



Meeting of the Planning Committee

**Wednesday 10th January 2024 at 6.00pm
In the Council Chamber, The Council House, Dudley**

Agenda - Public Session (Meeting open to the public and press)

1. Chair's Announcement.

Let me first inform you that this is a Committee Meeting of the Council, members of the public are here to observe the proceedings and should not make contributions to the decision-making process.

Applications are taken in numerical order with any site visit reports first, followed by applications with public speaking, then the remainder of the agenda. Officers have explained the public speaking procedures with all those present who are addressing the committee. Will speakers please make sure that they do not over-run their 3 minutes.

There will be no questioning by Members of objectors, applicants or agents, who will not be able to speak again.

All those attending this Committee should be aware that additional papers known as the "Pre-Committee Notes" are available to view on the Council's Committee Management Information System (CMIS). These contain amendments, additional representations received, etc, and should be read in conjunction with the main agenda to which they relate. They are fully taken into account before decisions are made.

2. Apologies for absence

3. To report the appointment of any substitute members serving for this meeting of the Committee.



4. To receive any declarations of interest under the Members' Code of Conduct
5. To confirm and sign the minutes of the meeting held on 14th December 2023 as a correct record (Pages 5 to 7)
6. Plans and Application to Develop
 - (a) Planning Application No. P23/1139 – Land between Upper Ettingshall Methodist Church and 56 Upper Ettingshall Road, Coseley – Erection of 1 no. Dwelling with associated works (Pages 8 to 26)
7. Planning Service Fees 2024 (Pages 27 to 44)
8. To consider any questions from Members to the Chair where two clear days notice has been given to the Monitoring Officer (Council Procedure Rule 11.8).

Distribution:

Councillor D Harley (Chair)

Councillor M Webb (Vice-Chair)

Councillors H Bills, S Bothul, B Challenor, P Drake, P Miller, K Razzaq and E Taylor



Chief Executive

Dated: 2nd January 2024

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Submitting Apologies for Absence

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**Minutes of the Planning Committee
Wednesday 14th December 2023 at 6.00pm
in the Council Chamber, The Council House,
Dudley**

Present:

Councillor D Harley (Chair)
Councillor M Webb (Vice-Chair)
Councillors H Bills, S Bothul, B Challenor, P Drake, P Miller, K Razzaq and
E Taylor.

Officers:

J Mead (Principal Planning Officers), J Todd (Development Manager) – Both
Directorate of Regeneration and Enterprise, G Breakwell (Solicitor) and K Buckle
(Democratic Services Officer) - Both Directorate of Finance and Legal Services.

35. Apologies for Absence

There were no apologies for absence submitted to the Committee.

36. Appointment of Substitute Members

There were no substitute members appointment for this meeting of the
Committee.

37. Declarations of Interest

Councillor P Drake declared an interest in Agenda Item No. 6 – Planning
Application No. P21/0912 – Former Coseley Baths, Peartree Lane,
Coseley – Erection of 34 no. Dwellings with Associated works as he had

previously raised an objection to the application when originally considered by the Planning Committee on 12th September 2022 and it was confirmed that he would take no part in the debate or the decision making process in relation to the application.

38. **Minutes**

Resolved

That the minutes of the meeting held on 13th November 2023, be approved as a correct record, and signed.

At this juncture Councillor P Drake left the meeting.

39. **Plan and Application to Develop**

A report of the Director of Regeneration and Enterprise was submitted on the following plan and application to develop. Details of the plans and application were displayed by electronic means at the meeting.

Planning Application No. P21/0912 – Former Coseley Baths, Pear Tree Lane, Coseley – Erection of 34 no. Dwellings with Associated Works.

Resolved

That the application be approved subject to conditions numbered 1 to 42 inclusive.

Councillor P Drake returned to the meeting.

40. **Planning Services Fees 2024**

Members considered a report of the Director of Regeneration and Enterprise on proposals regarding the setting of the Council's Planning Fees to take effect from 1st January 2024, non-statutory Development Management Charges; updated Community Infrastructure Levy (CIL) Charging; Schedule (effective from 1st January 2024 to 31st December 2024); fees for the Local Development Order (LDO); and charges for Pre-Application advice to customers.

The Development Manager presented the report and as part of that Members noted the need to amend the text identified by the asterisk on the table within Appendix A to state that the charges would be updated in line with the Consumer Price Index (CPI) in April.

In relation to the table in Appendix D the charges for administration /monitoring Section 106/unilateral agreements should be included as identified in paragraph 4.3 of the report submitted.

Resolved

That subject to the amendments outlined above, the Planning Services Fees for 2024 be approved.

41. **Questions Under Council Procedure Rule 11.8**

There were no questions to the Chair pursuant to Council Procedure Rule 11.8.

42. **Closing Remarks of the Chair**

The Chair wished those present at happy Christmas and New Year.

The meeting ended at 6.17pm.

CHAIR

PLANNING APPLICATION NUMBER: P23/1139

Type of approval sought	Full Planning Permission
Ward	Coseley East Ward
Agent	Mr I. Lewis
Case Officer	Samuel Everton
Location:	LAND BETWEEN UPPER ETTINGSHELL METHODIST CHURCH &, 56, UPPER ETTINGSHELL ROAD, COSELEY, WV14 9QS
Proposal	ERECTION OF 1 NO. DWELLING WITH ASSOCIATED WORKS
Recommendation Summary:	APPROVE SUBJECT TO CONDITIONS

SITE AND SURROUNDINGS

1. The application site comprises an area of land between Upper Ettingshall Methodist Church and No. 56 Upper Ettingshall Road, located within a residential area in Coseley.

2. The site is vacant, comprising a grassed area bound by a footrail and closedboard and palisade fencing. A mature tree is also located within the site adjacent to the southern boundary.

3. The streetscene is predominantly residential and is comprised of a variety of two-storey dwellings of varying styles and finishes. To the western boundary of the site is the Upper Ettingshall Methodist Church which is a locally listed building (Ref No. 12070).

4. The site is unallocated within the Development Strategy, however it is located within a Mineral Safeguarding Area and a Coal Authority High Risk Area.

PROPOSAL

5. The application seeks consent for the erection of a four bedroom detached dwelling.
6. The proposed dwelling would comprise a brick construction under a pitched roof and would be finished in facing brick and rooftiles. The proposed dwelling would comprise a footprint of 66m², providing a gross internal area of 135m² over the three stories. The proposed dwelling would also benefit from a private garden to the rear which measures 90m² and four off-street car parking spaces to the front.

RELEVANT PLANNING HISTORY

APPLICATION	PROPOSAL	DECISION	DATE
CO/64/3375	ERECTION OF 141 SEMI-DETACHED AND TERRACE HOUSES	Granted	20/01/1965
CO/64/3167	USE OF LAND FOR RESIDENTIAL PURPOSES.	Granted	17/03/1964

PUBLIC CONSULTATION

7. The application has been advertised by way of letters being sent to neighbouring occupiers,
8. Councillor Drake (Coseley East) objects to the application for the following reasons
 - Proximity of coal mining and a mine shaft. This potentially makes it unsafe in terms of any ground disturbance and excavation.
 - The height of the property, specifically the second-floor bedroom where the loft would usually be, makes it out of character for the area. It would cause neighbouring properties to be unduly overlooked.
 - There may be drainage problems and risk of localised flooding if this is built on.
9. In addition, five further letters of objection have been received from surrounding neighbours objecting to the application on the following grounds.
 - Coal mining related risks and ground stability, including impacts to the adjacent church during any construction work.
 - Height of the proposed dwelling
 - Disruption created during construction works.
 - Location on brow of a hill and highways safety concerns
 - Drainage impacts to church car park.

