This exception has been re-numbered to exception 8.

- 4.14 Exception 10 – This exception was amended to include 'revised' in respect of policies and procedures. This is considered to be unnecessary as any published policy or procedure is the latest guidance and does not need to be labeled as 'revised'. On this basis this word is removed. This exception has been re-numbered to exception 9.
- 4.15 Exception 11 – The existing exception required any application that was subject to a S.106 that was not in accordance with the Supplementary Planning Document to be reported to committee. Due to the changes in Government Policy contributions can only be sought for applications of 11 or more dwellings. As these applications are caught by exception 7 this exception is not required. For all other matters where an obligation is required it is considered that the other exceptions are adequate for catching applications that sought be considered by committee. It is therefore considered that this exception should be deleted.
- 4.16 Exception 12 – no changes, apart from renumbering this exception to exception 10.

POST PLANNING COMMITTEE DECISIONS

- 4.17 This part of the delegation remains to have the same effect. It has been re-worded as follows:

Subsequent to the resolution of the Planning Committee, delegated authority is given to update the wording of, or include additional conditions to planning permissions before the issuing of the Decision Notice, as long as the intentions of the Planning committee are not undermined in so doing and the principle of the development remains unaffected.

5. FINANCIAL IMPLICATIONS

- 5.1 There are no financial implications.

6. LEGAL AND POLICY IMPLICATIONS

- 6.1 There are no legal or policy implications.

7. RISK MANAGEMENT

- 7.1 There are no risk management issues.

8. EQUALITY IMPACT ASSESSMENT

8.1 There are no equality impact implications to be considered.

9. CONCLUSION

9.1 The current scheme of delegation is considered to be in need of revision to ensure that it is clear, relevant and unambiguous and to support efficient decision making. The revised wording proposed brings the scheme up to date and ensures that the elements where the delegation will not apply are clearly worded to allow consistent interpretation. The revised scheme as set out in Appendix 2 is recommended for approval at Full Council.

10. CONSULTEES

10.1 Principal Solicitor.

11. BACKGROUND PAPERS

11.1 Agenda Item 8 – Planning Committee 9th July 2014

11.2 Agenda Item 13 (a) – Council 30th July 2014.

Table 3: DELEGATION TO OFFICERS OF FUNCTIONS THAT ARE NOT EXECUTIVE FUNCTIONS

To exercise authority in respect of all applications, notifications, service of notices and orders or other matters requiring a decision by the Council under the Council's published policy and practice notes and the following legislation, regulations and guidance (and to any re-enactment or replacement of the statutes, or regulations or guidance or any modifications thereof):

Acquisition of Land Act 1981
 Ancient Monuments and Archaeological Areas Act 1979
 Anti-Social Behaviour, Crime and Policing Act 2014
 Building Act 1984
 Caravan Sites and Control of Development Act 1960
 Circular 5/2000: Planning Appeals: Procedures (including Inquiries into Called in Planning Applications)
 Circular 18/1984: Crown Land & Crown Development
 Clean Neighbourhoods and Environment Act 2005
 Commons Act 2006
 Electricity Act 1989
 Environmental Protection Act 1990
 Goods Vehicles (Licensing of Operators) Act 1995
 Goods Vehicles (Licensing of Operators) Regulations 1995
 Hedgerow Regulations 1997
 Highways Act 1980
 Land Drainage Act 1991
 Local Government Planning and Land Act 1980
 National Parks and Access to the Countryside Act 1949
 Planning (Hazardous Substances) Act 1990
 Planning (Listed Buildings & Conservation Areas) Act 1990 (as amended)
 Planning and Compensation Act 1991
 Planning and Compulsory Purchase Act 2004
 Telecommunications Act 1991
 Town & Country Planning Act 1990 (as amended)
 Town & Country Planning (Control of Advertisements)(England) Regulations 2007
 Town & Country Planning (Development Management Procedure)(England) Order 2010
 Town & Country Planning (Environmental Impact Assessment) Regulations 2010
 Town & Country Planning (General Permitted Development) Order 1995 (as amended)
 Town & Country Planning (Local Development) (England) Regulations 2004
 Wildlife and Countryside Act 1981

Except in the following cases:

1. A Wyre Forest District Councillor makes a written request for an application to be considered by the Planning Committee within 21 days of the date of validation of the application.
2. A Parish Council makes a request to speak on an application to be



- considered by the Planning Committee within 21 days of the date of validation of the application.
3. The Officer or another officer nominated by him/her considers that an application should be considered by the Planning Committee.
 4. The applicant is Wyre Forest District Council or is made on land owned by Wyre Forest District Council.
 5. The applicant is a serving Wyre Forest District Council Councillor or is a serving Councillor representing Wyre Forest District on Worcestershire County Council.
 6. The applicant is a serving Wyre Forest District Council Officer, or is an immediate family member of a serving Wyre Forest District Council Officer occupying a Senior position within the Council or serving in a planning related role, as defined in the Officers' Planning Code of Good Practice.
 7. Any 'major' planning application as defined by the Town & Country Planning (General Development Procedure) Order 1995 except applications to vary conditions of an existing planning permission where the Officer considers that the nature of the original development permitted remains substantially unaltered; applications which are only classified as 'major' due to the overall site area as indicated by the applicant (to include changes of use applications); and, applications which propose only relatively minor alterations to what has been previously approved (e.g. substitution of house types).
 8. Any planning application representing a departure from the Development Plan which is recommended for approval.
 9. Any application, at the discretion of the Development Manager in consultation with the Chairman of Planning Committee, where a statutory or non statutory Consultee (including Parish Councils) has responded to the application in writing with a clearly made planning objection and the application is recommended for approval.
 10. Any application except applications for certificates of Lawful Existing Development and Proposed Development where a request by a third party has been made to speak at the Planning Committee, within 21 days of the date of the neighbour notification letter or the site/press notice, and the request accords with the Council's published policy and procedure for speaking at Planning Committee.
 11. Applications involving proposed S106 obligations (except where in accordance with the adopted Supplementary Planning Document – Planning Obligations)
 12. The service of Enforcement and Stop Notices (but not including Temporary Stop Notices or Enforcement Notices relating to retrospective developments where planning permission has been refused) and subject to:
 - A) All delegated decisions being in accordance with the Development Plan policies.
 - B) The following being first agreed with the Chairman or in his/her absence, the Vice Chairman of the Planning Committee as appropriate:
 - Service of Building Preservation Notices



- Service of Listed Building Enforcement Notices
 - Service of Temporary Stop Notices
- C) The following consultation and/or notification (in addition to statutory or published requirements) having first been carried out:
- The relevant Parish Council and Ward Members in respect of the removal of hedgerows under the Hedgerow Regulations 1997.
 - The relevant Parish Council neighbours and other interested parties (at the discretion of the Officer) in respect of 'minor' amendments made to applications previously approved.
 - The relevant Ward Members in respect of notifications made by statutory undertakers under Part 17 of the Schedule to the General Permitted Development Order 1995.
 - The relevant Ward Members and Parish Councils in respect of applications for works to trees subject to Tree Preservation Orders and S211 Notices for works to trees in Conservation Areas.

Subsequent to the resolution of the Planning Committee, the power to update the wording of conditions to planning permissions before the issuing of the Decision Notice, subject to consultation with the Chairman of the planning committee (or Vice-Chairman in his absence) and as long as the intentions of the Planning committee are not undermined in so doing and the principle of the development remains unaffected. Otherwise the application will be reported back to the Planning Committee for them to consider the changes to the conditions or the additional condition(s).

