



Meeting of the Planning Committee

**Wednesday 13th September 2023 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 26th July 2023 as a correct record (Pages 5 to 8)
6. Site Visit
 - (a) Planning Application No. P22/1853 – Land located off The Straits, Lower Gornal – Erection of 14 No. New Dwellings with associated Access, Parking and Landscaping following demolition of 129A The Straits to facilitate the creation of an Access Road (Pages 9 to 40)
7. Plans and Applications to Develop
 - (a) Planning Application No. P23/0900 – Tracey Wilder House, 57 The Broadway, Dudley – Change of use from offices (E) to Children's Care Home (C2) (Pages 41 to 54)
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)

(Vice-Chair) - Vacancy

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



Chief Executive

Dated: 4th September 2023

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**Minutes of the Planning Committee
Wednesday 26th July 2023 at 6.00 pm
At Saltwells Education Development Centre, Bowling
Green Road, Netherton**

Present:

Councillor D Harley (Chair)
Councillors H Bills, S Bothul, R Collins (for part of the meeting only), P Drake,
P Miller, C Sullivan, M Webb and K Westwood

Officers:

K Lowe (Principal Planning Officer), P Reed (Principal Planning Officer), J Todd
(Development Manager) (All Directorate of Regeneration and Enterprise) and K
Buckle (Democratic Services Officer) (Directorate of Finance and Legal
Services).

Observers:

Approximately 21 members of the public.

8. **Apologies for Absence**

Apologies for absence from the meeting were submitted on behalf of
Councillors B Challenor, K Razzaq and E Taylor.

9. **Appointment of Substitute Members**

It was reported that Councillors C Sullivan, R Collins, and K Westwood
had been appointed to serve as substitute Members for Councillors B
Challenor, K Razzaq and E Taylor respectively, for this meeting of the
Committee only.

10. **Declarations of Interest**

No Member made a declaration of interest in accordance with the Members' Code of Conduct in respect of any matter to be considered at this meeting.

11. **Minutes**

Resolved

That the minutes of the meeting held on 31st May 2023, be approved as a correct record and signed.

12. **Plan and Application to Develop**

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

The following persons were in attendance at the meeting, and spoke on the planning application as indicated: -

<u>Application No.</u>	<u>Objectors/Supporters who wished to speak</u>	<u>Agent/Application who wished to speak</u>
P22/1853	Councillor B Challenor	D Summers – Elan Homes

Planning Application No. P22/1853 – Land located off The Straits, Lower Gornal – Erection of 14 No. New Dwellings with Associated Access, Parking and Landscaping following demolition of 129A The Straits to facilitate the creation of an Access Road

In considering the application, Members took into account the objections raised by a local Ward Councillor and residents in relation to the site not being suitable for development with many wild animals and mature oak trees, and was also subject to flooding. That brownfield sites should be promoted as the first policy for development. There were numerous brownfield sites that could be used to replace the use of the green open space.

Adding a new dangerous junction onto The Straits, with the development being detrimental to highway safety with visibility issues occurring from the new proposed access road and the development would infringe on the privacy of the residents on The Straits.

The Committee were also mindful of the supporting comments made on behalf of the developer in that the proposed development was policy compliant with the land being adapted for housing and the design would comply with all national and local planning conditions. All trees on the site were to be retained increasing the ecological value of the area. There was a proposed safe highways access onto The Straits Road and a suitable drainage scheme was proposed. The development would provide housing for local residents with housing stock for larger families.

Councillor M Webb and P Miller raised questions in relation to visibility from the proposed access road to the site, the history of the site and concerns in relation to possible flooding. Therefore, Members requested that a site visit be arranged for them to assess the issues, prior to a decision being made.

Resolved

That the application be deferred for a site visit.

13. **Adoption of the Residential Design Guide Supplementary Planning Document (SPD)**

A report of the Director of Regeneration and Enterprise was submitted on the adoption of the Residential Design Guide (SPD) by the Cabinet on the 28th June 2023.

Resolved

That the adoption of the Residential Design Guide (SPD) on the 28th June 2023 which replaced the New Housing SPD and Planning Guidance Notes 17 (House Extensions) and 12 (45 Degree Code), be noted.

14. **Recommendations for Article 4 Direction for Houses in Multiple Occupation (HMO's)**

A report of the Director of Regeneration and Enterprise was submitted on the Consultation, responses, and confirmation of Article 4 Direction in relation to small houses in multiple occupation.

Resolved

That the decision of the Cabinet, at its meeting on 28th June 2023 for the Director of Regeneration and Enterprise to be authorised to confirm an Article 4 Direction which would be applied to the Council's administrative area (borough wide) to remove Permitted Development Rights for the change of use of dwelling houses (C3 use) to small houses in multiple occupation (C4 uses) to come into force on 15th September 2023, be noted and endorsed.

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

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

The meeting ended at 6.40pm.

CHAIR

PLANNING APPLICATION NUMBER:P22/1853

Type of approval sought	Full Planning Permission
Ward	Gornal Ward Himley and Swindon Ward
Agent	Mr C. Jones
Case Officer	James Mead
Location:	LAND LOCATED OFF THE STRAITS, THE STRAITS, LOWER GORNAL
Proposal	ERECTION OF 14 NO. NEW DWELLINGS WITH ASSOCIATED ACCESS, PARKING AND LANDSCAPING FOLLOWING DEMOLITION OF 129A THE STRAITS TO FACILITATE CREATION OF ACCESS ROAD
Recommendation Summary:	APPROVE SUBJECT TO CONDITIONS

SITE AND SURROUNDINGS

1. The application site is a 0.72-hectare area of land situated to the rear of 131 – 153 (Odds) The Straits, Lower Gornal. The land is currently used for grazing and once formed part of a wider farm use, with buildings situated along the southwestern boundary and to the northwest. The area to the northwest has been developed for housing and forms the cul-de-sac development of Majors Fold. An existing access point with dropped kerb is located between No's 129a and 131, The Straits, with this area consisting of overgrown and dense vegetation. The site has an even fall of some 2-3m across the site in both directions from the northern corner on Majors Fold.
2. The site also includes the property of 129a The Straits, which is a two storey end of terrace house, set back from road behind a large front garden area, with no off-street parking. There is long private garden area to the rear, with wooden fencing along the boundary with 129 The Straits.

3. The surrounding area to the north and east of the site is predominately residential forming part of the wider housing estate known as The Straits. There is a mix of housing, with a predominance of two storey semi-detached properties set out in linear rows forming perimeter blocks with occasional cul-de-sac development breaking this rhythm. Majors Fold consists of recently constructed large, detached dwellings. There is a small shopping parade providing local services located opposite the site on The Straits. To the south is open countryside which falls outside of the Dudley Borough, with the site south-western and south-eastern boundaries forming the boundary with South Staffordshire. There are a number of mature trees located along the boundaries of the site.
4. The site is designated within the Dudley Borough Development Strategy as a Housing Proposal Site (Ref. HO.20) - 'Majors Fold – Upper Gornal'.

PROPOSAL

5. The application proposes the erection of 14no. two storey dwellings and associated works on the site at the rear of 131-153 (Odds) The Straits, Lower Gornal. All houses would have front and private rear amenity spaces and dedicated parking facilities.
6. The accommodation mix is as follows.
 - 4no x 3 bed dwellings
 - 10no x 4 bed dwellings
7. Plots 1-9 and 14 would take the form of a rows of semi-detached and detached properties fronting onto a new cul-de-sac, with parking to the side or shared driveways. There would be a new vehicular access between 129 and 131 The Straits (with 129a The Straits being demolished to accommodate this). Plots 10-13 would front onto a new private drive as an extension of the new cul-de-sac, with a substantial landscaped buffer to the southwestern boundary and open countryside beyond.

8. Internally, each dwelling would be provided with living room, dining room, kitchen, and WC on the ground floor, with 3 or 4 bedrooms (some with e-suite) and bathroom at first floors. All would be provided with a single garage and two further off-street parking spaces.
9. The proposed dwellings would be finished in facing brickwork with areas of render with tile roofs.
10. Site area is 0.72 hectares, giving a density 20 dwelling/hectare.
11. Plans have been amended during the course of the application to improve the visibility splay at the access to the site off The Straits.