OTHER CONSULTATION

10. Highways Authority (AMEY)

No objection raised, provided general comments regarding access and parking requirements.

11. Land Contamination Team

No objection, subject to conditions.

12. Coal Authority

No objection, subject to conditions.

RELEVANT PLANNING POLICY

13. Section 38 of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the provisions of the Development Plan, unless material considerations indicate otherwise.

14. The Development Plan currently comprises the Black Country Core Strategy (2011) and the Dudley Borough Development Strategy (2017). Relevant policies include: -

Black Country Core Strategy (2011)

- Policy HOU1 (Delivering Sustainable Housing Growth)
- Policy HOU2 (Housing Density, Type and Accessibility)

- Policy TRAN2 Managing Transport Impacts of New Development
- Policy ENV 2 Historic Character and Local Distinctiveness
- Policy ENV 3 Design Quality

Dudley Borough Development Strategy (2017)

- Policy S1 (Presumption in favour of Sustainable Development)
- Policy S6 (Urban Design)
- Policy S11 Buildings of Local Historic or Architectural Importance
- Policy L1 (Housing Development, extensions and alterations to existing dwellings)

15. National Planning Policy Framework

16. The NPPF (December 2023) sets out the Government's position on the role of the planning system in both plan-making and decision-taking. It states that the purpose of the planning system is to contribute to the achievement of sustainable development, in economic, social and environmental terms, and it states that there should be "presumption in favour of sustainable development" and sets out what this means for decision taking.
17. The NPPF (December 2023) confirms the plan-led approach to the planning system and that decisions must be made in accordance with the Development Plan unless material considerations indicate otherwise.

18. Relevant paragraphs within the NPPF include paragraphs: -

8:	Three dimensions of Sustainable Development
11-14:	The Presumption in favour of Sustainable Development
47-50:	Determining Applications
131, 135, 137, 139:	Achieving Well-Designed and Beautiful Places
189 - 190:	Ground Conditions and Pollution
224, 225:	Implementation

19. Other relevant documents include: -

Dudley Council Residential Design Guide Supplementary Planning Document (2023).
Parking Standards Supplementary Planning Document (2017).
Manual for Streets.

ASSESSMENT

20. The determining issues for the assessment of the proposed development include:-

- i) Principle of the development.
- ii) Design and impact on the character and form of the area.
- iii) Impact on residential amenity.
- iv) Impact on highway safety.
- v) Ground conditions and contamination

vi) Community Infrastructure Levy

Principle of the Development

21. The NPPF, the Black Country Core Strategy and Policy S1 of the Development Strategy advocate a presumption in favour of sustainable development unless material considerations indicate otherwise. The site is unallocated and is therefore a windfall site and is comprised of vacant land within an existing residential area.
22. Policy L1 goes onto state that housing development will be supported on sites in sustainable locations, provided that the proposed dwelling would make a positive contribution to the character of the area and addresses other specific considerations.
23. In this respect, it is noted that the application site situated within the main built-up area of Coseley and within close distance to Sedgley District Centre and Rosewood Local Centre which offers a wide variety of goods and services to serve the day to day needs of the community and good access by public transport to centres of employment. Therefore, the application site is considered to be a sustainable location and the proposed residential development would be compatible with surrounding land uses. As such, the proposed dwelling would be acceptable in principle at this location.
24. Notwithstanding the above, although the proposal may be considered to be acceptable in principle it is still required to meet the provisions within

the development plan in respect to matters of detail. The next part of this report will go to consider the proposal in this respect.

Design and the Impact on the Character and Form of the Area

25. The proposed dwelling would comprise infill development that would comfortably fit into its plot and would be of a suitable design that is reflective of the character and is of a suitable size and scale for the plot and the built form of the wider area.
26. The neighbour's comments regarding the height of the proposed dwelling are noted, however the proposal presents itself as a two-storey from the streetscene and would only be 0.36m higher than the adjoining dwelling at No. 56 which is marginal. As such, the height of the proposal is considered acceptable and not out of character with the streetscene.
27. Therefore, having had regard to Policies S6 and S11 of the Development Strategy, Policies ENV2 and ENV3 of the BCCS, the Residential Design SPD, and the requirements contained within the NPPF, it is considered that the proposal would be acceptable in respect to its impact on the character and form of the area.

Impact on Residential Amenity

28. The material considerations in respect to residential amenity include the potential for overlooking, impact on outlook and loss of light to neighbouring dwellings and also the amenity for occupiers of the proposed dwelling.

29. In respect to overlooking, the Residential Design SPD recommends a minimum separation distance of 22m between front/rear facing habitable windows and 14m in cases where a habitable room window faces a two-storey flank wall of another property. The proposed dwelling would introduce windows within its front elevation which would face the properties opposite at a distance of 24m and windows within its rear elevation at a distance of 33m. The proposal would also introduce windows within its southern side elevation which would face the adjoining church at a distance of 21m. As such the proposal meets the minimum separation distances between dwellings as set out in the design guidance. In respect to garden areas, the proposal would face the rear garden areas of the adjoining neighbour's gardens at No's. 10 Paul Street and No. 54 Butterworth Close at a 11.5m distance. However, the proposed garden meets the minimum recommended 11m depth and given the siting of the proposed dwelling and the orientation of neighbours gardens, any overlooking from rear windows would be to the rear areas of these gardens which are not intimate areas of the properties that would be sensitive to overlooking. Therefore, the proposal would not result in any significant degree of overlooking impact that would be detrimental to neighbours amenity.
30. In respect to assessing the potential for loss of light to neighbouring properties, the Design SPD recommends the application of the 45-degree daylight test for windows serving principal rooms. The proposal would not intersect any rear facing habitable windows at neighbours properties and as such would not result in a significant degree of loss of light to neighbouring properties. In addition, given the siting of the

proposed dwelling relative to neighbouring properties, the proposal would not result in any significant degree of overshadowing to neighbours garden areas.

31. In terms of amenity for occupiers of the proposed dwelling, the proposal would have an internal area of 135m² for the dwelling, which meets the Nationally Described Space Standards for a four-bedroom, three-storey dwelling. The proposal would also benefit from unrestricted light sources to all habitable rooms and would benefit overall from a good standard of outlook.
32. In terms of relevant garden size and amenity space, the proposed dwelling would meet the minimum recommendation of 65sqm for outdoor amenity space, with the rear garden area measuring over 90sqm and meeting the minimum recommended length of 11m.
33. Finally, the neighbour's concerns regarding noise and disruption from any construction activity as a result of the dwelling are noted. However, construction activity is of a temporary nature and officers would advise that the Council has powers under separate legislation to investigate any noise or nuisance issues that may arise. The neighbour would be advised to contact the Council's Environmental Health and Safety Team should any such issues arise.
34. Following the above, it is considered that the proposed dwelling would not have a significant adverse impact on the amenity for occupiers of the surrounding dwellings and would provide an acceptable standard of amenity to future occupiers. It is therefore considered that the design of

the proposal is acceptable, and it would meet the requirements of the NPPF, Policy L1 of the Dudley Borough Development Strategy and the Council's Residential Design SPD.

Impact on Highway Safety

35. The proposal would meet the parking standards for a four-bedroom dwelling, and the proposed conditions address the general observations of the Highways officer. Therefore, subject to conditions, the proposal would not result in a detrimental impact on highways safety and therefore would be in accordance with Policy L1 of the Development Strategy and Paragraph 115 of the NPPF.