Licensing and registration functions

To exercise authority, including approval and refusal, suspension and revocation, service of notices and orders or other matters requiring a decision by the Council under the Council's published policy and practice notes and the following legislation, regulations and guidance (and any re-enactment or replacement or consolidation of the statutes or regulations or guidance, or any modifications or extensions thereof):

Animal Boarding Establishments Act 1963

Animal Welfare Act 2006

Breeding and Sale of Dogs (Welfare) Act 2006

Breeding of Dogs Acts 1973 and 1991

Caravan Sites and Control of Development Act 1960

Caravan Sites Act 1968

Dangerous Wild Animals Act 1976

Gambling Act 2005

Game Act 1831

Licensing Act 2003

Local Government (Miscellaneous Provisions) Act 1976



Table 3: DELEGATION TO OFFICERS OF FUNCTIONS THAT ARE NOT EXECUTIVE FUNCTIONS

To exercise authority in respect of all applications, notifications, service of notices and orders or other matters requiring a decision by the Council under the Council's published policy and practice notes and the following legislation, regulations and guidance (and to any re-enactment or replacement of the statutes, or regulations or guidance or any modifications thereof):

Acquisition of Land Act 1981
 Ancient Monuments and Archaeological Areas Act 1979
 Anti-Social Behaviour, Crime and Policing Act 2014
 Brownfield Land Register Regulations 2017
 Building Act 1984
 Caravan Sites and Control of Development Act 1960
 Clean Neighbourhoods and Environment Act 2005
 Commons Act 2006
 Electricity Act 1989
 Environmental Protection Act 1990
 Goods Vehicles (Licensing of Operators) Act 1995
 Goods Vehicles (Licensing of Operators) Regulations 1995
 Hedgerow Regulations 1997
 Highways Act 1980
 Hazardous Substance Regulations 2015
 Land Drainage Act 1991
 Local Government Planning and Land Act 1980
 National Parks and Access to the Countryside Act 1949
 Planning (Hazardous Substances) Act 1990
 Planning (Listed Buildings & Conservation Areas) Act 1990 (as amended)
 Planning and Compensation Act 1991
 Planning and Compulsory Purchase Act 2004
 Procedural Guide Planning Appeals – England
 Self Build and Custom Housing Act 2015
 Self Build and Custom Housing (Register) Regulations 2016
 Telecommunications Act 1984
 Town & Country Planning Act 1990 (as amended)
 Town & Country Planning (Control of Advertisements)(England) Regulations 2007
 Town & Country Planning (Development Management Procedure)(England) Order 2015
 Town & Country Planning (Environmental Impact Assessment) Regulations 2017
 Town & Country Planning (General Permitted Development) Order 2015
 Town & Country Planning (Local Development) (England) Regulations 2004
 Wildlife and Countryside Act 1981

Subject to;

- A) All delegated decisions being in accordance with the, National Planning Policy Framework, the Development Plan or emerging Development Plan policies.
- B) The following being first agreed with the Chairman or in his/her absence, the Vice Chairman of the Planning Committee as appropriate:
 - Service of Building Preservation Notices
 - Service of Listed Building Enforcement Notices
 - Service of Temporary Stop Notices
- C) The following consultation and/or notification (in addition to statutory or published requirements) having first been carried out:
 - The relevant Parish Council and Ward Members in respect of the removal of hedgerows under the Hedgerow Regulations 1997.
 - The relevant Ward Members in respect of notifications made under Parts 13 and Part 16 of Schedule 2 to the General Permitted Development Order 2015.
 - The relevant Ward Members and Parish Councils in respect of applications for works to trees subject to Tree Preservation Orders.

The delegation shall not apply;

1. If a Wyre Forest District Councillor makes a written request for a Planning Application to be considered by the Planning Committee within 21 days of the date of validation of the planning application;
2. If a Parish Council makes a request to speak on a Planning Application to be considered by the Planning Committee within their written response to the District Council and no later than 21 days of the date they were consulted on the planning application;
3. If the Development Manager or another officer nominated by him/her considers it is a matter that should be considered by the Planning Committee;
4. If the applicant of the Planning Application is Wyre Forest District Council or is made on land owned by Wyre Forest District Council;
5. If the applicant of the Planning Application is a serving Wyre Forest District Council Councillor or is a serving Councillor representing Wyre Forest District on Worcestershire County Council;
6. If the applicant of the Planning Application is a serving Wyre Forest District Council Officer or is made on land owned by a serving Wyre Forest District Council Officer ;
7. To any Planning Application which will result in a net increase of ten or more residential units or, in the case of non-residential application, a net increase 1000 square metres of floorspace;

8. To any Planning Application, other than a Householder Application, where a statutory or non statutory Consultee (including Parish Councils) has responded to the application in writing with a clearly made planning objection and the application is recommended for approval;
9. To any Planning Application where a request by a third party has been made to speak at the Planning Committee, within 21 days of the date of the neighbour notification letter or the site/press notice, and the request accords with the Council's published policy and procedure for speaking at Planning Committee; or
10. To the service of Enforcement and Stop Notices (but not including Temporary Stop Notices or Enforcement Notices relating to retrospective developments where planning permission has been refused) .

For the purposes of interpretation the following definitions will apply;

- 'emerging plan' is any plan for the District that has been submitted to the Secretary of State
- 'Planning Application' excludes;
 - any notification under the above mentioned Acts or Orders;
 - applications under S.73 of the Planning Act where the nature of the original development permitted remains substantially unaltered;
 - Certificate of Lawfulness under S.191 or S.192 of the Planning Act;
 - applications for non material amendments;
 - applications for approval of conditions;
 - consultations from neighbouring authorities or the County Council; or
 - notification of proposed works to trees in a conservation area.

Subsequent to the resolution of the Planning Committee, delegated authority is given to update the wording of, or include additional conditions to planning permissions before the issuing of the Decision Notice, as long as the intentions of the Planning committee are not undermined in so doing and the principle of the development remains unaffected.

WYRE FOREST DISTRICT COUNCIL

Planning Committee

16 April 2019

PLANNING AND ENFORCEMENT APPEALS

Appeal and Application Number	Planning Inspectorate Reference	Appellant	Site (Proposal)	Form of Appeal and Start Date	Written Reps. or Statement Required By	Proof of Evidence Required By	Public Inquiry, Hearing or Site Visit Date	Decision
WFA1510 17/0081/CERT/3192591	APP/R1845/X/17	Mrs A Thomas	ALTON PIECE DARK LANE BLISS GATE ROCK KIDDERMINSTER The operation of an unrestricted full time riding school and all related equine activities	HE 30/10/2018	04/12/2018		12/02/2019	Dismissed 01/04/2019

Agenda Item No. 7

Appeal and Application Number	Planning Inspectorate Reference	Appellant	Site (Proposal)	Form of Appeal and Start Date	Written Reps. or Statement Required By	Proof of Evidence Required By	Public Inquiry, Hearing or Site Visit Date	Decision
WFA1511 18/0373/FULL	APP/R1845/W/1 8/3210105	Mr A Willets	BEECH ELM FARM CLATTERCUT LANE RUSHOCK DROITWICH WR9 0NG Conversion of agricultural building to a dwellinghouse, including external alterations and parking provision	WR 07/11/2018	12/12/2018			Dismissed 01/04/2019
WFA1513 18/3045/TE	APP/R1845/W/1 8/3212592	CTIL & Vodafone Ltd	PAVEMENT OFF HABBERLEY LANE OPPOSITE THE JUNCTION WITH BERROW HILL ROAD The installation of a 12.5 metre monopole with 3No. Shrouded antennas and 3No. Equipment cabinets	WR 28/12/2018	01/02/2019			

Appeal and Application Number	Planning Inspectorate Reference	Appellant	Site (Proposal)	Form of Appeal and Start Date	Written Reps. or Statement Required By	Proof of Evidence Required By	Public Inquiry, Hearing or Site Visit Date	Decision
WFA1514 18/0594/FULL	APP/R1845/D/19 /3220082	MR & MRS LOVERIDGE	CULVER HOUSE DOWLES ROAD GREENACRES LANE BEWDLEY DY122RE Extensions and alterations of existing property including the increase of ridge height of provision, dormers and two storey front	WR 20/02/2019	27/03/2019			
WFA1515 18/0722/FULL	APP/R1845/D/18 /3219376	MR NICK SALTER	34 COBHAM ROAD KIDDERMINSTER DY101LF Two storey side extension (Resubmission of approval 15/0500/FULL)	WR 20/02/2019	27/03/2019			
WFA1516 19/0004/FULL	APP/R1845/D/19 /3224366	MR J POWELL	20 KENT CLOSE KIDDERMINSTER DY101NS PROVISION OF RENDER TO ALL ELEVATIONS.	WR 21/03/2019	25/04/2019			

Appeal and Application Number	Planning Inspectorate Reference	Appellant	Site (Proposal)	Form of Appeal and Start Date	Written Reps. or Statement Required By	Proof of Evidence Required By	Public Inquiry, Hearing or Site Visit Date	Decision
WFA1517 18/0566/FULL	APP/R1845/W/1 9/3223931	MRS PATRICIA PAYNE	HOBRO CHALET HOBRO WOLVERLEY KIDDERMINSTER DY115SZ Replacement chalet and associated works including cellular mesh to driveway	WR 01/04/2019	06/05/2019			
WFA1518 18/3077/PNRES	APP/R1845/W/1 9/3222905	Mr B Connolly	BARN 5 WOODSIDE FARM TANWOOD LANE CHADDESLEY CORBETT Change of use of agricultural building to a dwellinghouse	WR 01/04/2019	06/05/2019			

Appeal Decision

Site visit made on 22 January 2019

by **M Aqbal BA (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 1 April 2019

Appeal Ref: APP/R1845/W/18/3210105

Beech Elm Farm, Clattercut Lane, Rushock, Droitwich WR9 0NG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr A Willetts against the decision of Wyre Forest District Council.
 - The application Ref 18/0373/FULL, dated 6 June 2018, was refused by notice dated 27 July 2018
 - The development proposed is conversion of agricultural building to dwelling.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal site is located within the designated Green Belt. The Council refused the application for planning permission on the following grounds: (1) By virtue of the proposal to replace the roof, the development fails to comply with Policy SAL.UP11 (i) of the Wyre Forest District Site Allocations and Policies Local Plan. A new roof of the form and scale proposed is considered to comprise works that constitute a substantial alteration, such that the development would go beyond what is considered to be a conversion. (2) The proposed pitched roof, in combination with proposed fenestration details, are considered to significantly alter the appearance of the barn such that they would fail to relate to its original character to the detriment of visual amenity. Development would therefore be contrary to Policy SAL.UP11 (ii) of the Wyre Forest District Site Allocations and Policies Local Plan. The written representations focus upon these reasons for refusal. My consideration of this appeal will also focus on these reasons and I will not assess this appeal against Green Belt planning policy.