HISTORY

APPLICATION No.	PROPOSAL	DECISION	DATE
S1/70/9798	Siting of caravan to the rear of 155 The Straits	Approved with conditions	30/06/1970
S1/61/4822	Residential Development (Outline) (Access to be considered)	Refused	23/03/1961
S1/72/11237	Use of land for the purpose of training horses and riding school	Approved with conditions	16/05/1973
S1/72/10944	Erection of twenty-seven houses	Refused	04/07/1972
S1/77/1028	Outline Planning for residential development	Refused	02/11/1977

12. Direct notification was carried out to the occupiers of 26 neighbouring residential properties adjoining the site; a site notice was posted and an advert was placed in the Express and Star newspaper.
13. Marco Longhi MP objects to the application, noting that there are 'Brownfield' sites that can be used. He considers that the application fails to respect and enhance the surrounding environment, particularly with regards to the nature and conservation. In addition, he considers that there would be a significant impact on the amenities of neighbouring properties, by way of the loss of open space that has been enjoyed by residents for many years. He notes that local sentiment is also strongly against this development, which people see as an overdevelopment of the area. There would be a higher number of cars creating more traffic congestion and impacting on air quality. There is other land available in the borough which would be more suitable for such a development, and he does not believe that there is a sufficient requirement for this development.
14. In addition, he considers there is inadequate mitigation in regard to nature conservation and the application fails to give assurances that there will be no loss to the natural diversity of the environment at this location, and there is no mention of plans to restore habitat loss and how the natural environment will be preserved. It is suggested that the application be refused as it does not contain an adequate Ecological appraisal. Finally, he considers that insufficient information has been provided to demonstrate that an acceptable drainage strategy is in place and that the absence of an adequate drainage strategy is sufficient reason for the refusal of planning permission"
15. Cllr Bryn Challenor (Gornal) objects to the application, stating *"This site should never have been considered for development, it has such a wide biodiversity, with many wild animals, and mature oak trees, the site is also subject to flooding and currently acts as the buffer between Dudley and South Staffordshire. Dudley's Conservative led council promotes a brownfield first policy, so does our local MP*

and the Mayor of the West Midlands, there are plenty of alternative brownfield sites that could be used to replace the use of this green open space. Gornal already suffers from traffic problems, a strain on its services like school places and GP appointments, this development will only add to this, increasing pollution, adding new dangerous junction onto The Straits, and the removal of a green area”

16. Former Cllr Anne Millward (Gornal) objected to the application, stating; *“I object to this application on the grounds that it encroached onto green belt. I’m fully aware that the land was previously designated as a housing proposal site under policy HO.20 but in my opinion, should never have been considered or indeed, given this designation...”* She goes on to state *“The land in question, is rich in biodiversity, is prone to flooding and acts as a natural green buffer to the boundary of South Staffs. As there is a call for ‘Brownfield first’ as advocated by the Leader of the Council, the MP and the Mayor of the West Midlands, who have all stated that the green belt be protected and have vowed to do so, this proposed development is a smack in the face to those who have fought long and hard to protect it”.*

17. In addition to the above, 167 individual letters of objection from 119 local addresses were received. Objecting to the application on the following grounds.

Principle of Development

- The development is not needed.
- The development should not be on Greenfield Land
- This is Green Belt and should not be built on
- ‘Brownfield First’
- No Infrastructure to support the development
- No affordable housing is provided
- Empty houses should be considered first.
- This is not sustainable development

Amenity

- Loss of views

- The new houses will overlook those on The Straits
- Increase in noise pollution
- Increase in light pollution
- Homes are not characteristic of the area
- Houses are too close to electricity pylons

Environmental Issues

- There will be a loss of wildlife
- How will the development achieve Biodiversity Net Gain
- Loss of mature trees from the site
- Inappropriate drainage on the site
- No land level details have been provided

Highway Matters

- The development would be detrimental to highway safety
- Visibility splays are inappropriate

18. As a result of amended plans which slightly altered the access arrangement to ensure appropriate visibility at the entrance to the development, a further 10-day consultation period was carried out, with letters being sent to all those that had previously objected. As result of this exercise the following was received.

19. Marco Longhi MP states *“My approach is brownfield first and building on greenfield sites is unnecessary. After corresponding with residents, the following points have been raised”*

- *Issues raised in the highways report are not addressed in the new submission.*
- *The refuse vehicle use in the tracking by developer is smaller than the one used by refuse collectors,*
- *Parking – All 4 bed houses to have at 3 spaces, garages only court at a*

specific size.

- *Visibility onto The Straits, Highway say is unachievable.*
- *Other issues raised – drainage, wildlife that were raised in other reports haven't been addressed in new plans."*

20. In addition, seventy-nine further letters of objection from sixty-two local addresses have been received. No new major issues are raised from those set out above, with objections being as follows.

- The drainage in the area cannot cope (recent storms have demonstrated this)
- The visibility at the entrance is not sufficient
- The site cannot cope with extra traffic
- The junction is dangerous
- Greenbelt land should not be used for housing when there is alternative sites/brownfield First
- Destruction of wildlife and habitats
- No infrastructure to support the development
- Impact on residents' mental wellbeing.
- Street trees will cause damage to existing properties
- Vehicles will not be able to manoeuvre property within the site
- Overlooking
- Demolition of 129 The Straits not part of the original proposal

OTHER CONSULTATION

21. Highway Engineer:

Initial concerns were raised by the Highways Engineer regarding the access. Amended plans have been submitted to address issues with regards to visibility, and the access road needing to accommodate large refuse collection vehicles.

22. Head of Environmental Safety and Health.

No objection subject to safeguarding conditions with respect to noise and air quality.

23. Land Contamination:

No adverse comments, safeguarding conditions for a detailed remediation scheme and verification plans are recommended.

24. Tree Officer

No objection raised.

25. LLFA

Insufficient details have been provided.

26. West Midlands Police

No objection raised.

27. Severn Trent

No objection subject to appropriate drainage conditions

28. Education

No education contributions sought due to size of development.

29. South Staffordshire Borough Council

No comments received.

30. Black Country & West Birmingham Clinical Commissioning Group

A contribution towards local healthcare infrastructure is requested

31. Birmingham & Black Country Wildlife Trust

A Construction Environmental Management Plan should be submitted in support of the application. This should details all measures to be put in place during the construction phase.

RELEVANT PLANNING POLICY

32. National Planning Guidance

- National Planning Policy Framework (2021)
- Technical Guidance to the National Planning Policy Framework (2012)
- Planning Practice Guidance (2014)
- Community Infrastructure Levy Regulations (as amended) (2014)

33. Black Country Core Strategy (2011)

- DEL1 Infrastructure Provision
- CSP1 The Growth Network
- CSP4 Place Making
- HOU1 Delivering Sustainable Housing Growth
- HOU2 Housing Density, Type and Accessibility
- HOU3 Delivering Affordable Housing
- TRAN2 Managing Transport Impacts of New Development
- ENV1 Nature Conservation
- ENV2 Historic Character and Local Distinctiveness
- ENV3 Design Quality
- ENV5 Flood Risk, Sustainable Drainage and Urban Heat Islands
- ENV6
- ENV7 Renewable Energy

34. Dudley Borough Development Strategy (2017)

- S1 Presumption in favour of Sustainable Development
- S6 Urban Design
- S7 Landscape Design
- S8 Local Character and Distinctiveness
- L1 Housing Development, extensions, and alterations to existing Dwellings
- L3 Affordable Housing in New Developments
- D4 Unstable Land
- S19 Dudley Borough's Green Network

- S21 Nature Conservation Enhancement, Mitigation and Compensation
- S22 Mature Trees, Woodland, and Ancient Woodland
- S17 Access and Impact of Development on the Transport Network
- S29

35. Supplementary Planning Guidance/Documents

- Residential Design Guide SPD (2023)
- Parking Standards Supplementary Planning Document (2017)
- Open Space Sports and Recreation Supplementary Planning Document (2007)
- Planning Obligations SPD (2016)

ASSESSMENT

36. The main issues are

- Principle/Policy
- Housing Mix and Tenure
- Design and Layout
- Neighbours and Occupiers Amenity
- Highway Matters
- Land Contamination
- Trees/Ecology
- Drainage
- Financial Material Considerations

Principle/Policy

National Planning Policy Framework (2021)

37. The National Planning Policy Framework (NPPF) seeks to ensure the provision of sustainable development, of good quality, in appropriate locations and sets out principles for developing sustainable communities. It promotes high quality design and a good standard of amenity for all existing and future occupants of land and

buildings. It encourages the effective use of land by utilising brownfield sites and focusing development in locations that are sustainable and can make the fullest use of public transport, walking and cycling. The NPPF also seeks to boost housing supply and supports the delivery of a wide choice of high-quality homes, with a mix of housing (particularly in terms of type/tenure) to create sustainable, inclusive, and mixed communities.

Black County Core Strategy (2011)

38. The Black Country Core Strategy adopted in 2011 sets out The Vision, Sustainability Principles and The Spatial Objectives for future development in the Black Country to 2026. One of the Spatial Objectives of the Strategy is to help to deliver sustainable communities on redundant land, that make the most of opportunities such as public transport, are well served by residential services and green infrastructure, have good walking, cycling and public transport links to retained employment areas and centres, are set in high quality natural and built environments and are well integrated with surrounding areas.

39. The Black Country Core Strategy (BCCS), Policy HOU1: 'Delivering Sustainable Housing Growth' also requires at least 63,000 net new homes up to 2026.

Dudley Borough Development Strategy (2017)

40. The Dudley Borough Development Plan identifies the site as forming part of housing allocation HO.20 – Site Allocations Map. It forms part of an area of amenity/grazing space and is expected to provide up to 23 dwellings. The evidence base which supports the Local Plan designations – the identification of Majors Fold/The Straits, Lower Gornal as site ref 200 within the Strategic Housing Land Availability Assessment (SHLAA) – with the site identified as contributing to the Borough's 5-year housing land supply.

41. Policy L1 of the Dudley Borough Development Strategy (DBDS) states that new development will be supported on previously developed land **and** on sites in sustainable locations, close to public transport facilities and links. Housing

development will be permitted, provided that the design of the development is of an appropriate form, siting, scale, and mass; that it would not cause unacceptable harm to the amenities of the occupiers of neighbouring dwellings; that it would provide an appropriate level of amenity for future occupiers of the development and that the development would provide adequate access, parking and provision for the manoeuvring of vehicles, with no detrimental impact on highway safety and free flow of traffic.

42. The proposal would constitute development on existing amenity land. While the overriding strategy is for residential led regeneration of previously development land, this is a small site providing a net gain of fourteen dwellings and would not prejudice the overall strategy.