Ground Conditions and Contamination

36. The neighbours' concerns in regard to land stability and impacts on neighbouring properties and the adjoining church are noted. Indeed, the site is located within a Coal Mining High Risk Area and the adjoining church is of a significant age (built in the 19th Century). Paragraph 183a of the NPPF states that planning policies and decisions should ensure that a site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability and contamination.
37. In this respect, the proposal is supported by a Coal Mining Risk Assessment which has identified whilst there are no mine entries recorded on the site, there is a relatively high potential for unrecorded shallow workings to be present, which may contain voids that present a risk for surface subsidence. There was also a mine shaft recorded

northwest of the site, although the risk of collapse resulting in damage or harm to the site was deemed to be low.

38. As such, the Risk Assessment and the comments of the Coal Authority recommend that an intrusive site investigation be carried out prior to any development being carried out to ascertain the ground conditions and following this the carrying out of any required mitigation measures to ensure that the site is safe for the proposed development.
39. It is also noted that the potential for shallow worked coal beneath the site which presents a gas risk to the proposed development and this was identified by the Council's Contaminated Land Team.
40. As such, the Contaminated Land Team recommend conditions requiring a risk assessment for ground gases and vapours be submitted along with further conditions requiring further remediation measures and investigations subject to the report's findings. As such, it is recommended that these conditions be included on the decision should permission be granted.
41. Finally, officers would add that Paragraph 190 of the NPPF states that where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner.
42. Therefore, in light of the above, it is considered that subject to the carrying out of the investigations and remediation works required by the aforementioned conditions, the Authority can be satisfied that the

decision would ensure that the site would be suitable for the proposed development.

Community Infrastructure Levy

43. The proposal is liable for CIL but the site falls within Zone 1 which has a £0 rate thus no CIL charge is required.

Other Issues

44. The neighbours comments in regard to drainage of the adjacent church car park as a result of any groundworks for the proposed dwelling are noted. However, the application site is not located within a flood risk zone and there is no reason to suspect that the proposal would cause any significant impact on the local drainage network. Notwithstanding, it is recommended that a condition be included on any permission given to ensure that the front drive uses a porous material.

CONCLUSION

45. In respect to all matters of acknowledged interest and policy tests it is considered that the proposal, subject to the attached conditions, would not result in any significant harm to acknowledged interests and is therefore considered to be in accordance with the Development Plan.

RECOMMENDATION

46. It is therefore recommended that the application be APPROVED subject to the attached conditions.

Conditions and/or reasons:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
REASON: To comply with Section 91(1) of the Town and Country Planning Act, 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
2. The development hereby permitted shall be carried out in accordance with the following approved plans: Drawing No. 1449 - P - 001
REASON: For the avoidance of doubt and in the interests of proper planning.
3. Prior to the commencement of above ground works a written schedule of the types, colours and textures of the materials to be used on the external surfaces of the buildings hereby approved shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in complete accordance with the approved details unless otherwise agreed in writing by the Local Planning Authority.
REASON: To ensure the satisfactory appearance of the development in accordance with BCCS Policy ENV2 - Historic Character and Local Distinctiveness and Saved UDP Policies DD1 - Urban Design and Borough Development Strategy 2017 Policy S6 Urban Design and Policy L1 Housing Development, extensions and alterations to existing dwellings
Policy D2 Incompatible Land Uses (in part)
4. No development shall commence until an assessment of the risks posed by any contamination has been submitted to and approved in writing by the Local Planning Authority. Such an assessment shall be carried out in accordance with authoritative UK guidance.
REASON: These details are required prior to the commencement of development to ensure that the risks associated with any contamination are reduced to acceptable levels and that the health and wellbeing of future occupiers are protected and to ensure that the

development complies with Borough Development Strategy 2017 Policy D3 Contaminated Land.

5. Where the approved risk assessment (required by condition 4 above) identifies contamination posing unacceptable risks, no development shall commence until a detailed remediation scheme to protect the development from the effects of such contamination has been submitted to and approved in writing by the Local Planning Authority. Following approval, such remediation scheme shall be implemented on site in complete accordance with approved details unless otherwise agreed in writing by the Local Planning Authority.

REASON: These details are required prior to the commencement of development to ensure that the risks associated with any contamination are reduced to acceptable levels and that the health and wellbeing of future occupiers are protected and to ensure that the development complies with Borough Development Strategy 2017 Policy D3 Contaminated Land.

6. Following implementation and completion of the approved remediation scheme (required by condition 5 above) and prior to the first occupation of the development, a verification report shall be submitted to and approved in writing by the Local Planning Authority to confirm completion of the remediation scheme in accordance with approved details.

REASON: To ensure that the risks associated with any contamination have been reduced to acceptable levels and that the health and wellbeing of future occupiers are protected and to ensure that the development complies with Borough Development Strategy 2017 Policy D3 Contaminated Land and the NPPF.

7. No development shall commence until an assessment of the risks posed by any ground gases or vapours has been submitted to and approved in writing by the Local Planning Authority. Such an assessment shall be carried out in accordance with authoritative UK guidance.

REASON: These details are required prior to the commencement of development to ensure that the risks associated with any contamination are reduced to acceptable levels and that the health and wellbeing of future occupiers are protected and to ensure that the development complies with Borough Development Strategy 2017 Policy D3 Contaminated Land.

8. Where the approved risk assessment (required by condition No. 7 above) identifies contamination posing unacceptable risks, no development shall commence until a detailed remediation scheme to protect the development from the effects of such contamination has

been submitted to and approved in writing by the Local Planning Authority. Following approval, such remediation scheme shall be implemented on site in complete accordance with approved details unless otherwise agreed in writing by the Local Planning Authority. REASON: These details are required prior to the commencement of development to ensure that the risks associated with any contamination are reduced to acceptable levels and that the health and wellbeing of future occupiers are protected and to ensure that the development complies with Borough Development Strategy 2017 Policy D3 Contaminated Land.

9. Following implementation and completion of the approved remediation scheme (required by condition No. 8 above) and prior to the first occupation of the development, a verification report shall be submitted to and approved in writing by the Local Planning Authority to confirm completion of the remediation scheme in accordance with approved details.

REASON: To ensure that the risks associated with any ground gases or vapours have been reduced to acceptable levels and that the health and wellbeing of future occupiers are protected and to ensure that the development complies with Borough Development Strategy 2017 Policy D3 Contaminated Land and the NPPF.

10. No part of the development shall be occupied until visibility splays to the new access have been provided at the junction between the proposed means of access and the highway with an 'x' set back distance of 2.4 metres and a 'y' distance of 43 metres. No structure or vegetation exceeding 600mm in height above the adjoining highway shall be placed or allowed to grow within the visibility splay for the life of the development unless otherwise agreed in writing by the Local Planning Authority.

REASON: In the interests of highway safety and to comply with Borough Development Strategy 2017 Policy S6 Urban Design, Policy L1 Housing Development, extensions and alterations to existing dwellings

Policy D2 Incompatible Land Uses (in part)

and policies CSP5, DEL1, TRAN2, CEN8 and TRAN5.

11. No above ground development shall commence until;
 - a) a scheme of intrusive investigations has been carried out on site to establish the risks posed to the development by past shallow coal mining activity; and
 - b) any remediation works and/or mitigation measures to address land instability arising from coal mining legacy, as may be necessary, have been implemented on site in full in order to ensure that the site is

made safe and stable for the development proposed.

The intrusive site investigations and remedial works shall be carried out in accordance with authoritative UK guidance.

REASON: The site has most likely have been affected by historic coal mining and such the applicant needs to demonstrate that development can proceed without impacting on the stability of the site. Consideration has been given to Dudley Borough Development Strategy Policy D4 - Unstable Land

12. Prior to the occupation of the development, or it being taken into beneficial use, a signed statement or declaration prepared by a suitably competent person confirming that the site is, or has been made, safe and stable for the approved development shall be submitted to the Local Planning Authority for approval in writing. This document shall confirm the methods and findings of the intrusive site investigations and the completion of any remedial works and/or mitigation necessary to address the risks posed by past coal mining activity.