Costs Application

3. An application for costs was made by Mr A Willetts against Wyre Forest District Council. This application is the subject of a separate Decision.

Main Issues

4. The main issues are firstly, whether the proposal would be consistent with the approach of local policy for the conversion of buildings in rural areas and secondly, the impact of the development upon the character and appearance of the host building and surrounding area.

Reasons

Conversion of buildings in rural areas

5. The existing building is of a substantial size and is of part brick and timber boarding construction, with a curved asbestos cement sheet roof, supported by a steel frame structure. The building is largely surrounded by fields in a rural setting and is accessed via a track off Clattercut Lane. From its form and appearance this building is easily identifiable as an agricultural building. Furthermore, due to its utilitarian appearance this building is settled within its surroundings and contributes to the rural character and appearance of the area. Notwithstanding this, and its distance from the highway, because of its scale, isolated position and being located on elevated land relative to the highway and track, views of this building are available from the road. The building is therefore sensitive to change.
6. Policy SAL.UP11 of the Wyre Forest District Site Allocations and Policies Local Plan – Adopted July 2103 (LP) specifically provides a development management approach to the re-use and adaptation of rural buildings based on several criteria. In respect of criteria (i) the main parties agree that the building is a permanent structure which is in-keeping with its surroundings and is of a size suitable for conversion.
7. However, to facilitate the conversion, the proposals include changing its roof form to a dual-pitch incorporating an overhang to the northern and southern elevations of the building. Notwithstanding the need to provide daylight, the scheme would also introduce a significant amount of glazing to all the elevations of the building, most of which would be new openings. A first floor would also be created within the building.
8. The appellant has sought to demonstrate that the proposed alterations would not be substantial having regard to the *Hibbitt* case¹. The Court held that a building must be capable of conversion to residential use without operations that would amount either to complete or substantial re-building of the pre-existing structure or, in effect, the creation of a new building. The dispute between the parties here is whether the works proposed to facilitate the residential conversion would constitute substantial alterations.
9. In addition to the creation of a new first floor, the roof-form of the building would change. This would involve significant building work thereby altering the building's built-form. The fenestration detail would also change given the insertion of glazing to elevations. The nature and scale of these works suggest substantial building operations would be required. The extent and level of work would result in a materially different external appearance compared to its current utilitarian look. As a matter of fact and degree, I find that the proposed works, individually or cumulatively, would comprise works that constitute a substantial alteration. The proposed works would go beyond what is a conversion. There is therefore conflict with criterion (i) of LP Policy SAL.UP11.

Character and appearance

10. The justification text to LP Policy SAL.UP11, at paragraphs 7.97 - 7.99 is clear and aims to ensure that residential conversions and associated alterations, such as the insertion of floors, doors and windows do not have a detrimental effect on the fabric of rural buildings and the character of the countryside. The proposed development would change the external appearance of the host building in that starkly modern facades would be created. This visual change would give the

¹ *Hibbitt v Secretary of State for Communities and Local Government* [2016] EWHC 2853 (*Hibbitt*).

building a dominant presence in the day. At night, given the amount of glazing proposed, the new openings would be more apparent and draw the eye when lit internally. The proposed alterations would result in a distinctly urban and visually strident building, which would significantly detract from the rural appearance and setting of the building, particularly during winter months when leaf cover would be reduced.

11. There are other buildings in the area with pitched roofs. However, these are generally of traditional vernacular and therefore do not provide suitable justification for the proposal. In contrast, the proposed development would result in a building that would appear out-of-keeping with its rural setting because of its built-form. I therefore find that the proposed development would have a visually detrimental effect upon the character and appearance of the host building and that of the surrounding area. Accordingly, there is conflict with criterion (ii) to Policy SAL.UP11.

Other Matters

12. There is a reasonable prospect of the building's residential conversion given the recent grant of prior approval² under the Town and Country Planning (General Permitted Development) Order 2015 as amended. Although that consent included a replacement roof, this retains the overall form of the building and only subtle alterations to the original building are proposed.
13. There would be economic benefits associated with the proposal including the provision of construction jobs and council tax receipts. Although I have no strong evidence of an under supply of housing in the area, as suggested by the appellant, the scheme would offer social benefits through the provision of additional housing accommodation for the area, which would also support services and facilities within Cutnall Green and Chaddesley Corbett. The re-use of an existing building would also bring some environmental benefits. However, similar aims would be achieved by the conversion permitted by the prior approval.
14. I have noted the lack of objections from internal and external consultees, along with no adverse impacts being identified in respect of other matters. Nevertheless, these are neutral factors in the planning balance, which do not weigh in support or against the proposal.

Planning Balance and Conclusion

15. There is a genuine fall-back position, but the proposed development would plainly be unacceptable, and I attach limited weight to this consideration. There would be economic, social and environmental benefits, but these matters carry moderate weight. The other considerations advanced, considered individually or collectively, on balance do not outweigh the harm identified in the main issues above and overall conflict with Policy SAL.UP11 and the development plan.
16. For the above reasons, I conclude that the appeal should be dismissed.

M Aqbal
INSPECTOR

² 18/30001/PNRES - Change of use of Agricultural building to dwellinghouse (Class C3) – 26 February 2018 – Prior Approval Granted



Costs Decision

Site visit made on 22 January 2019

by M Aqbal BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 April 2019

Costs application in relation to Appeal Ref: APP/R1845/W/18/3210105 Beech Elm Farm, Clattercut Lane, Rushock, Droitwich WR9 0NG

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr A Willetts for a full award of costs against Wyre Forest District Council.
 - The appeal was against the refusal of planning permission for conversion of agricultural building to dwelling.
-

Decision

1. The application for an award of costs is refused.

Reasons

2. Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The applicant considers that there was unreasonable behaviour by the local planning authority (LPA) for the reasons considered below, which resulted in the appellant having to appeal against the refused planning application.
4. The PPG sets out various types of behaviour which may give rise to a substantive award of costs against a LPA. The guidance explains that LPAs are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal, for example, by preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations; and vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis.
5. The LPA's appeal questionnaire confirms that no 'Statement of Case' was being provided in support of the appeal. The LPA has therefore relied on its decision notice and delegated officer report in responding to the appeal.
6. The reasons for refusal set out in the decision notice are complete, precise, specific and relevant to the application. The reasons also clearly identify what the LPA considers to be the harm arising from the proposal with specific reference to Policy SAL.UP11 of the of the Wyre Forest District Site Allocations and Policies Local Plan.

7. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that decisions on planning applications should be made in accordance with the development plan unless material considerations indicate otherwise. Accordingly, in determining the planning application the starting point for the LPA was to consider the proposal under the relevant policies of the Development Plan. Based on the information before me the LPA did this. In the LPA's delegated officer report consideration was given to the extant prior approval¹ as a 'fall-back'.
8. The LPA's consideration of whether the level of proposed alterations to the agricultural building would be substantial, which would go beyond what is a conversion, and the weight attached to the 'fall-back' or any other relevant factors are matters of planning judgement for the decision maker, as is the LPA's assessment of the proposal. This also involves some subjective analysis having regard to the context of the site, the proposals and the development plan and any other material considerations.
9. The decision notice in combination with the delegated officer report identify the key requirements of the relevant Development Plan policy along with an assessment of the proposal. Within my decision I have distilled the LPA's reasons and assessment into two main issues. I also note that the applicant's submissions on the appeal also refer to these issues. Therefore, on balance, I am satisfied that the LPA's assertions about the impact of the proposal are clear and supported by sufficient analysis.
10. Having found the applicant's appeal in favour of the LPA, I disagree with the applicant that the LPA has prevented development which could reasonably have been permitted having regard to the development plan and other considerations.
11. Given all of the foregoing, I find that the LPA did not refuse planning permission unjustifiably. Accordingly, I conclude that unreasonable behaviour resulting in unnecessary expense, as described in the PPG has not been demonstrated.