43. Furthermore, this land can be described as amenity space, as a result of it not having a specific open space function e.g., for sports pitches or as a nature conservation asset.

44. In terms of quality, and with reference to Black Country Core Strategy (BCCS) Policy ENV6 (Open Space Sport and Recreation), Dudley Borough Development Strategy (DBDS) Policy S29 (Public Open Space) and National Planning Policy Framework (NPPF) paras 98 and 99, it would not have a significant inherent value to the local community, the site is privately owned and there is a locked gate at the end of Majors Fold. There are gaps in the boundary meaning it may be accessible to dog walkers in particular and helps to shape the local character of the area. However, it is not official publicly accessible open space.

45. In terms of quantity or the impact of the potential loss of these areas of open space on the open space network within the Black Country overall (BCCS Policy ENV6), with reference to the Green Space Audit/ Dudley Open Space Review (2019), this area is not identified or assessed on the relevant Community Forum Map and, furthermore, is within a 400m walking distance of alternative area of similarly functioning publicly accessible amenity space at Tennyson Road.

46. It is considered the principle of redeveloping this site for residential purposes would be a positive step in line with national and local policy. The site is within close proximity to established residential areas, close to public transport links and with easy access to local services. There is consequently alignment with the local plan policies in chief, especially in meeting the housing targets set out in Black Country Core Strategy (BCCS) Policy HOU1 (Delivering Sustainable Housing Growth) and given that the proposal represents sustainable development.

47. The Dudley Borough Development Strategy also includes overarching policies in relation to other environmental considerations which are discussed in more detail in subsequent sections of this report.

Housing Mix and Tenure

48. Policy HOU3 of the Black Country Core Strategy states “*Local Planning Authorities will seek to secure 25% affordable housing on all sites of 15 dwellings or more where this is financially viable*”. This is supported by Policy L3 – Provision of Affordable Housing in New Developments within the Dudley Borough Development Strategy. This proposal does not trigger the requirement for affordable housing to be provided. These are larger family homes and will help to achieve a small part of the boroughs housing needs.

Design and Layout

49. Chapter 12 of the NPPF focuses on good design as a key element of sustainable development. Paragraph 126 states “*Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities*”

50. Policy HOU2 of the Core Strategy states that the density and type of new housing provided on each site will be informed by, amongst other things, the need to achieve high quality design and minimise amenity impacts. All developments will aim to achieve a minimum net density of 35 dwellings per hectare.

51. Policy S6 (Urban Design) of the Dudley Borough Development Plan identifies that new development should be designed in accordance with good urban design principles. In addition, the 'Dudley Council Residential Design Guide' SPD encourages good quality accommodation in attractive environments. It contains a series of urban design principles and refers to minimum design and amenity guidance. Particular emphasis is given to assessing context and responding positively to local character.

52. The density of the proposed development at 20 dwellings per hectare and the two-storey scale of the proposed houses would be appropriate to the existing form and pattern of development in the wider area which is varied in terms of house type. The siting of the houses would form a small residential estate with its own distinct character around a new cul-de-sac forming perimeter block development with streets surrounding. The dwellings would be of an appropriate scale and design taking into account the constraints of the site. All dwellings would be brick built with rendered areas with concrete interlocking roof tiles. This would help to assimilate the new development with the existing surrounding area and result in a design that would enable the creation of a good-quality residential environment that would sit comfortably within its surroundings. A condition requiring details of materials to be used is considered appropriate.

Neighbours and Occupier Amenity

53. The Council's Residential Design Guide SPD recommends a series of numerical standards to ensure existing and future occupier privacy and outlook. In this instance, the development, has been designed so that the front and rear facing main habitable room windows of the proposed dwellings are orientated away from existing properties and meet the separation distances set out. Windows to the side elevation would either be obscurely glazed secondary windows, not serve habitable rooms, be set at appropriate distance, or would not overlook due to proposed boundary treatment.

54. Garden lengths are in excess of 11m, except for plots 10, 12 and 13 which provide 10.5m and there is in excess of 22m between rear facing elevations of the proposed dwellings and those existing on The Straits and Majors Fold, there is a slight shortfall of 0.4m between the front of 4 Majors Fold and the rear of Plot 8. It is considered this is a characteristic form of development and is a result of the constraints of the site and these very minor shortfalls alone would not warrant the refusal of the application. Further, and of merit, the gardens for all properties provide in excess of the 65sqm of space recommended. Furthermore, any overlooking between the new properties could be mitigated by boundary treatment at ground floor level. While the outlook from some existing, surrounding properties would change, it would be a residential outlook, that is common from many properties in the borough and it is not considered that this would be a sufficient reason to warrant refusal of the application, given the positive benefits of providing new homes of this type and tenure within the borough.

55. In addition, the properties would provide an internal layout of suitable size, with at least one good sized accessible double bedroom and a furniture layout shows that ample storage can be accommodated to meet the expected requirements.

56. Applying the 45-degree code, it is noted that the properties would not breach the code, to any neighbouring property. Therefore, it is not considered there would be any undue loss of light or outlook to any adjacent property on this basis.

Highway Matters

57. Paragraph 111 of the NPPF identifies that *“development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe”*

58. Policy L1 also requires that development should provide adequate access and parking to ensure that there would be no detrimental impact on highway safety.

59. The applicant has amended to address issues raised by the Council's Highways Engineer. A 2m wide Footway has been provided on both sides of the access at least for the first 5m into the site, then provided with tactile paving and dropped kerbs to help pedestrians cross. The turning head and access entrance has been tracked appropriately with a refuse vehicle of 11.2m in length, which is over the 9.62m length of the '*Mercedes Econic Kerbsider*' the largest used within Dudley Borough. In addition, a visibility splay of 2.4m x 59m is shown and could be shown to be achieved, after Officer visits to the site to establish the appropriate position of the access.

60. The Council's Parking Standards SPD requires two spaces for three bed dwellings and three spaces for each 4-bed dwelling, garages are allowed as a parking space if they are 3m x 6m internally. All properties are provided with policy compliant parking, with all three-bedroom properties provided with two car parking spaces and all four-bedroom properties provided with three off-street car parking spaces. All garages measure 3m x 6m. Therefore, the proposal accords with the minimum standards as set out in the Car Parking Standard SPD.

61. Despite concerns raised by local residents, it is not considered that increased traffic and parking demand associated with a residential use on this site would increase significantly, and the impact of fourteen new houses at this location on the surrounding highway network would be negligible. In addition, there are good public transport links close to this location, with bus service 27 running between Wolverhampton and Dudley, along The Straits.

62. Electric Vehicle Charging points will be provided in accordance with the guidance in the Car Parking SPD.

Land Contamination

63. The Council's Contaminated Land officer has raised no objection to the proposal. The submitted report entitled "Geo-environmental assessment Majors Fold/The Straits, Lower Gornal" (revision dated June 2022) issued by Georisk Management Ltd has been reviewed. Some remediation works will be required to facilitate the

development and a condition to secure the details of this will be needed, along with the submission of a verification plan once the works have been completed.

Trees/Ecology

64. The supporting Arboricultural Impact Assessment identifies a total of thirteen individual trees within and immediately adjacent to the application site. The assessment has categorised trees in accordance with Table 1 of BS5837:2012 Trees in Relation to Design, Demolition and Construction – Recommendations on the basis of tree quality and value and considers the impact of the proposed development and the number and quality of trees that would need to be removed to facilitate development.
65. All trees within the site will be retained, in addition, the proposed development would afford the opportunity to secure new tree planting and indeed other planting by condition that could potentially realise both a quantitative and qualitative enhancement in terms of trees in the longer term. The Council's Arboricultural Officer raises no objection to the application and a number of safeguarding conditions are recommended to ensure the integrity of the trees during construction.
66. Where, exceptionally, the strategic benefits of a development clearly outweigh the importance of a local nature conservation site, species, habitat or geological feature, damage must be minimised. Any remaining impacts, including any reduction in area, must be fully mitigated. Compensation will only be accepted in exceptional circumstances. A mitigation strategy must accompany relevant planning applications.
67. The submitted ecological survey states that the site is formed of a mix of neutral semi-improved grassland and tall ruderal vegetation. There is a short section of hedge planned for removal to facilitate the access. Mature oak trees line the southwest and southeast boundaries, some of which have clearly visible potential roost features for bats. The nearest records of badgers are at a site approximately 570m away recorded in 2000. On this site, some tracks were visible through the

grassland, most commonly along the northern end of the site with spurs leading to the gardens that could indicate they were created by domestic animals. No latrines, prints or hairs were found to indicate the site had been used by badgers. No sett entrances were found in the immediate surroundings or on site. The trees and hedgerows around the site offer suitable habitat for nesting birds. No evidence of ground nesting birds was seen amongst the grassland. Nest boxes were seen on some trees, but no evidence of occupation was seen, and some of the boxes were in a poor state of repair. No suitable habitat for amphibians or reptiles was found on site, no potential refugia or hibernacula were seen on site. There was also no evidence of invasive species on the site.

68. The submitted report includes a number of mitigation measures to reduce disturbance during construction and then to encourage the biodiversity of the site by a series of measures including the planting of wildflower areas, provision of roosting opportunities for bats; hedgehog holes; bird nesting boxes and bug houses. This can be controlled by condition.

69. In accordance with Policy ENV1 the full assessment of the site which has been undertaken for the proposed development establishes that the development will not lead to adverse impacts upon important habitat, species, or geological features. The proposed development is expected to positively contribute to the natural environment and ongoing management will be delivered through the management plan which is secured by way of planning condition.

