

PLANNING APPLICATION NUMBER:P06/0901

Type of approval sought	Full Planning Permission
Ward	Hayley Green & Cradley South
Applicant	Heritage Oak Development Ltd
Location:	LAND ADJACENT TO 48 AND 24A, CHERRY TREE LANE, HALESOWEN, WEST MIDLANDS
Proposal	ERECTION OF A FOUR BEDROOM DETACHED DWELLING WITH GARAGE
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 one 4-bedroom detached dwelling, with garage containing off street parking and provision of private amenity space. The main two storey element is shown to measure 12m deep by 7.5m deep and 7.5m high.
7. The garage will be attached to the dwelling via the utility room, and project forward of the dwelling, this is shown to measure 4.5m wide by 5.5m deep and 4.1m high.

8. 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.
9. A garden length of up to 12m with overall amenity area of 250m² is proposed.

RECENT PLANNING HISTORY

Application no.	Proposal	Address	Decision	Decision Date
P05/2694	Erection of 2 No 4 bedroom dwellings	Land adjacent to 48 and 24A Cherry Tree Lane Halesowen	Refused	06/03/2006
P05/2078	Erection of 2 No 4 bedroom dwellings	Land adjacent to 48 and 24A Cherry Tree Lane	Withdrawn	12/12/2005

		Halesowen		
P03/2228	Erection of detached dwelling (renewal of outline approval P00/51762)	Land opposite 22-24 Cherry Tree Lane Halesowen	Approved with Conditions	26/01/2004
P00/51762	ERECTION OF A DETACHED DWELLING (RENEWAL OF OUTLINE APPRO	VACANT LAND OPPOSITE NOS 22-24 CHERRY TREE LANE	Approved with Conditions	06/12/2000

	VAL 97/51556).			
97/51556	ERECTION OF DETAC HED DWELL ING (OUTLI NE).	VACANT LAND OPPOSIT E 22/24 CHERRY TREE LANE HALESO WEN	Approved with Condi tions	17/11/1997

10. The most recent planning application (P05/2694) was refused by the Development Control Committee, contrary to officer recommendation on two grounds;

- *‘The site of the application is too restricted to accommodate 2 dwellings to the satisfaction of the Council, contrary to design standards. If approved it would result in an undesirably cramped and over-developed appearance, which would adversely affect the amenities of the surrounding neighbours...’*
- *‘The vehicular access serving the site of this development is considered inadequate to accommodate the additional traffic which would be generated by the development...’*

11. 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

12. Direct neighbour consultation was carried out to all adjoining and adjacent neighbours, as a result of which two letters of objection have been submitted, objections can be summarised as follows.

- Siting property should be located towards centre of site, to reduce overpowering impact upon 24a Cherry Tree Lane
- Require confirmation of means of foul and storm water

13. A number of non-material planning issues have been raised;

- Require confirmation from developer that clear access is maintained at all times
- Cherry Tree Lane becomes congested at weekends and bank holidays, suggest delivery and work do not proceed during these times

- Japanese Knotweed is present on site, how will this be eradicated

OTHER CONSULTATION

14. The Head of Environmental Protection raises no objection to the scheme.
15. The Head of Traffic & Road Safety and Engineering raises no objection, subject to relevant conditions relating to the surfacing of the access road.
16. Severn Trent Water has no objection, subject to the inclusion of a condition relating to drainage works.
17. The Environment Agency raises no objections, relevant comments are outlined in paragraph 43.

RELEVANT PLANNING POLICY

18. 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

19. National guidance

Planning Policy Statement 1 – Delivering Sustainable Development

20. Planning Policy Guidance 3 – Housing

21. Supplementary Planning Guidance

PGN3 – New Housing Development

PGN14 – Car Parking Standards

ASSESSMENT

22. 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

23. 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.*

24. 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'.

25. 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.

26. The dwelling is proposed to be built at a density of some 20dph. 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). Whilst slightly below to the government recommendation for efficient use of land, it appropriately addresses previous refusal, which stated that 2 dwellings were too intensive for this site.

27. It is noted that there is an intermingling 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.
28. 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 cause a slight protrusion forward of no 24a Cherry Tree Lane, however, 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. Given the staggered arrangement that this dwelling sits in, it is not considered that the proposed dwelling would have a detrimental impact upon the character of the area.
29. Furthermore the proposed single garage at the front of the dwelling, is not a dominant or imposing structure with at least 5.7m maintained between the nearest point of the garage to the footpath. Quite similar detached garage positions further south

along the private drive. It is not anticipated that any adverse impact upon the streetscene would therefore occur.

Residential amenity

30. Referring to PGN3 sites, it stresses that these types 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, dayllighting and over-shadowing, etc. Outlook can be defined as the immediate environment enjoyed by an individual property.
31. No. 24a Cherry Tree Lane is a bungalow located to the south of the proposed dwellings, and is shown to be set back 2.3m from the front of proposed dwelling.
32. Application of the Council’s 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 is shown to be over 3m away, and as such this ensures comfortable compliance with the 45-degree code. It is therefore not considered necessary to move this dwelling any further north into the site as it is not anticipated that any

significant loss of outlook or daylighting would result (especially as this property sits south of the application site..

33. No 24 Cherry Tree Lane, is directly opposite. In line with PGN 17, a minimum distance of 22m is achieved between habitable rooms window of the no. 24 and the proposed dwelling, this is considered acceptable to avoid any adverse impact upon privacy or outlook.

Parking and highways issues

34. The HTRS was consulted on this application, and the following observations were made on the originally submitted planning application P05/2596.
35. 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.
36. 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 minimum UDP standards, which seek a minimum provision of 2 parking spaces per dwelling. These combining factors further ameliorate any adverse impact upon highway safety.

37. The increase of one 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.
38. 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.
39. Though the neighbour is concerned about potential obstruction caused by delivery vehicles during the construction of the proposed dwelling, this is not a matter that can be enforced by the LPA, given the private status of the access road; it would be a civil matter between residents concerned.

Amenity Space

40. Planning Guidance Note 3 suggests that for a 4-bed dwelling a minimum provision of 80m² be provided with a minimum length of 11m.

41. 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 be meets the needs of a family residence.

Other issues

42. Severn Trent Water was consulted on previous applications on this site, confirming 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.

43. Environment Agency was also 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.

44. 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

45. The proposal represents development at a density of 20 dph. Given the nature, layout and form of surrounding development, and relationship between the proposed dwellings and residential area, this is considered to be acceptable. The design of the proposed dwelling 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.
46. 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 this dwelling into this established residential area.
47. 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 has been satisfactorily amended satisfying Council policy and not cause significant detrimental impact on the amenities of the neighbours and surrounding area.

RECOMMENDATION

48. It is recommended that this application be approved subject to the following conditions;

49. REASON FOR APPROVAL

The proposed development is considered to comply with, Policy DD1 – Urban Design, Policy DD4 – Development in Residential Areas, Policy H1 – New Housing Development and Policy H3 – Housing Assessment Criteria of the Adopted Unitary Development Plan (2005)

Conditions and/or reasons:

1. 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.

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 ***** 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 LPA in writing.
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 999.10c and 999.11b and shall be implemented in strict accordance with these plans unless otherwise agreed in writing with the LPA.