M Aqbal
INSPECTOR

¹ 18/3001/PNRES – Change of use of Agricultural building to dwellinghouse (Class C3) – 26 February 2018 – Prior Approval Granted



Appeal Decision

Hearing Held on 12 February 2019

Site visit made on 12 February 2019

by Chris Preston BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01 April 2019

Appeal Ref: APP/R1845/X/17/3192591

Alton Piece, Dark Lane, Bliss Gate, Rock, Kidderminster DY14 9YN

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against a refusal in part to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Mrs A Thomas against the decision of Wyre Forest District Council.
 - The application (Ref. 17/0081/CERTE: WFA1510), dated 12 January 2017, was refused in part by the Council by notice dated 01 June 2017.
 - The application was made under section 191(1)(c) of the Town and Country Planning Act 1990 as amended.
 - The use for which a certificate of lawful use or development is sought was described on the application form as: The operation of a full time "Riding School" and all related equine activities contrary to and in breach of the personal conditions imposed on planning permission reference WFDC 1321/03 and conditions 3, 4 and 5 – within and upon all the land shown edged red on a plan shown as Exhibit "I" – but excluding Building 4 shown as marked yellow (/////). All this property including all the buildings named and shown on Exhibit "I" as plan edged in red (excluding building 4) shall from the date of the application – be used for the continued and uninterrupted operations herewith described; in perpetuity and forever hereafter without any restriction and that use shall attach to the land so described as "Alton Piece" in fullness.
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Decision

1. The appeal is dismissed.

Applications for costs

2. At the Hearing applications for costs were made by Mrs A Thomas against Wyre Forest District Council and by Wyre Forest District Council against Mrs A Thomas. Those applications are the subject of separate Decisions.

Main Issues

3. An application for a certificate of lawful use is not a planning application. Its purpose is to ascertain whether the use of land was lawful at the date the application was made. The onus rests with an appellant to demonstrate his/her case on the balance of probability. The main issue when dealing with an appeal in relation to such matters is whether the Council's decision to refuse to grant a certificate was well-founded
4. For clarity, I make clear that my decision relates purely to the question of whether the use of the land was in compliance with the 2003 permission and the conditions attached to it at the time the application was made. I make no

assessment of the planning merits of operating the riding school without complying with those conditions. It would be open to the appellant to apply to the Council to remove and/or vary the relevant conditions and the outcome of any such application would be a matter for the Council to consider.

Preliminary Matters Relating to the Nature of the Application

5. The description of development for which an LDC was sought, as described on the application form, is set out in the banner heading above. That description refers to the operation of a riding school in breach of conditions 3, 4 and 5 of planning permission reference WF.1321/03 (the 2003 permission). That permission, granted on 29 December 2003, was for a "change of use to riding school and associated land for the keeping of horses and proposed car parking". I shall address the details of the three conditions later in my decision but, in summary, condition 3 states that the permission is a personal permission for the benefit of the appellant, condition 4 limits the times at which tuition can take place and condition 5 limits the number of horses that can be ridden at any one time on the premises.
6. From that original description it seemed clear that the application was being made under section 191(1)(c) of the Town and Country Planning Act (the Act) under which an applicant can seek confirmation that (c) any matter constituting a failure to comply with any condition or limitation subject to which planning permission has been granted is lawful. In essence, the case for the applicant seemed to be that those conditions had been breached continuously for more than ten years from the date of the application such that the breaches were immune from enforcement action.
7. However, during the course of the application, the description of the use for which a certificate was sought was amended by the applicant. The Council adopted that amended description in its decision notice and the revised text was as follows:

The operation of a FULL TIME "RIDING SCHOOL and all related Equine Activities" within and upon all the land (know as Alton Piece Dark Lane, Rock DY14 9YN) shown edged red on a plan shown as Exhibit '*I' [but excluding Building 4 shown as marked yellow (////////)]. All this property including all the buildings named and shown on the plan referred to as Exhibit 'I' [as edged in red] shall from the date of the application - be used for the continued and uninterrupted operations herewith described; in perpetuity and forever hereafter without any restriction and that use shall attach to the land so described as "Alton Piece" in completeness".

8. Whilst some correspondence was provided with the appeal statement, including extracts of emails between the agent and the Council, the reasons for the change in description were not altogether clear to me in advance of the Hearing. In particular, the revised description removed reference to conditions 3, 4 and 5 and it was unclear if an LDC was still being sought under section 191(1)(c) of the Act or some other limb of section 191.
9. Consequently, I sent a pre-hearing note to the parties seeking their views. In that note I also noted that an LDC granted under s191 sets out that a particular use or activity would have been lawful, if carried on at the time of the application, that being the relevant date. In other words, for an LDC to be

granted the use of activity must have been taking place on the date of the application and must have been lawful on that date.

10. An LDC under that section cannot specify that a use should be continued after that date or that it would necessarily be lawful to do so. If an applicant wishes to understand whether a proposed use would be lawful the correct mechanism is to apply under section 192 of the Act. In that context I was also unsure of the intended purpose of the second sentence of the description which stated that the land and buildings "should be used for the continued and uninterrupted operations herewith described; in perpetuity and forever hereafter without any restriction and that use shall attach to the land so described as "Alton Piece" in completeness".
11. In response to my queries in that regard the appellant's agent accepted that the second sentence of the description may go beyond what could be covered by an LDC under s191 of the Act and was happy for it to be deleted if I considered necessary. For the reasons set out, I have proceeded on the basis that the reference to the future use of the land does not form part of the description for which a certificate is sought.
12. In terms of the scope of the application the Council is clearly of the view that the application seeks an LDC on the basis that the riding school has been used continuously since 2004 in breach of conditions 3, 4 and 5. In other words, that the application falls within s191(1)(c) of the Act.
13. At the Hearing the agent for the appellant suggested that the application was being made on the basis that the operation of a full-time commercial riding school, including related activities fell outside the scope of the 2003 permission altogether. He argued that the use had continued for more than ten years prior to the date of the application such that it had become immune from enforcement action, and thereby lawful, having regard to the time limits imposed by s171B of the Act. He suggested that may fall within section 191(1)(a) of the Act under which an applicant can seek an LDC to ascertain if the use of land is lawful.
14. However, the description of the 2003 permission was for a "change of use to riding school and associated land for the keeping of horses and proposed parking area". If no restrictive conditions were attached to that permission there would be no doubt that the use to which the appellant has put the land falls within the broad scope of a riding school and for the keeping of horses. Thus, it appears to me that the main dispute between the parties centres on whether the use of the land and buildings for commercial use as a full time riding school has been carried on in breach of condition 3 attached to the 2003 permission. That is the crux of the appellant's argument. There is also a dispute as to whether there has been continued non-compliance with conditions 4 and 5 to the extent that the breaches of those conditions are immune from enforcement action due to the passage of time. The crux of the appellant's argument is that condition 3 has the effect of preventing the
15. In that sense, notwithstanding the change of description during the application the arguments put forward fall under s191(1)(c) because the fundamental issue in dispute is whether the use of the land has been carried on in breach of conditions 3, 4 and 5 of the 2003 permission.
16. I have considered the appeal on that basis.

Reasons

17. There is no dispute that the appellant runs a commercial riding school and equine related business at the site and that she has done since at least 2006. Condition 3 of the 2003 permission states that:

This permission shall inure for the benefit of Mrs Adele Thomas only and shall not inure for the benefit of the land or any other persons with an interest in the land and shall be for a limited period during which the site is occupied by Mrs Adele Thomas. When the site ceases to be occupied by Mrs Adele Thomas, the use hereby permitted shall cease and all materials and equipment brought on to the site in connection with its use shall be removed.