70. Further, a Construction Environmental Management Plan (CEMP) to set out measures to be put in place during the construction phase of the development, to ensure no negative impact on those receptors identified in the Ecological Report can be secured by way of condition.

Drainage

71. The site is located in Flood Zone 1 and there are no critical drainage issues associated with the site as would be identified by the Environment Agency. The use of sustainable urban drainage systems (SuDS) has been considered. The surface

water from the site has to discharge, in order of priority, to either an adequate soakaway system, a suitable watercourse or to a sewer. As the near-surface geology comprises clay soil, it is considered that surface water from the development would not be efficiently discharged by soakaway drainage and an alternative drainage solution of an on-site attenuated storm water system is proposed. This consists of underground storm water storage tanks in conjunction with a hydro-brake to control/restrict the storm water run-off rates to an agreed discharge rate into the sewer network.

72. The Lead Local Flooding Authority have reviewed the submitted information and consider this to be insufficient to fully demonstrate that it is an acceptable drainage strategy. However, upon reading their comments in detail they are requesting further information about the proposed drainage scheme to ensure it is provided appropriately and information regarding the use of permeable materials, rainwater harvesting; a SuDs Operation and Maintenance strategy and details of finished floor levels are requested. These are matters that the Local Planning Authority can request by appropriately worded pre-commencement conditions being attached to any permission, an approach which is adopted on planning applications across the whole borough.

73. As such, it is considered that subject to the above-mentioned conditions, that a suitable drainage strategy for the site can be adopted and achieved and it would not be sufficient reason to refuse the application on this matter in this instance.

74. Severn Trent Water have raised no objection to the application and request a condition in relation to mains drainage, as is standard practice.

Financial Material Considerations

75. Clause (124) of the Localism Act states that: Local planning authorities are to have regard to material considerations in dealing with applications including any local finance considerations, so far as material to the application. A 'local finance consideration' may be taken to cover the payment of New Homes Bonus, or sums

that a relevant authority has received, or will or could receive, in payment of the Community Infrastructure Levy (CIL).

76. The clause does not change the law in any way. It is not a new basis for planning policy, and it remains unlawful for planning permissions to be 'bought.'

77. This proposal would provide fourteen new dwellings generating a New Homes Bonus grant of fourteen times the national average council tax for the relevant bands.

78. The proposal is fully liable for CIL and is identified under Map 1 at a rate of £27.41 per square metre. Based on a CIL Liable floorspace of 1678 square metres the CIL Charge is calculated at £45,993.98.

CONCLUSION

79. The proposed development is acceptable in principle. Submitted information and revisions to proposals have confirmed that the scheme will constitute a sustainable development which is acceptable on in terms of both National and Local planning policy. The development is considered to have mitigated planning harm and subject to the imposition of appropriate conditions will have addressed physical and natural impacts arising from and to the surrounding environment.

RECOMMENDATION

It is 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: WHB-SA[20]0001 Rev P01 – Site Location Plan; WHB-SA[20]0010 Rev P05 – Site Plan as Proposed; WHB-SA[20]002 Rev P01 – Site Survey Plan; WHB-SA[21]0001 Rev P01 – Site Sections (Sheet 1); WHB-SA[21]0002 Rev P0 – Site Sections (Sheet 2); MAJ-G-P/4HA-01 Rev E – 4B House A- SHAKESPEARE; MAJ-G-P/4HA-02 Rev A – 4B House A- SHAKESPEARE; MAJ-G-P/4.02-01 Rev D Crofton (4.02); MAJ-G-P/4.02-02 Rev A Crofton (4.02); MAJ-G-P/4.01-01 Rev C Beckbury (4.01); MAJ-G-P/4.01-02 Rev A Beckbury (4.01); MAJ-G-P/3.02-01 Rev E Brocton (4.02) Type 1; G-SG2-MAJ1 Rev B Single Garage; G-SG2-MAJ2 Rev B Single Garage Details; G-SG2-MAJ3 Twin Garage Details; G-SG2-MAJ4 Rev A Single Garage Details (6318 x 3206);
REASON: For the avoidance of doubt and in the interests of proper planning.
3. 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. A validation and verification plan must be formulated, form part of the remediation scheme and be approved 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.
4. Following implementation and completion of the approved remediation scheme (required by condition 3 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.
5. In the event that contamination is found at any time when carrying out the approved development which was not previously identified, development shall STOP on that part of the site affected by the unexpected contamination and it must be immediately reported in writing to the Local Planning Authority. An additional investigation and risk assessment must be undertaken and where

remediation is necessary, a remediation scheme must be prepared, which shall be submitted to and approved in writing of 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: 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 and the NPPF.

6. No above ground development shall commence until a schedule of the types, colours and textures of the materials to be used on the external surfaces of the buildings hereby approved have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in complete accordance with the approved details unless otherwise agreed in writing by the Local Planning Authority.

REASON: In the interests of the visual amenities of the area and to comply with BCCS Policies CSP4 - Place-Making and ENV2 - Historic Character and Local Distinctiveness 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)

7. No above ground development shall commence until details of the electric vehicle charging points, to be provided for the dwellings in accordance with the Council's standard (Parking Standards SPD), has been submitted to and approved in writing by the local planning authority. Prior to first occupation the electric vehicle charging points shall be provided in accordance with the approved details and shall be maintained for the life of the development.

REASON: In the interests of creating a sustainable form of development and to encourage the use of ultra low emission vehicles in accordance with Policies ENV8 (Air Quality) and DEL1 (Infrastructure Provision) of the Black Country Core Strategy.

8. 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. The specification of the gas boilers shall be submitted to and approved in writing by the Local Planning Authority and the approved specification of boilers shall thereafter be fitted in accordance with such details.

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.

9. No development shall commence (excluding demolition, site clearance and initial ground investigation works) until details of surface water drainage works have been submitted to and approved in writing by the Local Planning Authority. Before these details are submitted an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system in accordance with the principles set out in Annex F of PPS25 (or any subsequent version), with the results of the assessment provided to the local planning authority. Where a sustainable drainage scheme is to be provided, the submitted details shall:

-Provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;

-Include a timetable for its implementation; and

-Provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout the lifetime of the development.

None of the development shall be occupied until surface water drainage works have been implemented in accordance with the approved details.

REASON: In the interests of sustainability, reducing flood risk and run off and to comply with Adopted BCCS Policy ENV5 - Flood Risk, Sustainable Drainage Systems and Urban Heat Island.

10. No development shall commence (excluding demolition, site clearance and initial ground investigation works) until details of the works for the disposal of foul and surface water drainage have been submitted to and approved in writing by the Local Planning Authority. All works shall be completed in accordance with the approved details prior to the occupation of the development hereby approved. The approved works shall thereafter be retained for the life of the development.

REASON: In the interests of sustainability, reducing flood risk, run off and pollution of watercourses and to comply with Adopted BCCS Policy ENV5 - Flood Risk, Sustainable Drainage Systems and Urban Heat Island and Borough Development Strategy 2017 Policy S5 Minimising Flood Risk and Sustainable Drainage Systems (SuDS).

11. No development shall commence (excluding demolition, site clearance and initial ground investigation works) until details of the access(es) into the site, together with parking and turning area(s) [including details of lines, widths, levels, gradients, cross sections, drainage and lighting] have been submitted to and approved in writing by the Local Planning Authority. The development shall not be occupied until the access(es) into the site, together with parking and turning area(s) within the site have been laid out in accordance with the approved details. These area(s) shall thereafter be retained and not be used for any other purpose for the life of the development.

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.

12. No part of the development shall be occupied until visibility splays to the new accesses have been provided at the junction between the proposed means of access and the highway with an 'x' set back distance of 2.4m metres and a 'y' distance of 59 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

13. No development shall commence (excluding demolition, site clearance and initial ground works) until full details of soft landscaping works have been submitted to and approved in writing by the Local Planning Authority. These details must include, where appropriate, planting plans, written specifications, a schedule of plants including species, plant sizes and proposed numbers/densities and a programme of implementation. Plans must also include accurate plotting of all existing landscape features. The agreed scheme shall be implemented in accordance with the approved details within the first planting season following the first occupation of the development, unless otherwise agreed in writing by the Local Planning Authority.

Any trees or shrubs planted in pursuance of this permission including any planting in replacement for it 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 and to ensure that the approved landscaping is properly maintained 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.

14. The development shall not be first occupied until a schedule of landscape maintenance to the areas of open space and any communal areas (excluding private gardens), including details of its implementation for a minimum period of five years from first planting has been submitted to and approved in writing by the Local Planning Authority. The open space and any communal areas shall thereafter be cared for in accordance landscape maintenance scheme.

REASON: In order to make a positive contribution to place-making and provide a high quality landscaping and to ensure that the approved landscaping is properly maintained 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 Policy D2 Incompatible Land Uses (in part) and LR1 - Open Space

15. No above ground development shall commence until details of the types, colours and textures of the materials to be used in the hard surfacing of the development hereby approved have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in complete accordance with the approved details and 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 landscaping in accordance with BCCS Policies CSP4 - Place-Making, ENV 2 Historic Character and Local Distinctiveness, ENV3 - Design Quality and DEL1 - Infrastructure Provision 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 as landscaping is integral to providing a high quality and sustainable development.

16. 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 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
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.