REASON: The site has most likely have been affected by historic coal mining and such the applicant needs to demonstrate that development can proceed without impacting on the stability of the site. Consideration has been given to Dudley Borough Development Strategy Policy D4 - Unstable Land

13. In order to minimise the impact of the development on local air quality, any gas boilers provided within the development must meet a dry NO_x emission concentration rate of <40mg/kWh.

REASON: To safeguard the air quality of the Borough which is an Air Quality Management Area in compliance with the Black Country Core Strategy Policy ENV8 and the adopted Air Quality SPD.

14. No above ground development shall begin until details of the types, sizes and locations of the boundary treatments around the site and between the proposed plots has been submitted to and approved in writing by the Local Planning Authority. The boundary treatments shall be carried out in complete accordance with the approved details prior to the occupation of the dwellings hereby approved and shall thereafter retained for the lifetime of the development unless otherwise agreed in writing with the Local Planning Authority

REASON: In order to make a positive contribution to place-making and provide a high quality public realm in accordance with BCPS Policies CSP4 - Place-Making, ENV 2 Historic Character and Local Distinctiveness, ENV3 - Design Quality and DEL1 - Infrastructure Provision and Borough Development Strategy 2017 Policy S6 Urban Design and

Policy L1 Housing Development, extensions and alterations to existing dwellings

Policy D2 Incompatible Land Uses (in part)

This detail is required prior to the commencement of above ground works as the required works may need to be incorporated into buildings on the site and as well as needing to protect the amenity of existing and proposed occupiers.

15. No development shall commence (excluding demolition, site clearance and initial ground works) until full details of the soft landscaping scheme for the site have been submitted to and approved in writing by the Local Planning Authority. The agreed scheme shall be implemented in accordance with the approved details before the end of the first planting season following first occupation of the development.

Any trees or shrubs planted in pursuance of this permission including any planting in replacement for which is removed, uprooted, severely damaged, destroyed or dies within a period of five years from the date of planting shall be replaced by trees or shrubs of the same size and species and in the same place unless otherwise agreed in writing by the Local Planning Authority.

REASON: In order to make a positive contribution to place-making and provide a high quality landscaping in accordance with BCCS Policies CSP4 - Place-Making, ENV 2 Historic Character and Local Distinctiveness, ENV3 - Design Quality and DEL1 - Infrastructure Provision and Borough Development Strategy 2017 Policy S6 - Urban Design and Policy L1 Housing Development, extensions and alterations to existing dwellings and Policy D2 Incompatible Land Uses (in part). This detail is required pre commencement (excluding demolition, site clearance and initial ground works) as landscaping is integral to providing a high quality and sustainable development.

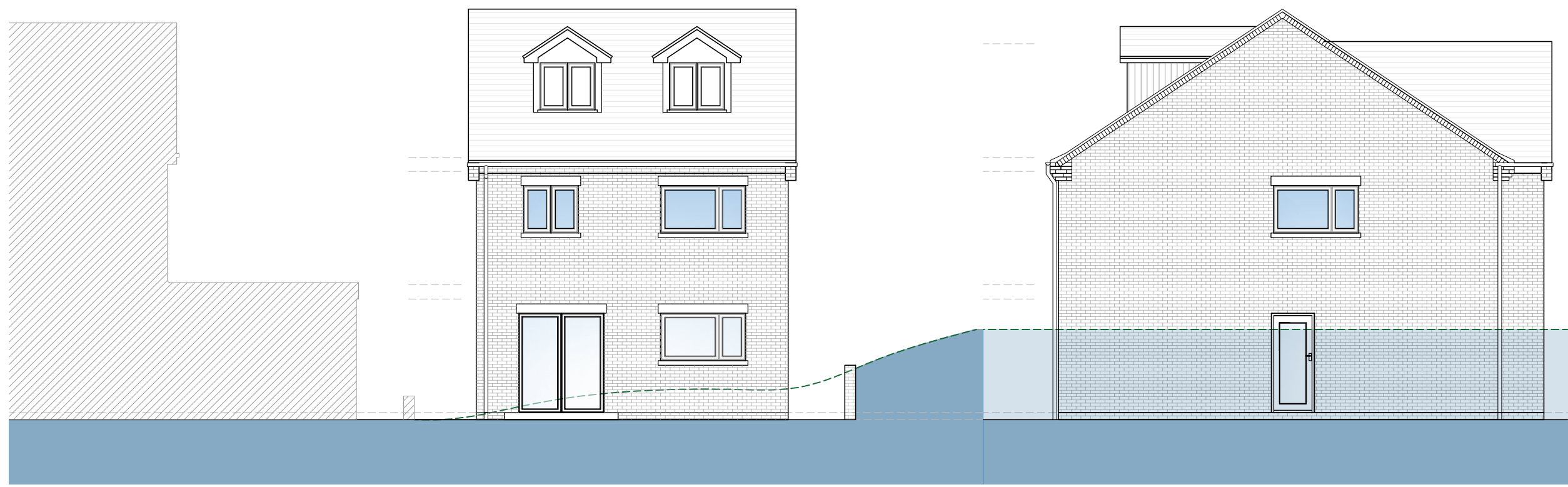
16. The parking area hereby approved shall be completed with a surface and sub-strata that is permeable, or provision shall be made to direct run-off water from the hard surface to a permeable area within the curtilage of the dwelling house, which shall be retained as such for the life of the development.

REASON: To provide a necessary facility in connection with the proposed development and to prevent uncontrolled runoff of rainwater from front gardens onto public roads/drainage in accordance with BCCS Policy ENV5 and Borough Development Strategy 2017 Policy S5 Minimising Flood Risk and Sustainable Drainage Systems (SuDS).