18. The appellant appears to contend that the term "shall not inure for the benefit of the land" implies that the land cannot be used for the purposes of running a riding school or for the keeping of horses. She contends that the condition was irrational as a result because the use cannot function without the land. In my view, that is a misinterpretation of the terms of the condition.
19. Section 75(1) of the Act states that; "*.....any grant of planning permission to develop land shall (except in so far as the permission otherwise provides) enure for the benefit of the land and of all persons for the time being interested in it*". The planning system is a land use based system of control. Where planning permission is granted the benefit of using the land in line with that permission normally runs with the land or "enures for the benefit of the land" to use the statutory wording. So, had planning permission been granted for the use of land as a riding school and for the keeping of horses without any further conditions attached, it would not matter who undertook the use providing that the land was used within the scope of the planning permission.
20. The exception to that rule is the term "except in so far as the permission otherwise provides". In this case, condition 3 clearly provides that the permission does not enure for the benefit of the land but for the benefit of Mrs Thomas. The effect of that wording is not to prevent the land being used as a riding school or for stabling i.e. the approved use but to restrict that use for the benefit of Mrs Thomas and no-one else. Once she stops using the land for the approved purpose the use must cease.
21. Moreover, there is nothing in the 2003 permission that would prevent the operation of a riding school or the keeping of horses on a commercial basis. An inherent part of a riding school is that people would come to the site to receive tuition. Mrs Thomas provided details to the Council of how she intended to run the business and riding school in support of the 2003 application and the Council would have been aware that it was intended to operate as a business when it decided to grant planning permission. Condition 4 of the permission acknowledges that tuition can take place and condition 5 limits the number of horses that can be ridden at any one time. No conditions were attached limiting the number of horses that can be stabled at the site or to limit stabling to horses owned by Mrs Thomas. Similarly, whilst conditions were imposed to restrict the times at which tuition could take place there was nothing to restrict the times at which other activities such as mucking out or feeding and exercising horses could take place.
22. Thus, it is clear that the permission was not intended as a personal permission in the sense that Mrs Thomas was the only person able to keep horses at the

site or the only person able to receive tuition. In the context of the permission that had been granted, a common sense and plain reading of the condition is that the running of a riding school or the keeping of horses as a business must be undertaken by Mrs Thomas and no other person. In response to the appellant's suggestion that the personal permission should have been time limited the limitation is automatically built into the wording. The use should cease once Mrs Thomas is no longer benefitting from the permission.

23. Following the grant of the 2003 permission details were submitted and agreed with regard to "pre-commencement" conditions and that is an indication that the appellant intended to implement the 2003 permission. On the balance of the evidence before me I am satisfied that she did so and there is no dispute that she has continued to run the riding school and equine business at the site since the mid-2000s. Whilst the business may be advertised as the "Alton Piece Equestrian Centre" it would appear that Mrs Thomas is the owner of the business and that she has remained integral to the running of the riding school since its inception.
24. Having regard to all of the above, the balance of the evidence before me indicates that the 2003 permission was implemented and that Mrs Thomas has continued to occupy or run the business since the mid-2000s up to the present. Thus, the use of the land and buildings falls within the scope of the 2003 permission and I find no evidence of a breach of condition 3.
25. The agent for the appellant referred to the fact that the manège was already in situ when planning permission was granted for the use of the land as a riding school and the Council granted an LDC in relation to the use of the manège for the riding, schooling and instruction of horses and riders in 2004. Be that as it may, the red line boundary for the planning application included the manège and the permission existed to use the land and buildings for the specified purpose. The manège is part of the same planning unit and its presence does not alter my conclusion that the business at the site is being operated within the confines of the 2003 permission.
26. In addition, the appellant suggests that condition 3 of the 2003 permission should not be considered to have any legal effect on the basis that it was not validly imposed in the first instance. Those comments were made with reference to the *Probiotics* judgement¹ in which a planning permission was quashed on the basis of a finding that a condition seeking to limit the use of an industrial building to a specific company (Probiotics) was invalidly imposed and did not serve a planning purpose.
27. Having read the transcript the judgement was based on the very specific circumstances of the case and does not establish a precedent that personal permissions can never be validly imposed. Whether there was a valid reason would depend on the specific circumstances. It is beyond the scope of this appeal to consider the rationale for the imposition of condition 3 in 2003 when permission was granted. That was a matter for consideration of the planning authority at the time and no challenge was made against that decision. It remains part of the 2003 permission. Even if a condition is not validly imposed, which has not been shown to be the case in this instance, established

¹ R (on the application of) Teresa Sienkiewicz v South Somerset District Council & Probiotics International Ltd [2013] EWHC 4090 (Admin)

caselaw dictates that it would continue to have legal effect unless it was challenged through the Courts².

28. Consequently, the use as a riding school and for the keeping of horses continues to be governed and limited by the terms of the 2003 permission, including condition 3. At the time the LDC application was made Mrs Thomas was running the business in accordance with condition 3, and in line with the description of development for which planning permission has been granted, as she had done since the inception of the business. It follows that a lawful use as a riding school with related equine activities, unfettered by conditions attached to the 2003 permission, had not been established.
29. Reference has also been made to alleged breaches of conditions 4 and 5 of the 2003 permission with regard to the hours of tuition and the number of horses ridden at any one time on the premises. There is some evidence, particularly in the statutory declarations of the appellant and those known to her that conditions 4 and 5 are likely to have been breached at times during the operation of the riding school since the mid-2000s.
30. However, in order to become lawful a particular breach must continue for at least ten years. Even then, only that specific breach would be immune from enforcement action and the condition itself would not be discharged. Thus, if the initial breach of planning control ceased and there was a period of compliance any further breach of planning control would not be immune from enforcement action because the clock would start again on the commencement of the new breach. As such, in order to grant an LDC it would be necessary to demonstrate that a particular breach was occurring at the time of the application and that breach had continued for at least ten years.
31. The information provided in the declarations is not sufficient to demonstrate continued breach of either condition for a period of ten years, on the balance of probability. The majority of the declarations testify to the fact that the property has been used as a commercial riding school and stables. That matter is not in dispute. A number of the declarations refer to the number of horses stabled at the site but, as noted above, there are no conditions restricting the number of horses that may be kept and there would be no breach in that regard.
32. A limited number refer to the actual operation of the riding school with regard to the number of riders being trained at any one time and the hours during which the training has taken place. The Council did not seek to dispute the reliability of the accounts put forward in the declarations and I have no reason to doubt that what is presented is an accurate reflection on the part of the individuals concerned.
33. Of the declarations that refer specifically to those matters the statements of Sarah Brown and Emma Brown relate to historic patterns of use and do not testify to whether there was a breach of those conditions at the time of the application. The declaration of Ros Hannon states that in her experience there are often six to eight people on site "waiting to receive or receiving tuition". That does not directly confirm if more than 4 people were actually receiving

² Even in situations where a decision is defective by reason of a legal flaw, which is not shown to be the case here, relevant caselaw indicates that the decision is still capable of having legal effect unless it is quashed: R (on the application of) Thornton Hall Hotel Ltd v Wirral Metropolitan Borough Council & Thornton Holdings Ltd [2018] EWHC 560 (Admin)

tuition at any one time and it may be that one batch of people were on site waiting for an earlier session to finish which would not necessarily mean that more than 4 were being trained at any one time.

34. Mrs Bashford does refer to there generally being six riders in a class during the time her daughter had lessons but, again, that evidence is historic and does not demonstrate a continuing breach. She also refers to "picnic rides" of six to eight horses from the site to her property. Condition 5 only limits the number of horses that may be ridden "on the premises" at any one time and rides away from the site in greater numbers would not be limited by that condition.
35. Similarly, a number of declarations refer to the use of the riding school on a "24/7" basis. The 2003 permission does not restrict time at which operations at the site can take place other than for tuition which is limited by condition 4. It is difficult to distinguish whether the declarations are referring to general activity or to tuition. For example, a rider using the manège to exercise a horse outside the hours permitted in condition 4 would not be in breach of the condition if that rider was not receiving tuition. I have no doubt that someone visiting the site may witness other activity associated with the business but the evidence presented is not sufficient to demonstrate, on the balance of probability, that there has been a continued breach of condition 4.
36. Mrs Thomas does suggest that the conditions have been breached but insufficient detail is provided to give a full picture of operations over a continuous period that would be required in order to discharge the burden of proof. Thus, the evidence presented with the appeal does not demonstrate, on the balance of probability, that the site was being operated in breach of conditions 4 and 5 at the time of the application or that a breach had occurred continuously from that time for a period of at least ten years. If further evidence is available relating to specific breaches of condition it would be open to the appellant to present that to the Council and apply again for an LDC on the basis of that information. However, I can only determine the appeal on the basis of the information before me.
37. For the reasons given above I conclude that the Council's refusal in part to grant a certificate of lawful use or development in respect of the operation of a full-time riding school and all related Equine Activities, unencumbered by the limitations and conditions of planning permission reference WF.1321/03 should fail. I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act as amended.