17. The development hereby by approved shall not be first occupied until the nature conservation enhancement and/or mitigation works which are recommended within the submitted nature conservation report/assessment have been undertaken and completed. The nature conservation enhancement and/or mitigation works shall thereafter be retained and maintained in accordance with the recommendations of the nature conservation report/assessment / or for the life time of the development.

REASON: To ensure the provision, protection and maintenance of the site's ecology and comply with BCCS Policies ENV1 - Nature Conservation, CSP3 Environmental Infrastructure and DEL1 - Infrastructure Provision and Borough Development Strategy 2017 Policy S21 Nature Conservation Enhancement, Mitigation and Compensation

Policy S5 - Minimising Flood Risk and Sustainable Drainage Systems (in part) and Policy S21 Nature Conservation Enhancement, Mitigation and Compensation Policy S20 The Borough's Geology (in part) Policy S1 Presumption in favour of Sustainable Development (in part)

18. No development shall commence (including demolition, site clearance and initial ground works) until a Construction Ecological Management Plan (CEcMP) has been created to minimise the potential impact during the construction stage on the existing ecology of the wider Potential Site of Importance. This shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter proceed in accordance with the approved recommendations and method statement(s) of the agreed ecological survey and assessment.

REASON: In order to enhance, encourage and protect the nature conservation value of the site and in accordance with BCCS Policies ENV1 - Nature Conservation, CSP3 Environmental Infrastructure and DEL1 - Infrastructure

Provision and Borough Development Strategy 2017 Policy S19 Dudley Borough's Green Network (in part), Policy S21 Nature Conservation Enhancement, Mitigation and Compensation, and Policy S1 Presumption in favour of Sustainable Development (in part)

This detail is required prior to the commencement of development in case species which are legally protected are present

19. The development shall be first occupied/used until details of the bin stores have been submitted to and approved in writing by the Local Planning Authority. The bin stores shall be provided in accordance with the approved details prior to the first use/occupation of the development and shall thereafter be retained and maintained for no other purpose for the life of the development.

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.

20. No development shall commence (excluding demolition, site clearance and initial ground works) until detailed plans and sections showing existing site levels and proposed ground floor levels of the dwellings and adjacent garden levels have been submitted to and approved in writing by the Local Planning Authority. The development thereafter shall be implemented in complete accordance with the approved details.

REASON: In the interests of the visual amenities of the area and to safeguard the amenities of occupants of neighbouring properties and to comply with BCCS Policies CSP4 - Place-Making and ENV2 - Historic Character and Local Distinctiveness and Borough Development Strategy 2017 Policy Policy S6 Urban Design and Policy L1 Housing Development, extensions and alterations to existing dwellings Policy D2 Incompatible Land Uses (in part).

21. Work shall not begin on the demolition and construction of the development until a method statement for the control of dust and emissions arising from the demolition and construction of the development has been submitted to and approved by the local planning authority. All works which form part of the approved scheme shall be implemented throughout the construction and demolition phase of the development.

REASON: To minimise the impacts to air quality associated with the development and to protect the health and well being of residents in accordance with BCCS Policy ENV8 - Air Quality.

22. At least 10% of the energy supply of the development shall be secured on site from renewable or low-carbon energy sources. Details and a timetable showing how this is to be achieved for each phase of development including details of physical works on site, shall be submitted to and approved in writing by the Local Planning Authority prior to commencement (excluding demotion, site clearance and grounds works) for that phase. The approved details shall be implemented in accordance with the approved timetable and retained as operational thereafter or the use of the building, unless otherwise agreed in writing by the Local Planning Authority.

REASON: To reduce the impact of climate change and to comply with BCCS Policy ENV 7 and the Renewable Energy SPD

23. No development shall commence until details of the tree protection measures on site have been submitted to and approved in writing by the Local Planning Authority. The agreed tree protection measures shall be erected / installed prior to the commencement of the development (including any tree felling, tree pruning, demolition works, soil moving, temporary access construction and or widening, or any operations involving the use of motorised vehicles or construction machinery), and shall not be taken down moved or amended in any way without prior written approval of the local planning authority. The tree protection details shall include:

- a. A plan showing the location and identification (with reference to a survey schedule if necessary) of all trees on, or directly adjacent to the development site, that are to be retained during construction. These trees are to be marked with a continuous outline.
- b. A plan showing the location and identification (with reference to a survey schedule if necessary) of all the trees on, or directly adjacent to the development site that are to be removed prior to, or during development. These trees are to be marked with a dashed outline.
- c. A plan showing the extent of the Root Protection Area, which is to be protected by physical barriers during development. The extent of the area that is to be protected will be calculated in accordance with Clause 4.6 of British Standard BS:5837 - 2012 'Trees in Relation to Design, Demolition and Construction- Recommendations'.
- d. Design details of the proposed protective barriers and ground protection to be erected around the trees during development. Any protection barriers should be designed and constructed in accordance with the provisions set out in section 6.2 of British Standard BS:5837 - 2012 'Trees in Relation to Design, Demolition and Construction- Recommendations'.

Reason: To ensure that those trees and hedges to be retained on the development site are not subject to damage because of either works carried out on site or during the carrying out of such works in accordance with Saved UDP Policy NC10 - The Urban Forest. This detail is required prior to the commencement of development to ensure trees which are shown to be retained or are legally protected are not damaged during the construction process.

24. No development shall commence nor shall any other operations commence on site or in connection with the development hereby approved, (including any tree felling, tree pruning, demolition works, soil moving, temporary access construction and or widening, or any operations involving the use of motorised vehicles or construction machinery) until a detailed tree felling / pruning specification has been submitted to and approved in writing by the Local Planning Authority. No development or other operations shall commence on site until the approved tree felling and pruning works have been completed. All tree felling and pruning shall be carried out in full accordance with the approved specification and the requirements of British Standard 3998 (2010) Recommendations for Tree Work.

Reason: To ensure that all tree works carried out on site are appropriate and justified in line with the proposed development and the safeguarding of the visual and environmental amenity in accordance with Borough Development Strategy 2017 Policy S22 Mature Trees, Woodland and Ancient Woodland (in part). This detail is required prior to the commencement of development to

ensure trees which are shown to be retained or are legally protected are not damaged during the construction process.

25. No development shall commence nor shall any other operations commence on site or in connection with the development hereby approved (including any tree felling, tree pruning, demolition works, soil moving, temporary access construction and or widening, or any operations involving the use of motorised vehicles or construction machinery) until a detailed service (gas, electricity and telecoms) and foul and surface water drainage layout has been submitted to and approved in writing by the Local Planning Authority. Such layout shall provide for the long term retention of the trees and demonstrate no raising of land levels around the trees. No development or other operations shall take place except in complete accordance with the approved service/drainage layout.

Reason: To ensure that existing trees are not damaged through the loss of roots, to maintain the visual and environmental quality of the site and surrounding area in accordance with Borough Development Strategy 2017 Policy S22 Mature Trees, Woodland and Ancient Woodland (in part). This detail is required prior to the commencement of development to ensure trees which are shown to be retained or are legally protected are not damaged during the construction process.

26. The existing trees shown on the approved plans to be retained shall not be damaged or destroyed, uprooted, felled, lopped or topped during the construction period of the development without prior written consent of the local planning authority. Any trees removed without such consent or dying or being seriously damaged or diseased during that period shall be replaced with healthy trees of such size and species as may be submitted to and agreed in writing by the local planning authority. The replacement trees shall be after provided in accordance with a time table to be submitted to and agreed in writing by the local planning authority and shall thereafter be retained for the life of the development.

REASON: To maintain the visual and environmental quality of the site and surrounding area in accordance with Borough Development Strategy 2017 Policy S22 Mature Trees, Woodland and Ancient Woodland (in part).

27. Demolition or construction works shall not take place outside the hours of 07:00 to 18:00 hours Mondays to Fridays and 08:00 hours to 17:00 hours on Saturdays nor at any time on Sundays or Public Holidays

REASON: To protect the amenities of nearby residents in accordance with Borough Development Strategy 2017 Policy D5 Noise Pollution, Policy L1 Housing Development, extensions and alterations to existing dwellings and Policy D2 Incompatible Land Uses (in part).

28. No demolition works shall commence until details have been submitted to and approved in writing by the local planning authority of the measures to be taken to secure the safety and structural stability of the retained building at 129 The Straits. The details submitted must be informed by the advice of a qualified structural engineer. Full details of the finished gable end wall shall also be submitted to and approved in writing, including all materials to be used. The scheme shall be implemented in accordance with the approved details.

Reason: To ensure the structural integrity of the building and in the interests of the visual amenities of the area and to comply with BCCS Policies CSP4 - Place-Making and ENV2 - Historic Character and Local Distinctiveness and

Borough Development Strategy 2017 Policy S6 Urban Design and Policy L1
Housing Development, extensions and alterations to existing dwellings.

PROJECT ARCHITECTS TO BE NOTIFIED OF ANY DISCREPANCIES BETWEEN THE DRAWING AND THE ACTUAL SITE CONDITIONS. THE CONTRACTOR TO VERIFY ALL DIMENSIONS ON SITE. THIS DRAWING IS COPYRIGHT.