Front Elevation
at 1:100 Scale

Side Elevation
at 1:100 Scale



Rear Elevation
at 1:100 Scale

Side Elevation
at 1:100 Scale

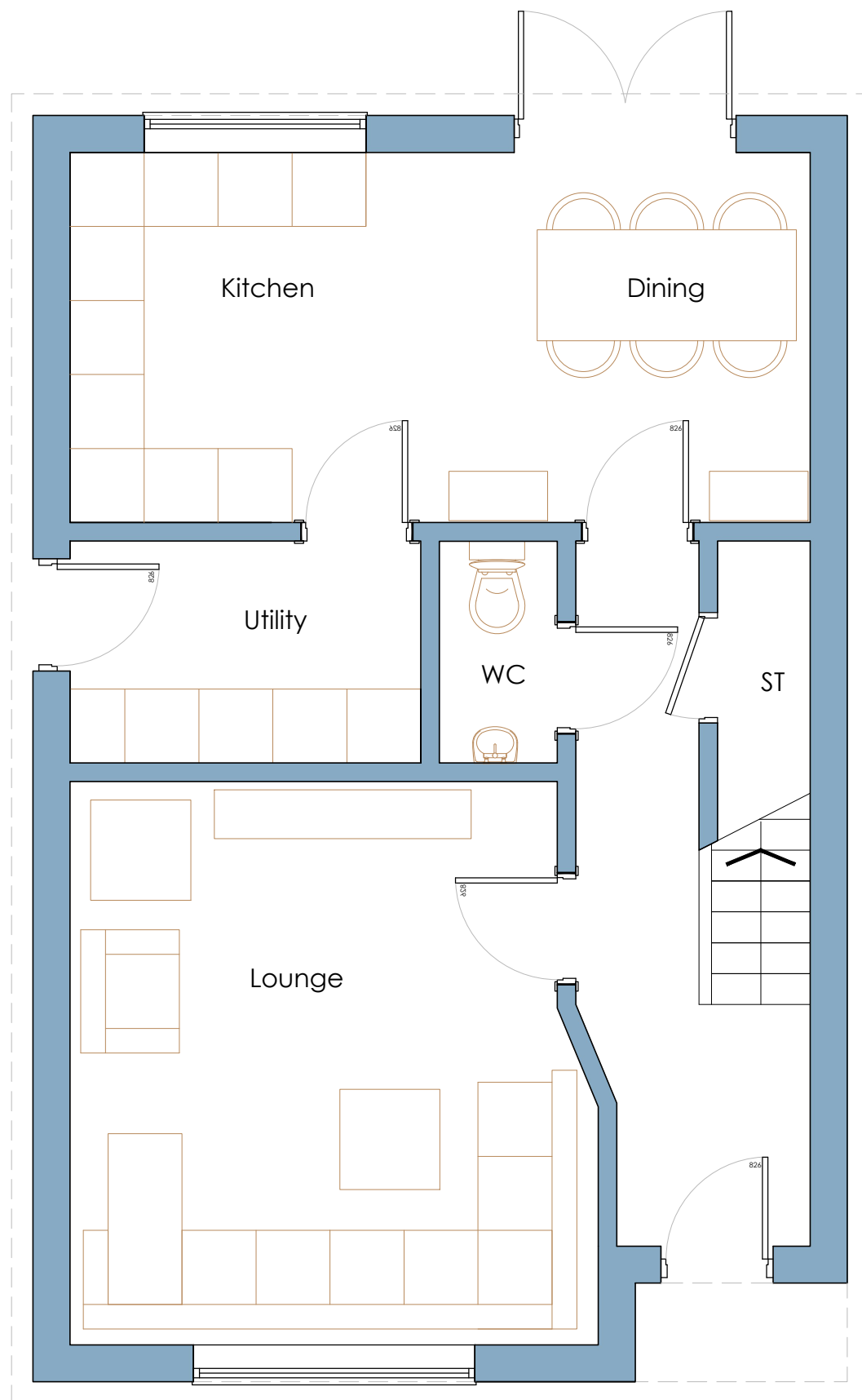


Landscape plan
at 1:100 Scale

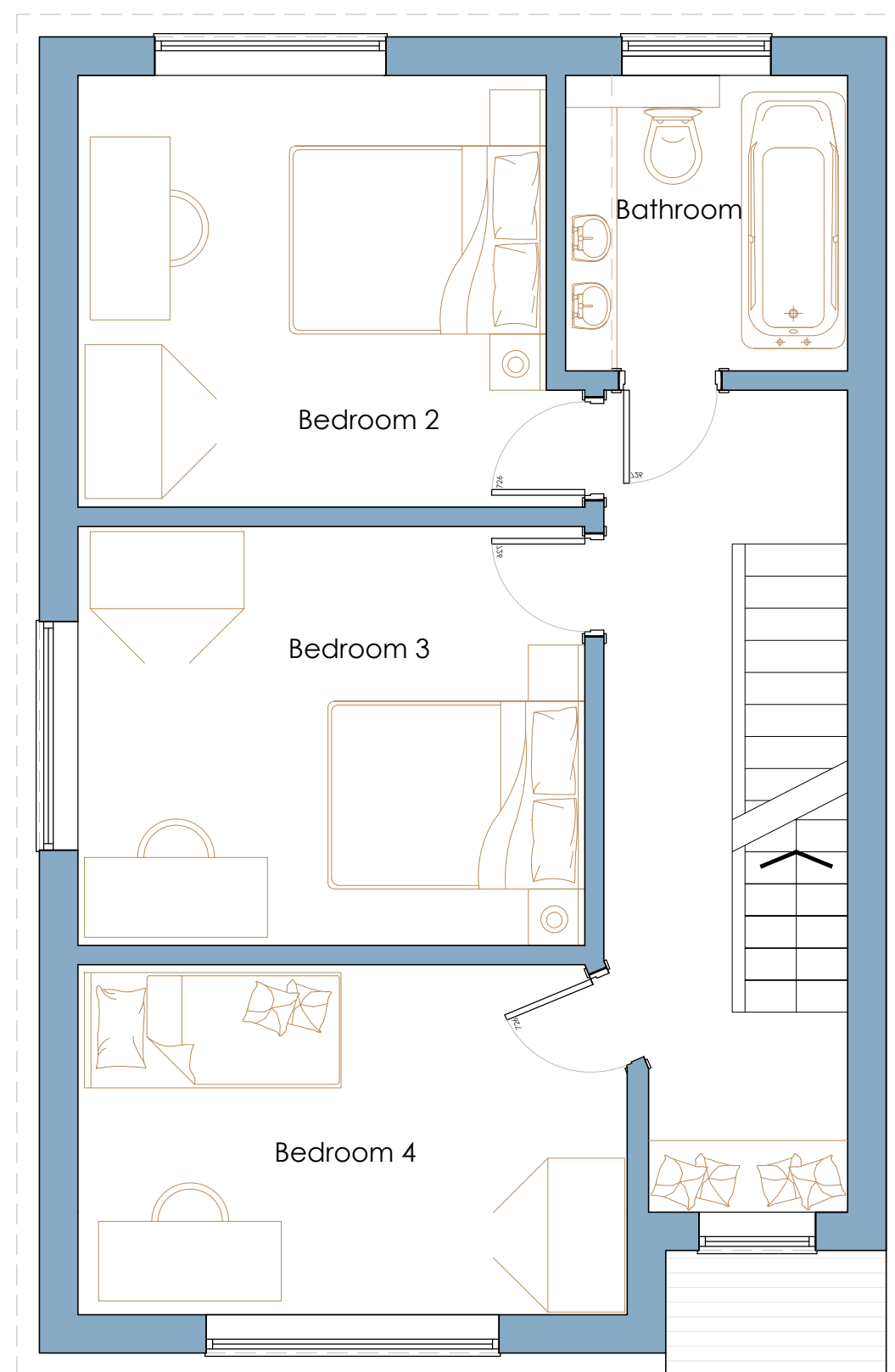


Proposed Block Plan
at 1:500 Scale

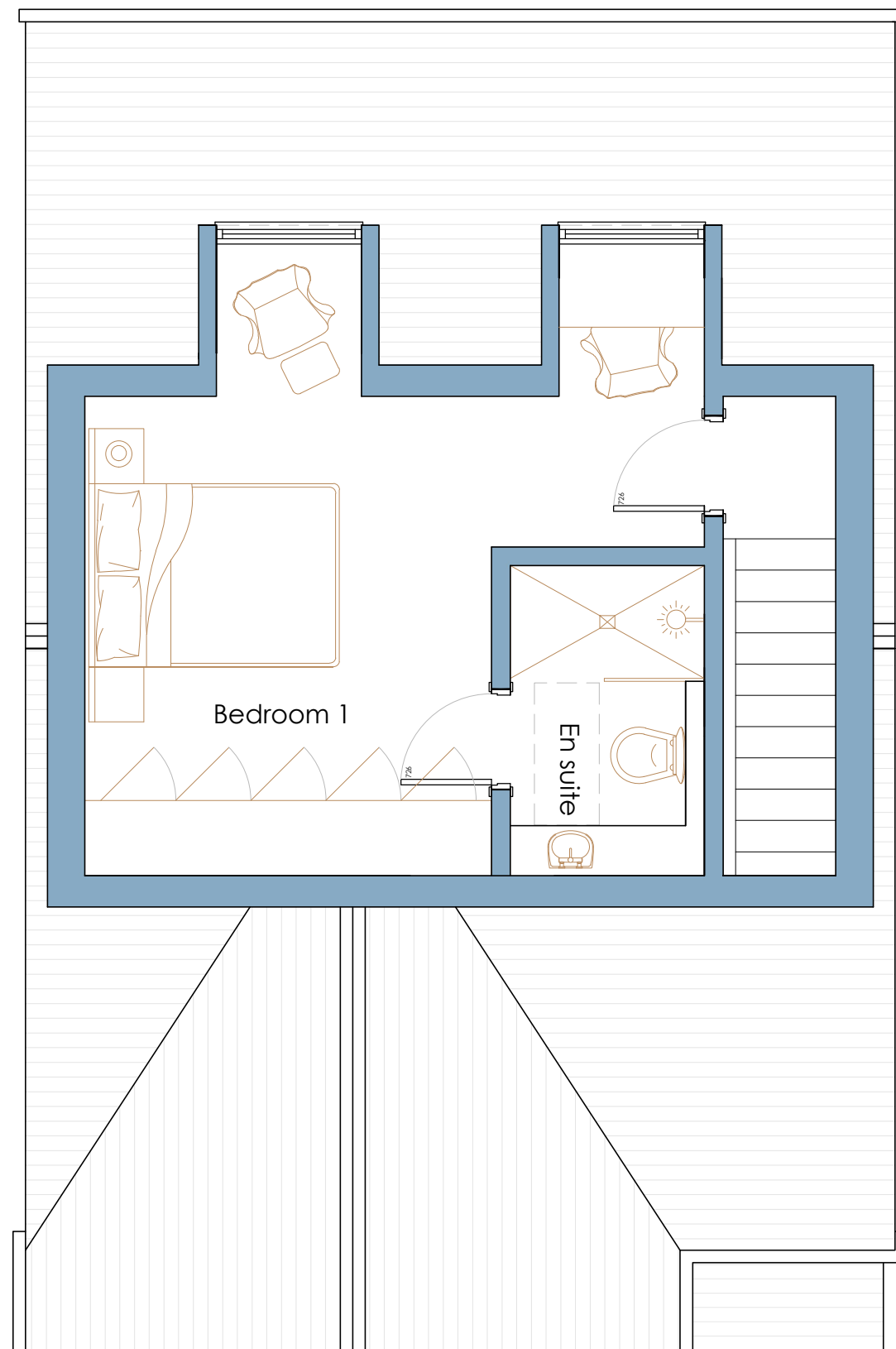
Existing Block plan
at 1:500 Scale



Ground Floor Plan
at 1:50 Scale



First Floor Plan
at 1:50 Scale



Second Floor Plan
at 1:50 Scale



Site Location Plan
at 1:1250 Scale

rev | date | drawn | chkd

lewis
architecture limited
13 Lower Green • Tettenhall • WV6 9AH

project title
1449 - Upper ettingshall road

drawing title
1449 - Plans and Elevations

drawing no. 1449 - p - 001 rev

scale @ A1 date 09.08.23

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Meeting of the Planning Committee – 10th January 2024

Report of the Director of Regeneration and Enterprise

Planning Services Fees 2024

Purpose

1. To consider the proposals within the report with regard to the setting of the Council's Planning Fees which took effect from 1st January 2024, non-statutory Development Management Charges; updated Community Infrastructure Levy (CIL) Charging Schedule (effective from 1st January 2024-31st December 2024); fees for the Local Development Order (LDO); and charges for Pre-Application advice to customers. Your committee have previously considered and agreed this report unfortunately however the CIL table had been omitted. Therefore, for clarity the whole report is before you again.

Recommendations

2. It is recommended that Planning Committee: -
 - Note the continued use of Consumer Price Index in Planning Obligations costings and approve the proposed S106/Unilateral administrative and monitoring fee.
 - Note the updated CIL indexations costs will be applicable from 1st January 2024 until 31st December 2024. (Appendix A)
 - To approve proposed fees for the Local Development Order (LDO) as outlined in Appendix B.
 - To approve amended fees for Pre-Application charges Appendix C.

- To approve the fee schedule for Development Management Non-Statutory Charges as outlined in Appendix D.

All fees to come into effect from 1st January 2024.

Background

3. In line with council policy all non-statutory fees and charges are updated annually.
4. Planning Obligations
 - 4.1 The use of planning obligations to secure financial developer contributions towards the delivery of local infrastructure is a key and well-established element of the planning system and is required on certain planning applications depending on the scale and nature of development.
 - 4.2 In line with the Planning Obligations Supplementary Planning Document (SPD) adopted in 2016, the use of inflationary indices (CPI) for Planning Obligations is an established principle and the Council uplifts contributions annually from the 1st April. A further report setting out the updated planning obligations fees will be reported to Planning Committee in April for information.
