

PLANNING APPLICATION NUMBER:P05/2694

Type of approval sought	Full Planning Permission
Ward	Hayley Green & Cradley South
Applicant	Heritage Oak Developments Ltd
Location:	LAND ADJACENT TO 48 AND 24A, CHERRY TREE LANE, HALESOWEN, WEST MIDLANDS
Proposal	ERECTION OF 2NO. 4 BEDROOM DWELLINGS (RESUBMISSION OF WITHDRAWN APPLICATION P05/2078)
Recommendation Summary:	APPROVE SUBJECT TO CONDITIONS

SITE AND SURROUNDINGS

1. The application site is currently a vacant area of land of approximately 577m² (0.05ha), which is has some various shrub and overgrown sapling deciduous trees within. The open space remains pressured as it is surrounded by established residential development on all boundaries.
2. The land is accessible by a driveway running from Cherry Tree Lane, part of which is designated as a private driveway, serving several dwellings. This access has dual status, in that it is also a public footpath over privately owned land.
3. At the road level, the site is fairly level with the surrounding land whilst it drops gradual moving towards the rear of the site, and steeply down (approximately 3.5m) to the point at which it adjoins a small stream.
4. Dwellings to the north of the proposed site are modern detached dwellings constructed in the late 1970's by Bryant Homes Ltd , with a traditional large detached dwelling to the west and a modern bungalow constructed in the late 1980's adjoining the southern boundary.

5. The immediate vicinity can therefore be described as quite mixed, Cherry Tree Lane contains a mix of modern detached dwellings, with more traditional dwellings interspersed throughout.

PROPOSAL

6. It is proposed to erect two detached dwellings, containing off street parking and provision of private amenity space, both measuring 9.2m deep by 7.5m wide and 8.1m high.
7. In order to facilitate a usable private amenity space, it is proposed to erect a 0.9m high retaining wall on the eastern extremity and level out the land to provide the garden area.
8. Plot 1 proposes a garden length of up to 10m, and an overall amenity area of 77.47m², whilst the second plot proposes a garden length of between 10.5m and 11.5m with an overall amenity area of 90.01m².

RECENT PLANNING HISTORY

Application no.	Proposal	Address	Decision	Decision Date
P05/2078	Erection of 2 No 4 bedroom dwellings	Land adjacent to 48 and 24A Cherry Tree Lane Halesowen	Withdrawn	12/12/2005
P03/2228	Erection of detached dwelling (renewal of outline approval P 00/51762)	Land opposite 22-24 Cherry Tree Lane Halesowen	Approved with Conditions	26/01/2004
P00/51762	ERECTION OF A DETACHED DWELLING (RENEWAL OF OUTLINE	VACANT LAND OPPOSITE NO.S 22-24 CHERRY TREE LANE	Approved with Conditions	06/12/00

	APPROVAL 97/51556).			
97/51556	ERECTION OF DETACHED DWELLING (OUTLINE).	VACANT LAND OPPOSITE 22/24 CHERRY TREE LANE HALESOWEN	Approved with Conditions	17/11/97

9. Due to concerns with the vehicular access and inadequate amenity space at the rear of the dwelling, the most recent planning application (P05/2078) was withdrawn. To address these concerns, the vehicular access has been altered to include a low level wall to the front boundary of the site and a single point of access for both dwellings. As mentioned above, it is also proposed to level out the land to the rear to accommodate a more usable private amenity space.
10. As the above displays, this application site has been the result of several outline-planning applications, which relate to the provision of one dwelling house, whilst not all listed above this extensive site history goes back to a period dating to the early 1980's for such development.

PUBLIC CONSULTATION

11. Direct neighbour consultation was carried out to all adjoining and adjacent neighbours, as a result of which several letters of objection and a petition have been submitted, objections can be summarised as follows.
- Design Bulletin 32 paragraph 2.81, states that the maximum no. of dwellings permitted on a private drive in the borough is 5, the building of these 2 dwellings will result in a total of 8.
 - Residents of the proposed dwellings may take the dangerous option of reversing onto the drive to exit property
 - Cars may not be able to exit in forward gear due to a driveway of only 7.3m
 - Families residing in such 4 bedroom properties are likely to have maybe 3 or 4 vehicles