Orientation

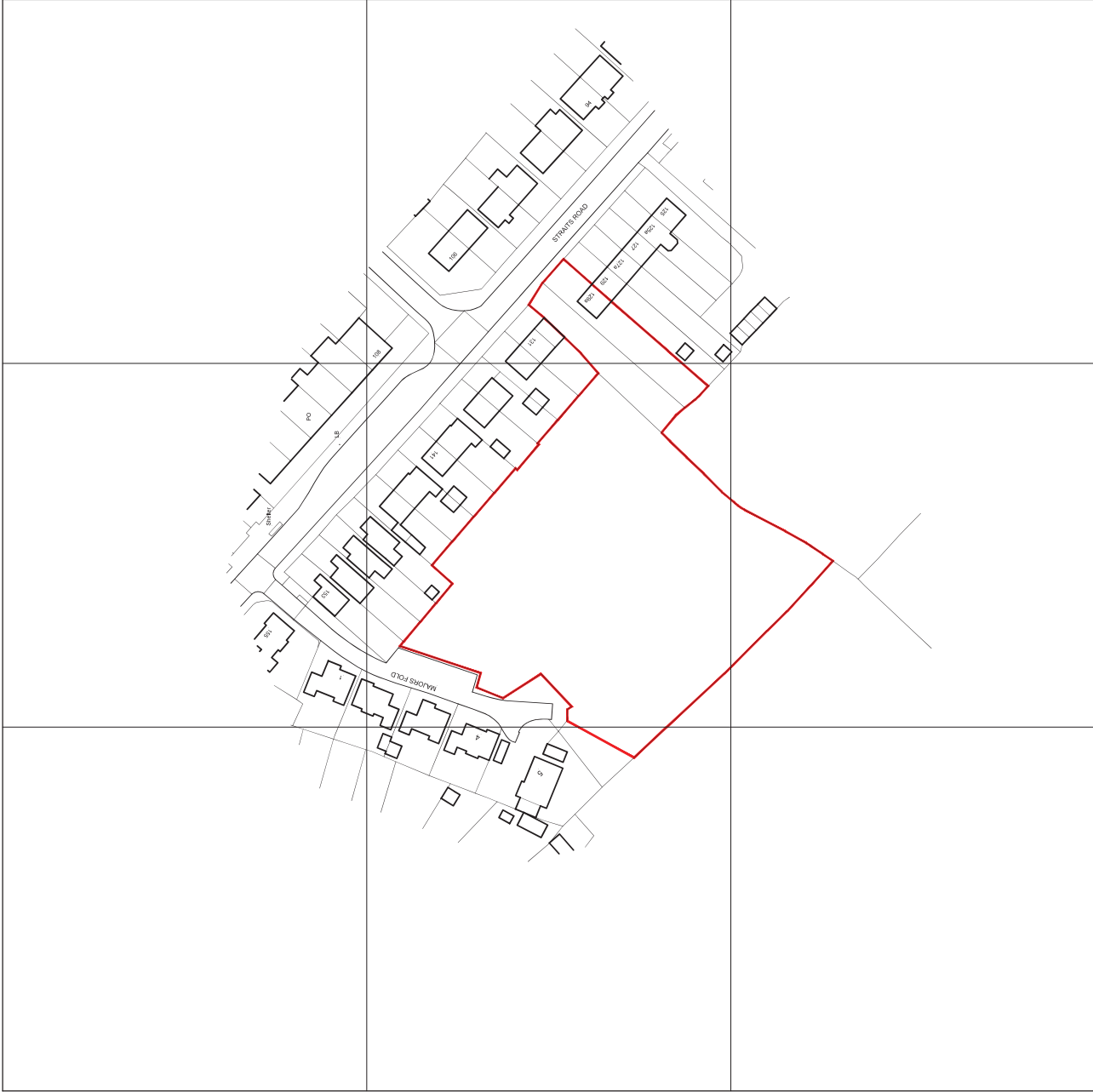


Schedule of Area

Key

3899000m 390200m 390100m 390000m 292000m

291900m 291900m 291800m 291700m



389900m 390200m 390100m 390000m 291900m 291800m 291700m

01 SITE LOCATION PLAN

1:1250

SCALE 1 : 1250 0m 25m 50m 75m 100m 125m
SCALE 1 : 1 0m 10mm 20mm 40mm 60mm 80mm 100mm

P01 - Planning issue	30.04.22
P02 - Preliminary issue	24.03.21
Rev	Description
Date	



Whitaboo Architecture + Design
3 Kenswick Manor
Lower Broadheath
Worcester WR2 6DB

Client



Project
1 Lower Broadheath
LOWER GORNAL DUDLEY

Drawing Title
SITE LOCATION PLAN

Project No.	0000000001	Revision
Scale	1:1250/0A3	Drawn by
Status	PLANNING	Drawn by

PROJECT ARCHITECT TO BE NOTIFIED OF ANY CHANGES TO THE PROPOSED DEVELOPMENT AND TO VERIFY ALL DIMENSIONS ON SITE. THIS DRAWING IS COPYRIGHT.

Orientation



Schedule of Area

Site Area	7,170 m ²
Pk1 1	Crofton 4 Bed 7 Person 1248 sq.ft
Pk1 2	Backbury 4 Bed 8 Person 1498 sq.ft
Pk1 3	Brocton 3 Bed 5 Person 904 sq.ft
Pk1 4	Brocton 3 Bed 5 Person 904 sq.ft
Pk1 5	Brocton 3 Bed 5 Person 904 sq.ft
Pk1 6	Brocton 3 Bed 5 Person 904 sq.ft
Pk1 7	Backbury 4 Bed 8 Person 1498 sq.ft
Pk1 8	Crofton 4 Bed 7 Person 1248 sq.ft
Pk1 9	Crofton 4 Bed 7 Person 1248 sq.ft
Pk1 10	Shakespear 4 Bed 7 Person 1615 sq.ft
Pk1 11	Shakespear 4 Bed 7 Person 1615 sq.ft
Pk1 12	Shakespear 4 Bed 7 Person 1615 sq.ft
Pk1 13	Shakespear 4 Bed 7 Person 1615 sq.ft
Pk1 14	Crofton 4 Bed 7 Person 1248 sq.ft
Total GFA	18,060 sq.ft

Key

- Root Protection Area (RPA)
- Existing tree (retained)
- New tree planting to Landscape
- Architect's details
- New soft landscaping to Landscape
- Architect's details
- New hard landscaping to Landscape
- Architect's details

Rev	Description	Date
P04	Access amended to LPA comments	21.06.23
P04	Planning Issue	16.01.23
P03	Planning Issue	29.04.22
P02	Updated to client's comments	28.04.22
P01	Updated to client's comments	27.04.22
P00	Preliminary Issue	22.04.22



Whitlock Architecture + Design
3 Kenswick Manor
Lower Broadheath
Worcester WR2 6QB

Client

Project
LAND AT MAJORS FOLD, STRAITS ROAD
LOWER CROFTON, DUDLEY

Drawing Title
SITE PLAN AS PROPOSED

Project No.	Drawing No.	Revision
10119	WB-500010	P05
10119	WB-500010	Drawn by
10119	WB-500010	22.04.22
10119	WB-500010	Status
10119	WB-500010	PLANNING



SITE PLAN AS PROPOSED

1:250

01

client: **Elan Homes**

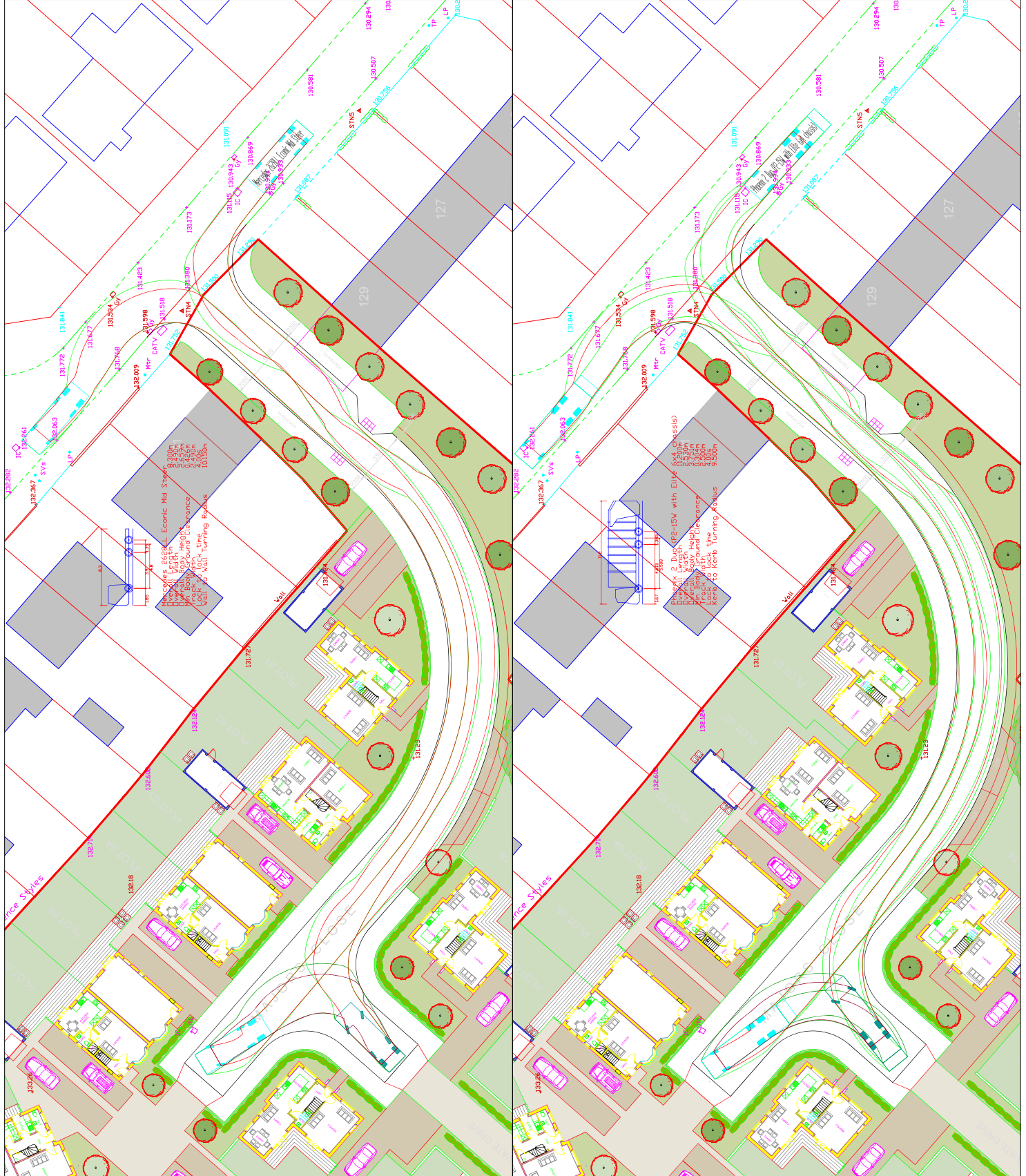
project: **Proposed Residential Development
Straits Road / Majors Fdd, Lower Gormal**