 - 4.3 Notwithstanding the above, paragraphs 36 and 37 of the Planning Obligations SPD highlight the need for admin and/or legal fees for S106 or Unilateral agreements. Due to the technical nature of these documents and the need to involve a Council Solicitor, legal fees will always be required and the applicant will be invoiced directly for those costs. Further, the completion of a planning obligation involves the council in various administrative/monitoring work, which has a cost which should be recovered through the request for Section 106 monitoring fees. Regulation 122 (2A) of the Community Infrastructure Levy (CIL) Regulations 2010 (as amended) permits this. Therefore, building upon the provision of the Planning Obligation SPD monitoring fees should be sought on all S106 and Unilateral agreements going forward on the following basis;



Monetary value of S106	Administrative/monitoring fee
Less than £10,000	£500
£10,000-£20,000	£1,000
More than £20,000	2.5% up to a maximum of £10,000

- 4.4 The applicant will be advised of the costs directly or it will form part of any resolution to Planning Committee but it is also included in the table in Appendix D for reference.

5. Community Infrastructure Levy (CIL)

- 5.1 Community Infrastructure Levy (CIL) CIL is a levy, adopted in 2015/16, that allows Local Authorities to charge on new developments. The money can be used to support development by funding infrastructure that the Council, local community, and neighbourhoods want. There is a need to index link CIL contributions to keep the levy responsive to market conditions; as a failure to do so would result, over time, in insufficient contributions being secured.

- 5.2 The requirement to apply an index of inflation is set out within regulation 40 of the CIL Regulations 2010 (as amended). This regulation requires CIL contributions to be index linked using the national All-In Tender Price Index of construction costs published by the Building Cost Information Service (BCIS) of the Royal Institute of Chartered Surveyors. On this basis the CIL costs for Dudley have been increased based on the most recent All-In Tender Price Index of construction costs published by the Royal Institute of Chartered Surveyors on 23 October 2023 (See Appendix A). The updated CIL indexations costs will be applicable from 1st January 2024- 31st December 2024.

6. Local Development Order (LDOs)

- 6.1 The Council adopted a Local Development Order (LDO) for Household Extensions in 2017. If homeowners choose to take advantage of the LDO there is a process for gaining a letter of determination with a fee originally set at half the fee of a household application. There is also a fee to make a minor amendment to the



development following the issue of the letter of determination to cover the administration costs of the process.

- 6.2 The fee was increased last year by 2% in accordance with all discretionary charges to reflect inflationary pressures. However, the Government are increasing national planning fees by 25% for non-major development, including householder applications, from 6th December 2023. Therefore, to maintain the link between cost-of-service provision and charge it is recommended that the LDO fee is increased by a similar percentage. The existing and proposed fees for the LDO are therefore outlined in Appendix B.