Chris Preston

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr David Fellows Agent

FOR THE LOCAL PLANNING AUTHORITY:

Mr Paul Round Development Manager
Ms Jane Alexander Principal Solicitor

INTERESTED PERSONS:

Mr Christopher Jeynes Interested party
Mrs Joan Thompson Interested party
Mr Christopher Brown Interested party
Mrs Monica Bashford Interested party
Mr Alan Nott Interested party
Mr Robert Newry Interested party



Costs Decisions

Hearing Held on 12 February 2019

Site visit made on 12 February 2019

by Chris Preston BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01 April 2019

Costs applications in relation to Appeal Ref: APP/R1845/X/17/3192591 Alton Piece, Dark Lane, Rock, Kidderminster DY14 9YN

- The applications are made under the Town and Country Planning Act 1990, sections 195, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - Application A is made by Mrs Adele Margaret Thomas for a full award of costs against Wyre Forest District Council.
 - Application B is made by Wyre Forest District Council for a full award of costs against Mrs Adele Margaret Thomas
 - The hearing was in connection with an appeal against the part refusal of a certificate of lawful use for the operation of a full-time riding school and all related Equine Activities, unencumbered by the limitations and conditions of planning permission reference WF.1321/03.
-

Decisions

Application A

1. The application for an award of costs is refused.

Application B

2. The application for an award of costs is refused.

Preliminary Matters

3. Prior to the Hearing both parties applied for a full award of costs against each other. For ease of reference I have issued my decision in relation to both applications in this single letter, although I have separated my reasoning to deal with each application separately.
4. As set out in the banner heading above I have referred to the application by Mrs Thomas for an award against the Council as Application A and the application by the Council for an award against Mrs Thomas as Application B.

Application A – Mrs Thomas Against the Local Planning Authority

5. The application was submitted in writing as was the Council's response. As the parties will be familiar with the submissions the following is a brief summary.
6. The applicant contends that the Council has acted unreasonably throughout its handling of the application for a lawful development certificate (LDC) by not showing a willingness to balance the submissions of the applicant with its own position. In addition, the Council only produced a copy of planning permission WF.1321.03 with its questionnaire when it should have set out all documents it

would rely on. It would therefore be unreasonable for it introduce further evidence in support of its case. Further, the Council disagreed that a delegated report existed which was incorrect because the applicant submitted a copy of it with the appeal. It was also unreasonable for the Council to ask the appellant to provide copies of appeal documents when those documents should be available in Council records in any event.

7. The Council maintains that it has actively worked with the applicant throughout the application and appeal process and that its decision was amply explained within the decision notice and the subsequent Hearing Statement. The Council disagreed with the applicants position but submits that is not evidence of unreasonable behaviour.
8. On procedural grounds the applicant has misunderstood procedural guidance with regard to the questionnaire. The case of the planning authority is set out fully within its Hearing Statement, as required by procedural guidance and the Council has complied with deadlines for the submission of information.
9. Consequently, the Council is of the view that there are no grounds for an award of costs on substantive or procedural grounds.

Reasons

10. The Government's approach to costs awards is set out within the Planning Practice Guidance. Paragraph 030 sets out the two basic conditions for an award to be made and those are that a party must have behaved unreasonably and that unreasonable behaviour has caused another party to incur unnecessary or wasted expense in the appeal proceedings. Paragraph 031 notes that costs may be awarded on procedural grounds, relating to the appeal process, or on substantive grounds, relating to the merits of the appeal.
11. In this case the applicant seeks an award on both substantive and procedural grounds. In terms of procedure it is alleged that the Council failed to provide all supporting information in support of its case with the appeal questionnaire. However, the purpose of the questionnaire is to provide background documents, such as decision notices or any relevant policies. No planning policies needed to be forwarded due to the nature of the case and the Council forwarded the original planning permission for the site.
12. Subsequent to sending the questionnaire the Council sent its Appeal Statement, in line with the timetable for the appeal, and that document, together with the reasons for refusal, fully explained the Council's case. It was not unreasonable for the Council to ask the appellant to forward appeal documents, notwithstanding that some of those documents may already have been held by the Council. An appeal should not become a paper chase and the Council was entitled to request copies of appeal documents so that it could see the appellant's case in full, as it was submitted to the Inspectorate. Thus, I find no evidence of procedural errors on the part of the Council.
13. Moreover, there is no evidence that the Council failed to consider the arguments put forward by the appellant. It simply had a different view on the merits of the case and the reasons were clearly set out in the officer report, decision notice and appeal statement. As it was, I concurred with the Council but, even if I had taken a different view, it is not unreasonable for a party to

hold a different position on balanced matters, particularly if that position is adequately explained.

14. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated and there are no grounds for an award of costs.

APPLICATION B – Local Planning Authority against Mrs Thomas

15. As with Application A, the Council’s application and the appellant’s response were submitted in writing and the respective cases will be familiar to the parties. Therefore, the following is a brief summary of the two cases.
16. In essence, the Council’s application for a full award of costs is made on substantive grounds on the basis that the appellant proceeded to appeal without providing any evidence that condition 3 of application WF.1321/03 had ever been breached. In the view of the Council the terms of condition 3 were unambiguous and limited the permission for the benefit of Mrs Thomas. Mrs Thomas has run the riding school since the business began.
17. The appellant also sought to question the validity of condition 3 and the Council have made clear that the most suitable way to vary or remove conditions would be through an application under section 73 of the Town and Country Planning Act 1990 (the Act). That advice was given to the agent prior to the determination of the application in person and in writing. To pursue an appeal on that basis was unreasonable and has put the Council to unnecessary expense.
18. In response, the appellant suggests that the Council’s view that a section 73 application was a more appropriate way of dealing with the matter has led the authority to decline to properly consider the arguments put forward under section 191 of the Act. The personal permission granted in 2003 cannot function without the land and buildings and it is clear that the operation of a full-time riding school has taken place in breach of that condition for 15 years. The case law provided by the Council is either not directly comparable or supports the appellant’s case. Further, the Council has not commented on the case law provided by the appellant which makes clear that planning permission normally runs with the land.
19. The Council has not taken account of the evidence provided by a number of third parties who confirmed that the riding school has been operating continuously for more than ten years.

Reasons

20. I have set out the broad criteria for an application of costs to succeed in paragraph 10, above. Further, paragraph 053 of the PPG identifies that an appellant is at risk of an award of costs if he/she persists with an appeal that had no reasonable prospect of success.
21. Whilst I found with the Council the issues involved were not so straightforward for me to conclude that the appellant unreasonably pursued the appeal. The main area in dispute was the meaning of condition 3 of the 2003 permission. That required a degree of interpretation, particularly with regard to the phrase “shall not inure for the benefit of the land”. The agent for the appellant took that to mean that the permission did not authorise the land and buildings to be

used as a riding school. Having regard to the relevant sections of the Act I concluded that was not the case for the reasons set out in my associated decision. The permission did not prevent the land being used as a commercial riding school but condition 3 limited the benefit of the permission to Mrs Thomas. In my view that clearly meant that any business needed to be run by her but that judgement was not as straightforward as suggested by the Council and, on balance, I find that it was not unreasonable for the appellant to pursue the appeal. Put simply, it was a case where the two parties had differing views, not unreasonably held, and the appeal system exists to enable a resolution of such disputes.

22. I do not accept that the Council was blinded by its view that a section 73 application was a more appropriate way to vary or remove disputed conditions, even though that may well have been sound advice. The Council continued to determine the appeal on the evidence before it. However, whilst the Council did provide that advice, it appears to me that a degree of confusion was caused from the outset in terms of the description of development for which a certificate was sought. The initial description was altered during the course of the application and I found confusion as to whether a certificate was being sought under s191(1)(a) or s191(1)(c).
23. I do not blame one side or the other for that but there remained a degree of confusion right up to the morning of the hearing where I needed quite a lengthy discussion to understand what was being proposed. Clearer engagement by both parties in advance may have helped to avoid that situation.
24. However, for the reasons given, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated and there are no grounds for an award of costs.

Chris Preston

INSPECTOR

SECTION 106 OBLIGATION MONITORING

NOTE: THIS LIST IS NOT EXHAUSTIVE BUT DETAILS THE MOST 'CURRENT' OBLIGATIONS, WHICH REQUIRE MONITORING

This list only records applications dating back to 2010 and should Members wish to see records relating to applications before then, they are available on request. Members are advised that S106 Agreements will only appear as 'completed' once the relevant planning application has been determined.