- Area already suffers from a severe excess of parked vehicles due to it being the drop-off and collection point for pupils attending Lutley Primary School
- Driveway is a public footpath and bridleway, used extensively by parents and young children going to and from school, increase in vehicles will result in a potential for injuries to these pedestrians.
- The addition of more vehicles will increase the potential for accidents and block existing driveways
- Damage to the access road in front of existing properties who have to maintain it.
- Inadequate amenity area and length of garden for family residence.
- Insufficient distance to the side of the dwellings to allow suitable access to the rear
- Plot of land found to be contaminated with Japanese Knotweed, residents require confirmation that proper procedure has been followed to eradicate problem.
- Grid style drain would be needed to allow the surface storm water to disperse from the drive
- Foul water drainage sewer that serves the driveway is already experiencing capacity problems...Severn Trent Water would need to be requested to provide a quotation for cost of developing the sewerage system.
- Lack of space for two properties on the existing land.
- Believe that excavations for the new foundations will undermine our foundations and cause instability
- Property in front of building line will impair outlook and daylighting from front windows of property (24a Cherry Tree Lane)
- Loss of privacy and smell/noise from kitchen and utility room.
- Increased noise and pollution from vehicles.
- No of mature trees along the rear boundary of application site provides a high level of privacy.

OTHER CONSULTATION

12. **The Head of Environmental Protection:** raises no objection to the scheme.
13. **The Head of Traffic & Road Safety and Engineering:** raise no objection, subject to relevant conditions relating to the surfacing of the access road.
14. **Severn Trent Water:** has no objection, subject to the inclusion of a condition relating to drainage works.
15. **The Environment Agency** raise no objections, relevant comments are outlined in paragraph 39.

RELEVANT PLANNING POLICY

16. **National guidance**
Planning Policy Statement 1 – Delivering Sustainable Development
Planning Policy Guidance 3 – Housing
PPS3 – Housing draft
17. **Adopted UDP (2005)**
Policy DD1 – Urban Design
Policy DD4 – Development in Residential Areas
Policy DD6 – Access and Transport Infrastructure
Policy H1 – New Housing Development
Policy H3 – Housing Assessment Criteria
Policy H6 – Housing Density
18. **Supplementary Planning Guidance**
PGN3 – New Housing Development

ASSESSMENT

19. The determining issue is whether the proposed modifications to the scheme now shown are sufficient to the extent that they overcome the reservations expressed on the withdrawn application, without adversely impacting on material issues of acknowledged importance.

Scale & Appearance

20. Policy DD4 – Development in Residential Areas, seeks to ensure that residential development will be allowed where,
- *there would be no adverse effect on the character of the area or upon residential amenity*
 - *the scale, nature and intensity of the use of the proposed development would be in keeping with the surrounding area.*
21. This is further supported by national planning guidance. PPS1 (Delivering Sustainable Development) confirms that, 'Good design is indivisible from good planning' and paragraph 34 states,
- 'Planning authorities should plan positively for the achievement of high quality and inclusive design for all development, including individual buildings...design which is inappropriate in its context, or which fails to take the opportunities available for improving the character and quality of an area and the way it functions, should not be accepted'.
22. PPG3 – Housing encourages more efficient use of land (housing development in the range of 30 to 50 dwelling to the hectare net) and higher densities where there is good accessibility to local facilities and public facilities. Clearly, the LPA would still look to applicants to demonstrate how they have taken into account the need for good urban design, and that poor design should be rejected.
23. The dwellings are proposed to be built at a density of some 40dph. As mentioned above due to the relative mix of dwelling types that surround this plot, the density of development ranges from 27dph (dwellings north of plot) to 40dph (pockets of

dwellings at rear of site located in Hollybank Grove and some contained within Cherry Tree Lane).

24. It is noted that there is a mix of both the modern and traditional building forms on different sized plots. In taking cues from the surrounding dwellings, it is immediately apparent these dwellings have been designed to reflect the modern appearance of the Bryant constructed properties; as such it would be in keeping with the surrounding vernacular.
25. A continuation of the established building line with the properties to the north of the application site has been incorporated into the plot layout (ie from no 48 Cherry Tree Lane). This does however, cause a protrusion forward of no 24a Cherry Tree Lane, whilst normally this would be a matter of concern, a very similar relationship is already apparent with the dwelling immediately opposite. No 24 Cherry Tree Lane sits well forward of the building line to no. 22 Cherry Tree Lane, therefore it is not considered that the proposed dwellings would have a detrimental impact upon the character of the area.