scale: **1:200 @ A1** drawn by: **XL** checked by: **XC**

date: **JUNE 2023** and file: **FCL0112-05.DWG**

title: **Vehicle Tracking - Refuse Vehicles**

drawing number: **FCL0112-06**



PLANNING APPLICATION NUMBER:P23/0900

Type of approval sought	Full Planning Permission
Ward	Castle and Priory Ward
Agent	Malm Consulting
Case Officer	James Mead
Location:	TRACEY WILDER HOUSE, 57, THE BROADWAY, DUDLEY, DY1 4AP
Proposal	CHANGE OF USE FROM OFFICES (E) TO CHILDREN'S CARE HOME (C2)
Recommendation Summary:	APPROVE SUBJECT TO CONDITIONS

SITE AND SURROUNDINGS

1. The application site is 57 The Broadway, Dudley. This is a detached two storey property, which is characterised by a render finish, a hipped roof with a gable feature to the frontage, a ground floor bay window, and a flat roof dormer in the front roof slope. The building benefits from access to off-street parking and driveway for multiple cars to the frontage, as well as an integral garage. The building was originally a dwellinghouse which was converted to an office c2000. There is a large private garden area to the rear of the property with fencing and planted boundaries.
2. To both sides of the dwelling and the rear are existing residential dwellings. 55 and 59 The Broadway are similar to the application site in regard to age, type and design being large, detached properties set within large plots. To the rear is 20 Priory Road also a large, detached dwelling set within a spacious plot.
3. Opposite the application site is 'Priory Park.' Further to the south-east is the main campus of Dudley Collage. The site is also within the boundary of Dudley Town Centre.

PROPOSAL

4. Approval is sought for a change of use from office to a care home (Use Class C2).
5. This care home would be specifically run as a residential children's home for up to two children. The children would be between 7 and 17 years in age.
6. The proposed facility is intended to provide a young person with care on a short to medium term basis, with an expectation that after this the children would move onto permanent families. The facility would also receive emergency referrals on a short-term basis (for example during a transition period between care home to foster family, respite reasons or due to a referral based on the health and physical aspect of the home).
7. The applicant confirms that the children would be classed as low risk, with no history of violence, and is willing to participate in all activities both educational as well as physical.
8. The children would be educated off site, within mainstream schools.
9. It is confirmed, there will be two members of staff regularly working and/or sleeping at the property, with an additional member of staff being present during the day. The shift pattern would be as follows.
 - The day shift will be from 8am – 10pm,
 - The night shift 10pm – 8am.
10. The home would be regulated by Ofsted.
11. There are at least four off-street parking spaces available on the frontage, with an additional integral garage provided.
12. No external alterations would be carried out to the property.

HISTORY

APPLICATION	PROPOSAL	DECISION	DATE
P00/51573	Change of Use from dwellinghouse (Class C3) to use as offices (Class B1)	Approved with Conditions	06/11/2000
P22/1371	Change of Use from Offices to 1no residential dwelling	Approved with conditions	11/11/2022

PUBLIC CONSULTATION

13. Direct notification was carried out to three neighbouring properties and a site notice was posted. The final date for comments to be received was 27th August 2023.

14. Marco Longhi MP objects to the application based on the dear of crime that this development will cause for those living on The Broadway. The police have highlighted this property is in close proximity to a badly run Childrens care home, This proposal will place additional demand on the police

15. Councillors Aston, Denning and Casey (Castle and Priory) collectively object to the application on the following grounds

- Highway safety with the increased number of visits to the property.
- Impact on neighbouring properties and residential amenity
- Lack of detail on management plan as well as any indication as to security measures and what upgrades that will take place to accommodate the new use for the building.
- Increased demand on services, particularly police given concerns raised by West Midlands
- Concerned by current operations taking place at this property.
- There is a complete lack of confidence locally that this new use could be managed properly.

16. Sixteen letters of objection have been received from eight nearby neighbouring occupiers, objecting to the application on the following grounds.

- No security plans.
- There is no management structure.
- Loss of a residential house.
- Increase in crime.
- Increase in anti-social behaviour.
- Devaluation of property
- Increased traffic and parking demand
- No need
- Property is being used inappropriately at present demonstrating bad management.

OTHER CONSULTATION

17. Head of Planning (Highways Engineer):

There appears to be enough parking available for the proposed change of use to a children's Care Home. There should be at least one parking space provided with an electric vehicle charging point.

18. West Midlands Police:

Concern expressed regarding the impact of the proposal on crime, perceived fear of crime, and demand for Police resources in the locality.

RELEVANT PLANNING POLICY

19. National Planning Guidance

National Planning Policy Framework (2021)

20. Black Country Core Strategy (2011)

- DEL1 - Infrastructure Provision

- HOU5 - Education and Health Care Facilities
- TRAN2 - Managing Transport Impacts of New Development
- ENV2 - Historic Character and Local Distinctiveness
- ENV3 - Design Quality

21. Dudley Borough Development Strategy

- S6 - Urban Design
- S8 - Local Character and Distinctiveness
- S17 – Access & Impact of Development on the Transport Network
- L1 – Housing Development, extensions, and alterations to existing dwellings
- L2 – Supported Accommodation
- D2 – Incompatible Land Uses
- D5 – Noise Pollution

22. Supplementary Planning Documents

- Parking Standards (2012)
- Dudley Council Residential Design Guide (2023)
- PGN 10: Residential care/nursing homes and community care homes

ASSESSMENT

23. The key issues for consideration in this application are as follows:

- Principle
- Visual Amenity
- Residential Amenity
- Access and Parking
- Community Cohesion and Fear of Crime

Principle

24. Providing a range of housing tenures is fundamental in creating inclusive communities and providing a choice for new and existing residents in the Borough. Policy HOU2 of the Black Country Core Strategy (2011) notes that “*Each authority will aim to provide an overall mix of house types over the plan period, tailored to best meet local and sub regional needs*”. Policy L2 of the Dudley Borough Development Strategy (2017) supports the provision of supported accommodation for people with specific needs, in considering such proposals matters such as accessibility to public transport links and local services, compatibility with adjacent uses and resulting impact on the character and adequate level of overall amenity of the surrounding area, provision for sufficient parking, manoeuvring of vehicles and impact on highway safety, provision of private amenity space or be in close proximity to an area of public open space.
25. In regard to the principle of conversion, the application property is a detached property, which is capable of being a residential house and is located in a residential area on the edge of Dudley Town Centre. Notwithstanding all other material considerations, it is considered that the conversion of this property to a residential care use for two children would not adversely impact upon character of the established residential area.

Visual Amenity

26. The proposal does not seek any extensions or alterations to the appearance of the property. As such, the change of use would have no impact on the character and appearance of the property nor upon the visual amenity of the street. Therefore, it would be in accordance with Policy ENV2 of the Black Country Core Strategy and Dudley Borough Development Strategy Policies L1, S6 and S8

Residential Amenity

27. The property would consist of a detached property in a residential area, with lounge, kitchen and dining room on the ground floor and bedrooms at first floor, matching that of a traditional family home. The characteristics of the proposed use would include two children residing at the property receiving care, staff arriving and departing on a regular basis (there would be a maximum of three staff members on site during part of the day, and two staff members on site (10pm-8am) during the night). There would be limited visits from social workers and visits with family would take place elsewhere. There would be occasional visits from maintenance personnel. It is accepted that this level of coming and going would not be dissimilar to that which would be expected from a traditional family dwelling. As such, the proposal would be considered to have no additional potential impact on the neighbours' amenities than that if the property were a family dwellinghouse.
28. West Midlands Police note that the area consists of some other vulnerable locations such as another care home and it may not be appropriate to locate a children's home at this location. This is a situation merely dictated by circumstance. This is a residential area located on the edge of Dudley Town Centre consisting of residential homes and is expected that families with children would live in such an area and property. This is not intended to be a secure facility and the children cared for are low risk. This would provide a safe home for vulnerable children and there is no need for excessive security measures. It is considered the proposal would have no additional potential impact on the neighbours' amenities over and above that of the existing premises and accordance with Policy L2 of the Dudley Borough Development Strategy in this regard.
29. The secure rear garden is enclosed by fencing and hedgerow and is fully overlooked by the application property, the area of which exceeds the 60sqm recommended by the Planning Guidance Note 10: Residential care/nursing homes and community care homes (PGN 10). Furthermore, the garden area is sited away from the driveway, parking area, road and is not overshadowed by building.