Application Number	Site	Provisions	Triggers for Compliance	Performance
18/0529/FULL	Former Sion Hill Middle School Sion Hill Kidderminster	<ul style="list-style-type: none"> • Affordable Housing (46 units) • Highway contribution of £22,000 towards improvement of 3 bus stops 		Draft in circulation
18/0446/FULL	Site Parcel P Former British Sugar Site Land off Stourport Road Kidderminster	<ul style="list-style-type: none"> • Public Open Space contribution of £56,651.40 • Affordable Housing (7 units) 		Draft in circulation
18/0285/OUTL	Churchfields Business Park Unit 38 Churchfields Kidderminster	<ul style="list-style-type: none"> • Affordable Housing (18 units) 		Draft in circulation

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Application Number	Site	Provisions	Triggers for Compliance	Performance
18/0163/FULL	Land off Stourbridge Road (adj. Hurcott Lane) Kidderminster	<ul style="list-style-type: none"> • Education contribution of £373,356 • Public Open Space Contribution of £101,714 • Highway contributions of <ul style="list-style-type: none"> - £20,000 for Bus Stop Provision - £4,905 for Promotion of Speed Limit Extension - £18,200 for Personal Travel Planning • Affordable Housing 	<ul style="list-style-type: none"> • Occupation of 1/3 of dwellings • Prior to 1st occupation • Prior to commencement 	Agreement completed 9 th August 2018
18/0034/FULL	Stourport Road Kidderminster	Highways contribution of £15,405 to provide traffic signals on Stourport Road so that the approach from the Emergency Services Hub can have its own 'green wave' to enable clear passage and to provide a Traffic Regulation Order to protect the access for the emergency vehicles	Prior to commencement	Agreement completed 18 th July 2018

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Application Number	Site	Provisions	Triggers for Compliance	Performance
17/0780/FULL	Blakebrook School Bewdley Road Kidderminster	<ul style="list-style-type: none"> • Public Open Space of £19,174.32 • Biodiversity contribution of £5,000 	First occupation	Completed 26 th March 2018
17/0511/OUTL	Land off Spennells Valley Road Kidderminster	<ul style="list-style-type: none"> • Public Open Space contribution based on bedspaces • Contribution of £20,000 towards creation of bus stops • £1500 towards pedestrian crossing • Affordable Housing 29.8% 	First occupation Prior to commencement Prior to commencement	Completed 1 st May 2018

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Application Number	Site	Provisions	Triggers for Compliance	Performance
17/0325/S106	Deasland Farm Deasland Lane Heightington	Variation of S.106 agreement associated with Planning Permission WF.0642/98 to allow Deasland Farmhouse to be separated from the farm holding and removal of agricultural tie		Agreement completed 10.7.18
17/0269/FULL	Kidderminster Market Auction Site Market Place Kidderminster	Public Open Space contribution of £6,682		Agreement completed 23.10.17

Application Number	Site	Provisions	Triggers for Compliance	Performance
17/0205/OUTL	Former Lea Castle Hospital Park Gate Road Kidderminster	<p>Up to £194,237 contribution towards existing GP surgeries -final amount determined by reference to number of dwellings</p> <p>Education</p> <p><i>Primary Level</i> £2,476 per open market 2 or 3 bed dwelling; £3,714 per open market 4 or more bed dwelling; £990 per open market 2 or more bed flat.</p> <p><i>Secondary Level</i> £3,230 per open market 2 or 3 bed dwelling; £4,845 per open market 4 or more bed dwelling; £1,292 per open market 2 or more bed flat.</p> <p>Calculated by reference to the number of dwellings in each phase Refurbishment of sports changing facilities Affordable housing 15% minimum, 20% maximum</p>		Draft agreement in circulation

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Application Number	Site	Provisions	Triggers for Compliance	Performance
17/0168/FULL	Doveleys Worcester Road Clent	S.106 agreement required to prevent the previously approved Planning Permission being implemented		Agreement completed 18.7.17
17/0102/FULL	1 and 2 Barretts Farm Cottage Rectory Lane Rock	S.106 agreement required to prevent any further work under the previously approved and implemented Planning Permission 10/0434/FULL		Agreement completed 20.4.17
17/0090/FULL	Barrow Hill Farm Bournes Green Kidderminster	S.106 agreement required to ensure that existing property must be demolished within 3 months of the occupation of the new property		Agreement completed 22.5.17

Agenda Item No. 8

Application Number	Site	Provisions	Triggers for Compliance	Performance
17/0006/S106	Land off Mill Lane Stourport on Severn	Variation of S.106 agreement attached to WF.472/98 to allow a financial contribution in lieu of on-site provision of play area		Agreement finalised. Just resolving land transfer documents.
17/0001/OUTL	Alton Works Long Bank Bewdley	<ul style="list-style-type: none"> • Public Open Space contribution of £23,242 • Education contribution of £48,282 • Affordable Housing 		Draft agreement in circulation
16/0740/S106	14-36 (evens) Gala Drive Stourport on Severn	Variation of S.106 attached to Planning Permission 10/0321/OUTL to define and amend disposal and mortgage exclusion clause		Agreement completed 23.10.17
16/0688/FULL	Rifle Range Community Centre Dowles Road Kidderminster	<ul style="list-style-type: none"> • Public Open Space contribution of £3,384 • Affordable Housing – to be secured by condition 		Agreement completed 22.6.17
16/0480/S106	Tesco Stores Ltd Castle Road Kidderminster	Variation of existing S106 regarding car parking management		Draft being finalised

Agenda Item No. 8

Application Number	Site	Provisions	Triggers for Compliance	Performance
16/0096/FULL	Eagles Nest Coningsby Drive Kidderminster	£10,000 to provide new bus shelter	First occupation	Agreement completed 2.3.17
16/0089/FULL	Corner of Castle Road and Park Lane Kidderminster	Public Open Space contribution of £6,878 towards St George's Park 'Bandstand' project'	Prior to first occupation	Agreement completed 19.4.16

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Application Number	Site	Provisions	Triggers for Compliance	Performance
16/0003/OUTL	Land South of Stourbridge Road Kidderminster	<ul style="list-style-type: none"> • Education contribution (exact figure will depend upon number and mix of houses) • £20,000 contribution towards bus shelter provision • Open Space contribution (exact figure will depend upon number and mix of houses) • 30% Affordable Housing • Biodiversity enhancements 		Application refused by Committee
15/0623/OUTL	Former Midland Industrial Plastics Site Steatite Way Stourport on Severn	<ul style="list-style-type: none"> • Affordable Housing – 14 units based on affordable rent tenure; 8 x two bed units and 6 x three bed units • Highway contribution – A contribution of £10,000 is required to improve the 2 nearest bus stops to provide Kassell kerbs 		Draft in circulation
15/0480/FULL	The Beeches Ribbesford Bewdley	To prevent the implementation of Planning Permission 11/0246/FULL and/or 14/0259/FULL as well as this permission	Commencement of development	Agreement completed

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Application Number	Site	Provisions	Triggers for Compliance	Performance
15/0429/FULL	Units 1-4 Baldwin Road Stourport on Severn	<ul style="list-style-type: none"> • 30% Affordable Housing provision. 3 units (1 x 2 bed and 2 x 3 bed) • Public Open Space provision - £7,614.84 	<ul style="list-style-type: none"> • Prior to occupation of general market dwellings 	Agreement completed
15/0305/OUTL	Site of Former Sion Hill Middle School Sion Hill Kidderminster	Public Open Space : Will be based on the following calculation: <ul style="list-style-type: none"> - Number of childbed spaces – 24 x £20.47 There is 50% for affordable housing units.	Prior to first occupation	Application withdrawn

Application Number	Site	Provisions	Triggers for Compliance	Performance
		<ul style="list-style-type: none"> • Education Contributions : Will be based on the following <ul style="list-style-type: none"> - 1 bed dwelling of any type = £0 - 2 bed house = £2119 - 3 bed house = £2119 - 4+ bed house = £3179 - 2+ bed flats/apartments = £848 - Affordable Housing = £0 (To be payable to one of the following: <ul style="list-style-type: none"> - Wolverley Sebright Primary School - St Oswald's C of E Primary School - Wolverley High School) • Affordable Housing - Total 9 units (19.5%) - 79% / 21.5% in favour of Social Rented <ul style="list-style-type: none"> - 1 bed social rented = 28.5% - 2 bed social rented = 36% - 2 bed shared ownership = 21.5% - 3 bed social rented = 14% • Highway Contribution of £22,000 for bus shelters 	<ul style="list-style-type: none"> • Prior to first occupation • Prior to occupation of one third of GMD • Commencement of development 	