Residential amenity

26. Referring to PGN3 sites, it states that such forms of development will only be permitted where it can be demonstrated that the privacy and visual amenities enjoyed by existing occupiers remain unaffected and that the design of the buildings are appropriate in the context of the character of the area. The term “visual amenities” relates to such matters as outlook, lack of over-shadowing, etc. Outlook can be defined as the immediate environment enjoyed by an individual property.
27. No. 24a Cherry Tree Lane is a bungalow located to the south of the proposed dwellings, and is shown to be set back 2.8m from the front of proposed dwellings. Application of the councils 45-degree code will enable an assessment to take place of the impact of the development on the residential amenities of these occupiers. The quarter point of the bedroom window from the side elevation wall of the proposed dwelling will be just over 4.5m away, and as such this ensures

comfortable compliance with the 45-degree code. It is therefore not anticipated that any significant loss of outlook or daylighting would result (especially as this property sits south of the application site).

28. The boundary fencing will screen a large extent of the kitchen door in the side elevation closest to no. 24a. Whilst sympathetic to concerns regarding overlooking, it is not considered that the relationship with the bedroom is direct, in fact the door in the position intended is level with the front of the bungalow, and therefore negates any adverse impact.
29. No 24 Cherry Tree Lane, is shown to be opposite the southern most proposed dwelling (i.e. the right hand of the pair). There is a slight shortfall between bedroom 1 and habitable rooms on part of no. 24. Whilst a normal distance of 22m is desirable, at shortest this is shown to reduce to 20.5m on plan, however, with no. 24 slightly turning away from the proposed dwelling, the distance to most of the dwelling is increased to meet this standard.

Parking and highways issues

30. The HTRS was consulted on this application, and the following observations were made on the originally submitted planning application P05/2078.
31. In order to ensure that any manoeuvring of vehicles were carried out within the curtilage of the site, it was recommended that a low level wall with single point of access be erected on the boundary adjacent the driveway. A condition has been requested suggesting that such a wall be retained for the lifetime of the development.
32. The modifications have been incorporated into this scheme, it is considered that the provision of two driveway spaces and one garage space per dwelling meet the Unitary standards, which seek a minimum provision of 2 parking spaces per dwelling. These combining factors further ameliorate any adverse impact upon highway safety.

33. The increase of an additional dwelling to this plot is not anticipated to generate significant traffic levels that would result in a danger to users of vehicles or pedestrians, and therefore no objections to this development have been made by the HTRS.
34. To clarify the position on the proposed access to the site, this drive has dual status. It is a public footpath over privately owned land, in principle there is no objection to the development. The developer has already been reminded, that access is over private land and therefore private vehicular rights will be needed. The application cannot be prohibited on this basis alone, as issues to do with private ownership of land are not valid material considerations. Suffice to say, that should vehicular rights not be obtained from the relevant owners, progress of this application may be hindered.

Amenity Space

35. The applicant has shown an area of land to one plot of just under 10m deep and a private amenity area of some 77.47m². Planning Guidance Note 3 suggests that for a 4-bed dwelling a minimum provision of 80m² be provided with a minimum length of 11m. Whilst apparent that this is slightly beneath the guidelines, Planning Policy Guidance 3 – Housing allows for flexibility to be shown in the application of standards to encourage the efficient use of land in the urban area.
36. There is also an expectation that the landscape condition will make provision of a quality area of landscaping on the site, which will be adequate to meet the needs of a family residence.
37. Both Policy H1 – New Housing Development and H3 – Housing Assessment Criteria support the intentions of national guidance; it is the Council's intention to provide housing that is accessible and meets the needs of the Borough's residents. To enable this there is a need to identify sufficient land to meet identified housing requirements and ensure all sectors of the housing market can be met.