Therefore, the garden complies the foregoing criteria outlined in PGN 10 and is ideal for the proposed care home.

30. Vehicles entering and leaving the site could have the potential to adversely affect the amenities of the adjacent residents by reason of noise and disturbance. However, as indicated previously, the comings and goings associated with the proposed use would not be dissimilar to that of a busy three-bedroom, family dwelling. On that basis no concerns regarding noise issues are raised.

Access and Parking

31. As outlined within policies TRAN2 of the Black Country Core Strategy and Policy S17 of the Dudley Borough Development Strategy there is a requirement to ensure that development proposals do not result in significant transport implications. In support of these policies, the Parking Standards SPD recognises the need to provide the *“right amount of parking provision in the right place and to the right size.”* In doing so paragraph 3.2 outlines that *“Developments that suggest likely on-street parking which would create or exacerbate issues of highway safety will not be supported.”*
32. There is an established hard surfaced parking area to the front that spans the full width of the site which is sufficient to accommodate at least four cars within the curtilage and there is also an integral garage.
33. It is noted that the surrounding streets are typically heavily parked due to the edge of centre location and being near to the Dudley College Campus. Notwithstanding this, it is considered that the parking provision provided would be of an adequate capacity to accommodate the needs associated with the proposed care home. The home would provide accommodation for two (non-driving) residents; with a maximum of three members of staff on the premises at any time, it is predicted that there would be a total of nine vehicle movements between 7.00am and 10pm excluding visitors. It is therefore considered that the trip generation of staff would operate on a similar level as that of a family occupying a family dwelling. The agent has confirmed that other associated visitors to the care home would be limited. The

infrequency of these visits would not significantly increase the intensity of vehicular trips in the locality and again would be akin with the number of trips that would be associated to a family dwelling. As such, the proposal would provide sufficient off-street parking provision within its curtilage to accommodate the day-to-day activities associated with the care facility and would not contribute to an increase in off-street parking in the locality.

34. Of note is paragraph 111 of the National Planning Policy Framework which sets out that applications should only be refused on highways grounds should there be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. In this instance, the proposal would comply with the transportation policies outlined above and it is considered that there are no sustainable grounds for refusal the application on highway grounds.

35. Notwithstanding the above, it would be appropriate to condition any approval to restrict the number of residents to be accommodated at the facility to two, in order to prevent further intensification of use at the premises and to protect the amenities of the neighbouring residents.

36. In addition, there are adequate facilities at the property to provide secure cycle provision to encourage alternative modes of transport for staff. It is also recommended that an electric vehicle charging point is installed at the site and a condition to secure this is recommended.

Community Cohesion and Fear of Crime

37. The provisions in the NPPF require Local Planning Authorities to have regard, when considering development proposals, to the potential impact on community safety and fear of crime. Paragraph 92 of the document states:

'Planning policies and decisions, should aim to achieve healthy, inclusive and safe places which ... are safe and accessible, so that crime and disorder and the fear of crime, do not undermine quality of life or community cohesion.' ‘

38. While West Midlands Police have raised a concern regarding the application and the 'fear of crime' is capable of being a material planning consideration, there are a series of tests which the local authority must pass before 'fear of crime' can be properly considered as a reason for a planning refusal. In particular:

- the fear of crime must be objectively justified.
- the fear of crime must have some reasonable basis; and
- the fear of crime must relate to the use – in planning terms – of the land in question rather than assumptions “not supported by evidence as to the character of future occupiers.”

39. Residents have genuine concerns about the potential for an increase in crime. However, there is no firm evidence that such occurrences, which are a matter for the relevant authorities in specific instances, could be attributed to future occupants of the property. Crime and disorder is not an inevitable consequence of a children's care home, but rather a question of individual behaviour and appropriate management, which in this case is for Ofsted to control. In this case 'assumptions' due to another care home in the locality have been suggested, which does not meet the above tests, and in this case, there is no evidence that the use of this property to accommodate two children, within the low-risk category creates a real concern and fear of crime. In light of this, it cannot be concluded that the character of the area, quality of life or community cohesion would be undermined or that incidents of crime and antisocial behaviour would increase as a result of this small-scale care home, and it would not be a sufficient reason to refuse the application.

CONCLUSION

40. It is considered that the principle of the change of use is acceptable in this instance. The size and scale of the building would remain unchanged, and the intensity of the activity proposed would not be dissimilar to that of a family dwelling. Furthermore, the proposal would maintain the existing parking provision to the frontage. The proposal would not have an adverse impact upon the character of the area, on residential amenities, or highway safety and the quality of life/community cohesion would not be undermined as a result of this small-scale care home and it would not be and would be compliant with adopted Black County Core Strategy Policies

DEL1, HOU5, TRAN2, ENV2 and ENV3, Dudley Borough Development Strategy Policies L1, L2, D2, D5, S16, and S17, and the Parking Standards SPD.

RECOMMENDATION

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

Conditions and/or reasons:

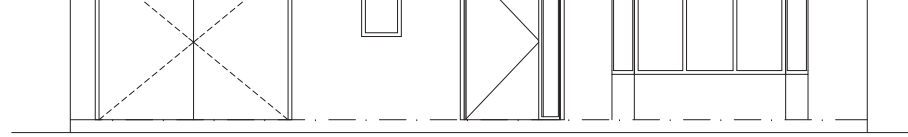
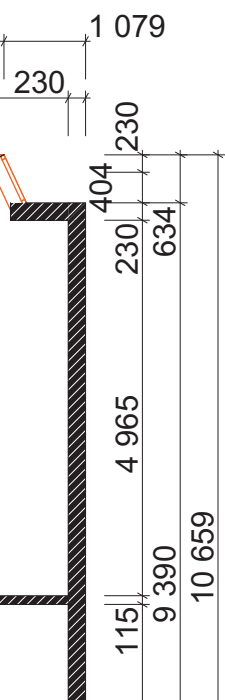
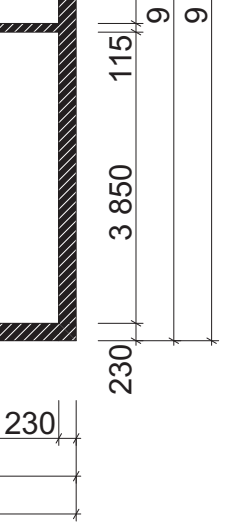
1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
REASON: To comply with Section 91(1) of the Town and Country Planning Act, 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
2. The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan, Block Plan, Existing Layout, Proposed Plans.
REASON: For the avoidance of doubt and in the interests of proper planning.
3. The premises shall be used for residential children's home and for no other purpose, including any other purpose in Class C2 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended), or in any provision equivalent to that class in any statutory instrument revoking or re-enacting that Order with or without modification.
REASON: In the interests of amenity and to comply with Borough Development Strategy 2017 Policy L1 Housing Development, extensions and alterations to existing dwellings Policy D2 Incompatible Land Uses (in part) and Policy L8 Protecting the Viability and Integrity of Industrial and Business Uses (in part) Policy D2 Incompatible Land Uses (in part).
4. Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 (as amended) and the General Permitted Development Order 2015 (as amended), no more than 2 occupiers receiving supported accommodation care shall reside at the property at any one time.
REASON: In order to secure the satisfactory development of the site, in accordance with Development Strategy Policies D2, L2, and S17
5. Prior to first occupation an electric vehicle charging point shall be provided in accordance with the Council's standard (Parking Standards SPD). The electric vehicle charging point shall be maintained for the life of the development.
REASON: In the interests of creating a sustainable form of development and to encourage the use of ultra-low emission vehicles in accordance with Policies ENV8 (Air Quality) and DEL1 (Infrastructure Provision) of the Black Country Core Strategy.
6. Before the use hereby approved begins operating, or within a suitable time frame to be agreed with the Local Planning Authority, a Management Plan setting out how the premises would be operated shall be submitted to and

approved in writing by the Local Planning Authority. The Management Plan shall be implemented in accordance with the details approved by the Local Planning Authority and remain operational for the life of the development.

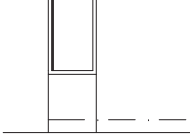
REASON: In the interests of residential amenity and to comply with Borough Development Strategy 2017 Policy S6 Urban Design, Policy L1 Housing Development, extensions and alterations to existing dwellings.



Location Plan shows area bounded by: 394183.99, 290655.86 394383.99, 290855.86 (at a scale of 1:1250), OSGridRef: SO94289075. The representation of a road, track or path is no evidence of a right of way. The representation of features as lines is no evidence of a property boundary.



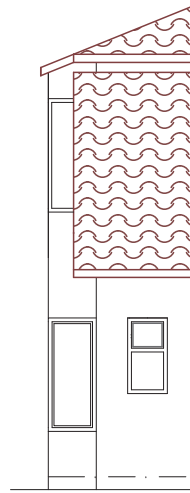
FRONT ELEVATION
1:100



SIDE ELE
1:100



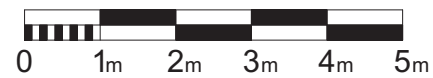
REAR ELEVATION
1:100



SIDE ELE
1:100

SCALE BAR
1:100

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Notes
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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.