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Application Number	Site	Provisions	Triggers for Compliance	Performance
14/0591/FULL/OUT	West Midland Safari Park Spring Grove Bewdley	Highway Contribution of £87,000 to provide additional Sunday bus services on Sundays and Bank Holidays routing between Kidderminster Railway Station and Bewdley Town Centre.	Prior to the commencement of development	Agreement completed 19.4.16
14/0358/FULL	Land adjacent 29 Mitton Street Stourport on Severn	<ul style="list-style-type: none"> • Education contribution of £43,656,00 • Public Open Space provision of £6,877.92 (allocation of funds to be confirmed) 	<ul style="list-style-type: none"> • First residential occupation • First residential occupation 	Agreement signed and completed.
14/0105/FULL	Stone Manor Hotel Stone Chaddesley Corbett	<ul style="list-style-type: none"> • Education contribution of £9,810 • Open Space provision of £2,862.72 	<ul style="list-style-type: none"> • Commencement of development • First residential occupation 	Agreement signed and completed
14/0056/FULL	Land at Sebright Road Wolverley	Open Space provision of £6,679.68	First residential occupation	Agreement signed and completed

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Application Number	Site	Provisions	Triggers for Compliance	Performance
14/0027/OUTL	Chichester Caravans Vale Road Stourport on Severn	<ul style="list-style-type: none"> • Education Contribution of £48,069 – to be used at Stourport Primary School / Stourport High School • Public Open Space Contribution of £11,450.88 – to be used at Riverside, Stourport • 30% Affordable Housing Provision – 8 units (4 Social Rent / 4 Shared Ownership) 1 No. House and 7 No. Apartments. 	<ul style="list-style-type: none"> • First residential occupation • First residential occupation 	Agreement signed and completed.
13/0657/FULL	Former Garage Site Off Orchard Close Rock	Open Space provision of £1,908.48	First residential occupation	Agreement signed and completed
13/0645/FULL	Land adjacent to Upton Road Kidderminster	Open Space provision of £2,385.60	First residential occupation	Agreement signed and completed.

Application Number	Site	Provisions	Triggers for Compliance	Performance
13/0573/FULL	Coopers Arms Canterbury Road Kidderminster	<ul style="list-style-type: none"> • Education contribution of £12,714 • Open space provision of £4,294.08 	<ul style="list-style-type: none"> • Commencement of development • First residential occupation 	Agreement signed and completed
13/0494/FULL	Reilloc Chain Stourport Road Kidderminster	Public Open Space contribution of £13,896 (The agreement should replicate the agreement previously agreed under reference 13/0049/FULL)	First residential occupation	Agreement signed and completed.
13/0465/FULL	Stadium Close Aggborough Kidderminster	<ul style="list-style-type: none"> • Public Open Space contribution of £6,202.56 • Transport contribution – To be confirmed 		Agreement signed and completed
13/0082/FULL	Riverside Building Former Carpets of Worth Site Severn Road Stourport on Severn	<ul style="list-style-type: none"> • Education contribution of £9,810 • Public Open Space contribution of £2,316 • Affordable Housing – 3 no. dwellings 		Draft with applicant's solicitors and remains unsigned

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Application Number	Site	Provisions	Triggers for Compliance	Performance
13/0208/FULL	Corner of Castle Road and Park Lane Kidderminster	<ul style="list-style-type: none"> • Education contribution of £16,952 • Highway contribution of £3,660 for Traffic Regulation Order • Public Open Space contribution of £3,816.96 	Phased occupation/sale of properties	Agreement signed and completed
13/0299/FULL	Former Garage Site Bredon Avenue Kidderminster	Public Open Space contribution of £1,192.80	First occupation	Agreement signed and completed
13/0282/FULL	Stone Manor Hotel Stone Chaddesley Corbett	<ul style="list-style-type: none"> • Education contribution of £24,525 • Public Open Space contribution of £4,771.20 	Completion	Agreement signed and completed
13/0186/FULL	Former Sutton Arms Sutton Park Road	Variation to education contributions	First occupation	Agreement signed and completed

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Application Number	Site	Provisions	Triggers for Compliance	Performance
13/0193/FULL	78 Mill Street Kidderminster	<ul style="list-style-type: none"> • Education contribution of £12,714 • Public Open Space contribution of £1,908.48 • Affordable Housing – at 30% resulting in 4 no. of the 13 no. Units being for affordable housing 	First occupation	Agreement signed and completed
13/0049/FULL	Reilloc Chain Stourport Road Kidderminster	<ul style="list-style-type: none"> • Public Open Space Contribution of £13,896 • Affordable housing 	First occupation	Agreement signed and completed
12/0321/FULL	Unit 2 Greenacres Lane Bewdley	Provision of a dry access across third party land (two plots)	Prior to occupation	Agreement signed and completed
12/0507/FULL	Land off Clensmore Street Churchfields Kidderminster	Supplemental agreement to confirm the terms of the original apply to the new application		Agreement signed and completed
12/0690/FULL	5 and 6 Church Street Kidderminster	Education Contribution of £2,542.80	First occupation	Agreement signed and completed
12/0447/FULL	Six Acres Castle Hill Lane Wolverley	An obligation not to carry out any further work in respect of the planning permission issued under 11/0345/Full		Awaiting proof of title

Agenda Item No. 8

Application Number	Site	Provisions	Triggers for Compliance	Performance
12/0667/FULL	British Red Cross Society Redcross House Park Street Kidderminster	<ul style="list-style-type: none"> • Education contribution of £3,390.40 • Open Space contribution of £2,779.20 	First occupation	Agreement signed and completed
12/0644/S106	Primary Care Centre Hume Street Kidderminster	Variation to allow a Community Transport contribution to replace already agreed public transport contribution		Draft out for agreement
12/0623/FULL	Land adjacent 7 Hartlebury Road Stourport on Severn	<ul style="list-style-type: none"> • Education contribution of £15,696 • Open Space contribution of £2,316 	First occupation	Agreement signed and completed
12/0433/FULL	Caunsall Farm 100 Caunsall Road Caunsall	Revocation of Secretary of State's decision dated 19 March 1979 which allowed a retail shop	Development implemented	Agreement signed and completed

Application Number	Site	Provisions	Triggers for Compliance	Performance
12/0146/EIA	Former British Sugar Site Stourport Road Kidderminster	(i) a minimum of 12% affordable housing; (ii) £100k towards a MOVA to be installed to increase the capacity at the junction of Stourport Road/Walter Nash Road West; (iii) a minimum of £90k towards maintaining three areas of informal open space (i. the knoll, ii. the informal space to the south of the site, iii. the wooded embankment adjacent to the canal) (iv) up to £35k towards public realm	Phased triggers	Agreement signed and completed
11/0471/FULL	Clent Avenue, Kidderminster	Open space contribution of £2,023.92	First occupation	Agreement signed and completed

Application Number	Site	Provisions	Triggers for Compliance	Performance
11/0163/FULL	Churchfields Business Park, Clensmore Street Kidderminster	<ul style="list-style-type: none"> • Affordable housing 22% (49 units – 17 shared ownership / 32 social rented) • Education - £150 000 • AQMA - £29 000 (towards • Appropriate traffic management scheme to reduce emissions) • Sustainable Transport - £35 000 (towards refurbishing Limekiln bridge) • Highway Improvements - £284 000 (as indicated in Churchfields Masterplan including but not limited to improving bus services 9/9a) • Open Space £200 000 	<p>Prior to occupation of one third general market dwellings in phase 1 and 50% in phase 2</p> <p>1st dwelling in phase 1 & 106th in Phase 2</p> <p>Commencement of development</p> <p>Commencement of development</p> <p>1st dwelling in phase 1 & 106th in Phase 2</p> <p>On site: 5 years after landscaping completed & maintained</p> <p>Offsite: 1st dwelling in phase 1 & 106th in Phase 2</p>	<p>Agreement signed and completed.</p> <p>Phase 1 triggers met and payments received</p>

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Application Number	Site	Provisions	Triggers for Compliance	Performance
10/0550/FULL	Land adjacent to Sebright Road, Kidderminster	<ul style="list-style-type: none"> • Public open space contribution of £3055.92 • Sustainable transport contribution of £90.00 	Commencement of development	Agreement signed and completed
10/0347/FULL	Hume Street, Kidderminster	<ul style="list-style-type: none"> • Bus Service contribution £58,000 • Highways contribution £22,000 	<ul style="list-style-type: none"> • Commencement of Development • First occupation 	Agreement signed and completed
10/0165/FULL	Rear of 78 Mill Street Kidderminster	<ul style="list-style-type: none"> • Education contribution • Public Open Space contribution 	<ul style="list-style-type: none"> • First dwelling to be occupied 	Agreement signed and completed