Other issues

38. Severn Trent Water was consulted on this application, they confirm that they have no objection to the proposal subject to the inclusion of conditions relating to the submission of drainage works for the disposal of both surface water and foul sewage.
39. Environment Agency was notified, and note that the stream to the rear is an ordinary water course, and is categorised as Low Risk and falls outside the scope of formal standing advice. The erection of a retaining wall will not prohibit water flows and drainage into the watercourse will be a matter to be dealt with by the LPA, upon submission of the drainage works.
40. Under the Wildlife and Countryside Act 1981, any person who plants Japanese Knotweed or otherwise causes it to grow in the wild is guilty of an offence. Under the Environmental Protection Act 1990, Japanese Knotweed is classed as controlled waste and must be disposed of safely at a licensed landfill site according to the EPA (Duty of Care) Regulations 1991. If the presence of Japanese Knotweed is present on site, then it is the obligation of the owner to ensure the eradication of such species is carried out, the above legislation requires that such measures are taken and as such it is not the responsibility of the LPA to monitor and enforce such activity.

CONCLUSION

41. The design of the proposed dwellings would complement the variety of existing houses situated in this area. It complements the character and appearance of the existing street scene thereby complying with Policy DD4 and Policy DD1 (Urban Design) of the adopted Dudley Unitary Development Plan and Planning Guidance Note 3 – New Housing Development.
42. The proposal represents development at a density of 40 dph, which is well within the band recommended by government in PPG 3. Given the nature, layout and form of surrounding development, and relationship between the proposed dwellings and residential area, this is considered to be acceptable.

43. Whilst, there is sympathy to the objections that have been made by the local residents, the LPA considers that the provision of adequate access and parking and amenity space complies with the Council guidelines. Furthermore, with the imposition of appropriate conditions, will help improve the introduction of these dwellings into this established residential area.
44. Having taken regard for the Councils policies controlling such development and other material considerations, for the reasons set out above it is considered that the proposed development would satisfy Council policy and not cause significant detrimental impact on the amenities of the neighbours and surrounding area.

RECOMMENDATION

45. It is recommended that this application be approved subject to the following 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.
2. Development shall not begin until details of the existing and proposed levels of the site, which should be related to those of adjoining land and highways, have been submitted to and approved by the local planning authority.
3. Details of the proposed retaining wall adjacent to the banks of the watercourse alongside the eastern boundary of the site, shall be submitted to and approved by the Local Planning Authority before development is commenced and the development shall not be occupied until the retaining wall has been constructed in accordance with the approved plans.
4. The front boundary wall adjacent the access drive shall be constructed in accordance with the plans submitted prior to the first occupation of the dwellings and shall be retained for the lifetime of the development.
5. Notwithstanding the provisions of the Town and Country Planning General Development Order 1988 (or any order revoking and re-enacting that order), no development referred to in Part 1 Classes A and B of Schedule 2 to that order shall be carried out.
6. Before any dwelling hereby approved is first occupied the parking areas and accesses thereto shall be paved with a suitable hard, impervious material, and drained.

7. Development shall not begin until details of the type, texture and colour of materials to be used in external elevations have been submitted to and approved by the local planning authority. Such materials shall, unless otherwise agreed in writing by the local planning authority, closely match in type, texture and colour those of the existing building.
8. No development shall commence until details of boundary treatment across the application site have been submitted to, and approved in writing by the Local Planning Authority. The approved boundary treatment shall be installed before the first occupation of the approved dwellings.
9. No development shall take place until there has been submitted to and approved by the local planning authority a scheme of landscaping, which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of the development.
10. All planting, seeding or turfing comprised in the details of landscaping approved in accordance with condition 9 shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development whichever is the sooner; and any trees, hedgerows or plants contained in the approved planting scheme which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written consent to any variation.
11. The development hereby permitted shall not commence until drainage works for the disposal of both surface water and foul sewage have been carried out in accordance with the details to be submitted to and approved by the Local Planning Authority.
12. There shall be no new buildings, structures or raised ground levels within
 - a) 5 metres of the top of the bank of watercourses, and/or
 - b) 5 metres of any side of an existing culverted watercourse,inside or along the boundary of the site, unless agreed otherwise in writing by the Local Planning Authority.
13. For the avoidance of doubt, this permission relates to drawing numbers 999.01b and 999.02 and shall be implemented in strict accordance with these plans unless otherwise agreed in writing with the LPA.