7. Pre-Application

- 7.1 The pre-application process is where advice is provided on informal development proposals, which are submitted to the planning service. It offers significant potential to improve both the efficiency and effectiveness of the planning application system and improve the quality of planning applications and their likelihood of success. Councils can charge for this service and whilst it is not a statutory function this is now frequent practice in councils.
- 7.2 Dudley has charged for pre-app for several years and in past years there have been moderate increases to reflect inflationary pressures and the cost of providing the service. As such it is proposed to increase the fees this year by approximately 5% to reflect recent significant inflationary pressures. Given the recent increases to national planning fees of 25% and 35% respectively I do not consider 5% to be unreasonable (new national fees took effect 6th December 2023). Further, whilst a wider review of the pre-app service is to be undertaken there is an opportunity to introduce some immediate changes to ensure the fees reflect the cost of the service more comprehensively and to ensure the service is transparent and consistent regardless of applicant and/or the type of proposal.
- 7.3 Previously householders have benefitted from a free first enquiry, with only repeat applications charged. However, such queries make up a sizeable proportion of the query's received and take a considerable amount of officer time. As such, to accurately reflect impact on resources it is proposed that all householder pre-application queries are charged for. This is widespread practice for most other LPAs.



- 7.4 Applications submitted by or in partnership with Dudley MBC, developments in relation to charities (for the purpose of the charity function), disabled occupiers (no repeat householder fee) and where the scheme has been subject to grant funding have previously been exempt from the charges. However, this is inconsistent with the national fee charges for formal submissions and the many benefits of the pre-app is currently being absorbed by the service rather than the applicant. Charges for the pre-application service are well established and with the exemption of disabled occupiers (for a householder extension) fees should be charged accordingly.
- 7.5 In addition, there is currently no provision for fees to be charged for non-residential/commercial developments. Again, this is inconsistent with national fee charges for formal applications and new charging categories are therefore proposed.
- 7.6 There is also no provision for Planning Performance Agreements (PPAs) which is actively encouraged by the government and particularly relevant for large complex proposals which need a specifically targeted resource.

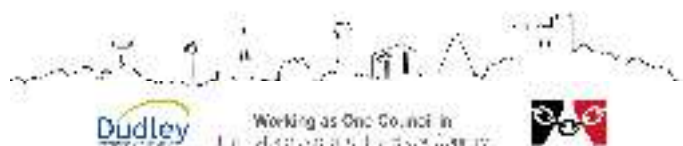
Accordingly, the new fee schedule is outlined in Appendix C.

8. Trees

- 8.1 The submission of formal applications for works to protected trees is free as determined nationally. This will remain unchanged, but we charge for pre-application advice which is provided by the Tree Officer should it be sought. The fee charges were previously split between less than 10 trees and between 11+ trees. However, to more accurately reflect time and costs associated with providing this service, which includes a site visit, it is now proposed to further split these categories as follows:

- 1-4 trees
- 5-9 trees
- 9-14 trees
- 15+

As such the new charges are outlined in Appendix C.



The authority will also continue to charge for copies of Tree Preservation Orders this fee has increased by 5% (as outlined in Appendix D).

9. Historic Environment

- 9.1 As with trees the submission of applications for Listed Building consent or Conservation Area consent is free as determined nationally. However, we will continue to charge for pre-application advice which is provided by the Historic Environment Officer should it be sought. Again, in line with other pre-app changes it is proposed to increase the fees in by approximately 5% to reflect general inflation increases.

10. Discharging or Modifying S106 Agreements

- 10.1 Planning obligations sometimes need to be modified and/or requests to confirm the obligation has been met (it can be discharged) are received. Typically, proposals to vary S106 agreements will form part of a S73 application to make material amendments to an existing planning permission. In such cases the council will not require a separate fee to cover planning officer costs to handle the variation of the original S106 agreement. However, occasionally an applicant may consider it necessary to seek to vary a S106 agreement outside of a S73 application and/ or request to discharge is received which results in planning administration charges. Therefore, in order to cover council costs, a flat rate fee of £200 was introduced from 1st January 2023 for handling these requests (appendix D).
- 10.2 The fees are reflective of the planning officer costs associated with responding to the request but are not inclusive of the council's legal costs, which will still be separately calculated by our solicitors as currently happens.
- 10.3 They also do not include any third-party specialist advice that the council may reasonably need to procure to independently assess proposed variations (such as viability advice). Where third party specialist advice is required, it will continue to be the expectation that the applicant will meet the costs incurred by the council.
- 10.4 As this charge was only introduced at the beginning of this year insufficient numbers of applications have been processed to fully, and



accurately, break down the costs of processing these applications to warrant increased fee(s)/greater number of categories as such no fee increase is currently proposed.

11. Development Management Non-Statutory Fees

11.1 Development Management carry out several non-statutory functions including providing copies of decision notices and supply of Tree Preservation Orders, to members of the public. Whilst non-essential it is generally considered that they add value to the service by enhancing the statutory function provided.

11.2 When setting fees for the non-statutory services the increase is reflective of the supporting administration and technical costs and in line with inflationary increases. See Appendix D for non-statutory Development Management fees.

Finance

12. The Development Management fees included within this report are non-statutory and any charge is to cover administrative and technical costs of providing the service only.

All monies received are receipted and banked in line with Council policy.

Law

13. The CIL Regulations 2010 (as amended) set out the requirements for the indexation of CIL charges.

The CIL Regulations 2010 (as amended) permit local planning authorities to charge legal fees for preparation of s106 agreements.

Local planning authorities may charge for providing discretionary services including the cost of pre-application work under section 93 of the Local Government Act 2003.

Regulation 122 (2A) of the Community Infrastructure Levy (CIL) Regulations 2010 (as amended) permits a local planning authority to collect administrative and monitoring charges.



Risk Management

14. There are no material risks to the Council resulting from the report.

Equality Impact

15. An initial fee exemption is proposed for those seeking pre-application advice for house extensions when related to their disability consistent with the national fee exemptions. There are no other implications arising from this report.

Environmental/Climate Change

16. There are no environmental or climate change issues.

Human Resources/Organisational Development

17. There are no direct Human Resources or Organisational Development Implications.

Commercial/Procurement

18. All fees and charges are appropriate to the works undertaken.

Council Priorities

19. Having appropriate Planning Fee's in place for both residential and commercial development supports the council's priority of *regenerating the borough* as well as helping to create a cleaner and greener place.



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List of Background Papers

The Community Infrastructure Levy (CIL) Regulations 2010 (as amended):
<http://www.legislation.gov.uk/ukdsi/2010/9780111492390/contents>



APPENDIX A

CIL Indexation

C3 Residential Development:

Residential CIL rate per sq. m	2015 Base CIL Rate (from 1st October to 31st December 2015)	2016 CIL rate (from 1st January to 31st December 2016)	2017 CIL rate (from 1st January to 31st December 2017)	2018 CIL rate (from 1st January to 31st December 2018)	2020 CIL rate (from 1st January to 31st December 2020)	2021 CIL rate (from 1st January to 31st December 2021)	2022 CIL rate (from 1st January to 31st December 2022)	2023 CIL rate (from 1st January to 31st December 2023)	2024 Indexation at 47.1% from base rate	2024 CIL rate (from 1st January to 31st December 2024)
Zone 1	£0	£0	£0	£0	£0	£0	£0	£0	£0	£0
Zone 2	£20	£21.08	£22.16	£24.63	£25.79	£25.79	£25.63	£27.41	£9.42	£29.42
Zone 3	£50	£52.70	£55.41	£61.59	£64.48	£64.48	£64.10	£68.53	£23.55	£73.55
Zone 4	£75	£79.05	£83.11	£92.38	£96.71	£96.72	£96.14	£102.79	£35.32	£110.32
Zone 5	£100	£105.40	£110.81	£123.17	£128.95	£128.96	£128.19	£137.06	£47.10	£147.10



Retail Development:
Merry Hill and Waterfront only

Retail CIL rate per sq.m	Merry Hill & Waterfront 2015 Base CIL Rate (from 1 st October 2015 to 31 st December 2015)	Merry Hill & Waterfront 2016 CIL rate (from 1 st January 2016 to 31 st December 2016)	Merry Hill & Waterfront 2017 CIL rate (from 1 st January 2017 to 31 st December 2017)	Merry Hill & Waterfront 2018 CIL rate (from 1 st January 2018 to 31 st December 2018)	Merry Hill & Waterfront 2020 CIL rate (from 1 st January 2020 to 31 st December 2020)	Merry Hill & Waterfront 2021 CIL rate (from 1 st January 2021 to 31 st December 2021)	Merry Hill & Waterfront 2022 CIL rate (from 1 st January 2022 to 31 st December 2022)	Merry Hill & Waterfront 2023 CIL rate (from 1 st January 2023 to 31 st December 2023)	2024 Indexation at 47.1% from base rate	Merry Hill & Waterfront 2024 CIL rate (from 1st January 2024 to 31st December 2024)
Comparison A1 retail over 100sq.m.	£0	£0	£0	£0	£0	£0	£0	£0	£0	£0
Convenience A1 Retail over 100sq.m.	£82	£86.43	£90.86	£101.00	£105.74	£105.74	£105.12	£112.39	£38.62	£120.62
A3-A5 Retail over 100sq.m.	£67.50	£71.14	£74.80	£83.14	£87.04	£87.05	£86.53	£92.52	£31.80	£99.30

Remaining Areas of the Borough

Retail CIL rate per sq.m	Remaining Areas of the Borough 2015 Base CIL rate (from 1 st October 2015 to 31 st December 2015)	Remaining Areas of the Borough 2017 CIL rate (from 1 st January 2016 to 31 st December 2016)	Remaining Areas of the Borough 2017 CIL rate (from 1 st January 2017 to 31 st December 2017)	Remaining Areas of the Borough 2018 CIL rate (from 1 st January 2018 to 31 st December 2018)	Remaining Areas of the Borough 2020 CIL rate (from 1 st January 2020 to 31 st December 2020)	Remaining Areas of the Borough 2021 CIL rate (from 1 st January 2021 to 31 st December 2021)	Remaining Areas of the Borough 2022 CIL rate (from 1 st January 2022 to 31 st December 2022)	Remaining Areas of the Borough 2023 CIL rate (from 1 st January 2023 to 31 st December 2023)	2024 Indexation at 47.1% from base rate	Remaining Areas of the Borough 2024 CIL rate (from 1st January 2024 to 31st December 2024)
Comparison A1 retail over 100sq.m.	£82	£86.43	£90.86	£101.00	£105.74	£105.75	£105.12	£112.39	£38.62	£120.62
Convenience A1 Retail over 100sq.m.	£82	£86.43	£90.86	£101.00	£105.74	£105.75	£105.12	£112.39	£38.62	£120.62
A3-A5 Retail over 100sq.m.	£67.50	£71.14	£74.80	£83.14	£87.04	£87.05	£86.53	£92.52	£31.80	£99.30



APPENDIX B

Local Development Order (LDO) Fees 2024

LDO Request	2023	2024	Increase
Application and Letter of Determination	105.00	129.00	Increased to half the cost of the expected new planning application fee
Minor Amendment to Approved LDO Application	49.00	64.5	Increased to half the application fee



APPENDIX C

Pre-Applications Fees 2024

Type	2023	2024	Comments
Householder	£0	£60*	Less than half application cost
Change of use	£118	Minor £124 Major £250	
Advertisements –			
Signage	£33.50	£35	
Hoardings	£118	£124	
Listed Building/Conservation Area	£61	£64	
Trees –			This fee includes a site visit by the planning services Arboriculturist and verbal or written advice
1-4	(Less than 10)	£110	
5-9	£102	£220	
9-14	(11+)	£330	
15+	£204	£440	
Telecoms	£85.50	£90	
New Residential Development –			This includes change of use to residential as well as new builds and includes all types of new residential units including flats.
In principle only advice	£102	£107	
1-3 units	£102	£107	
4-9 units	£204	£214	
10-49 units	£510	£535	
50-99 units	£970	£1019	
100-299 units	£1530	£1606	
300+ units	£3060	£3213	
New commercial development			
Minor (<1000 sqm)	No charge	£250	
Major (1000-2499sqm)		£500	



(2500-4999 sqm) (5000 sqm+)		£750 £1000	
PPA	Not offered	Dependent on type and nature of development	
Meeting with the case officer – Virtual In person (Council offices) On site	 £51 per hour £102 per hour £204 per hour	 £54 £107 £214	 These meetings will be at the discretion of the case office on an as required/necessary basis. They are not compulsory.

** First enquiry for disabled homeowners seeking to extend their home for the purposes of their disability would be exempt.*

APPENDIX D

Non-Statutory Fees and Charges Review–Development Management from 1st January 2024

Fee Description	Increase	2023 (Prices Inclusive of VAT)	2024 (Prices Inclusive of VAT)
<p>Photocopy/printing of Planning or Building Control application documentation (Falling within Councils retention period of 15 years)</p> <p>Copies of documentation falling within the retention period are available free of charge from the council's website.</p> <p>We cannot guarantee availability of documents falling outside of the retention period.</p>	5%	£21.70 per document	£22.80 per document
Photocopy/printing of Planning or Building Control application documentation (Falling within or outside of Councils retention period of 15 years)	5%	£35.40 per document	£37.20 per document



Copy of Tree Preservation Order	5%	£35.40 per order	£37.20 per order
Formal response to confirm Discharge of Conditions on an application site (applications within 10 years of decision date).	5%		
Householder		£41.40 per application	£43.50 per application
Other Developments		£140.60 per application	£147.60 per application
High Hedge Complaint	5%	£536.80	£564
Copy of a Planning Enforcement Notice	5%	£35.40 per notice	£37.20 per notice
HER Searches (charges for the first-hour research)	5%	£102 per search	£107 per search
Varying/discharging S106	No increase	£200	£200
Admin/monitoring S106/Unilateral	N/A	N/A	Monetary value of S106/Unilateral a) less than £10,000 b) £10,000-£20,000



			<p>c) More than £20,000</p> <p>charge;</p> <p>a) £500</p> <p>b) £1000</p> <p>c) 2.5% up to a maximum of £10,000</p>
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Material considerations	Non Material considerations
Layout: does it reflect the character of the area, does it protect existing resident's amenity, does it provide sufficient amenity space, and does it protect businesses/future residents from noise/odour/dust complaints.	Market competition (competition with centres in terms of the requirement for a sequential approach to town centre development is material, but general competition with local shops or business is not).
Design and appearance: materials, scale, massing, style of development in terms of proportions, vertical or horizontal emphasis, heights. Appropriate to host building, immediate neighbours and wider street scene.	Loss of view (unless you own all the land between you and the view you have no right to it).
Landscaping: is this appropriate, sufficient, particularly if forming a screen or providing some form of mitigation	Loss of property value
Highway safety: can safe access and egress be made, is there sufficient car parking, can the site be serviced by fire engines, bin lorries, delivery vehicles.	Matters covered by other legislation
Impact on heritage assets/nature conservation; does the development have a positive, neutral or negative impact on heritage assets. Can the impact be mitigated through the provision of enhancements elsewhere?	Matters that can be adequately controlled by the imposition of a suitably worded condition.
Planning history: has a similar scheme been approved before/refused before? Is there appeal history.	The fact the application is for a retrospective development. Development without consent is not unlawful - it only becomes so once formal enforcement action is taken and the developer fails to comply.
	The fact the application is a repeat application (repeat non amended applications can in exceptional circumstance be refused to be registered but once registered they must be

	considered on their merits).
	The fact the developer/applicant has a history of non compliance with conditions/consents. Non compliance is dealt with through planning enforcement not through decision making.
	What may or may not happen as a result of the decision in the future.