

Committee Report – P/2024/00632 – Item 5.1

This report has been checked on behalf of Legal Services by Penelope James

Application Number	P/2024/00632	
Planning Officer	Paige Stanley	
Site Address	1 Hollyhock Way, Branston, Staffordshire, DE14 3FE	
Proposal	Change of use of land to the rear of 1 Hollyhock Way to residential garden, erection of a 2 metre high boundary wall and retention of a 2 metre high fence and gate	
RECOMMENDATION	Approve with conditions	
Reason for being on Agenda	The applicant is related to an employee of the Council	
Expiry Dates	Weekly List	05/08/2024
	Neighbours	18/11/2024 (re-consultation)
	Consultations	18/11/2024 (re-consultation)
	Site Notice	22/11/2024 (re-consultation)
	Newspaper Advert	N/A
Application Expiry Date	05/09/2024	
Application not Determined within Statutory Time Period - Reason	Extension of Time agreed until 29 th November 2024 for amended scheme to be received, a re-consultation and for the application to be report to November Planning Committee.	
Environmental Assessment	EIA development	No
Biodiversity Net Gain	Is BNG applicable?	No If No: under what exemption? Development as amended is below the threshold
Relevant Planning Policies/Guidance	Government Documents	The National Planning Policy Framework The National Planning Practice Guidance
	Local Plan Policies	Principle 1 – Presumption in Favour of Sustainable Development SP1 – East Staffordshire Approach to Sustainable Development NP1 – Role of Neighbourhood Plans SP24 – High Quality Design SP25 – Historic Environment SP27 – Climate Change, Water Body Management and Flooding

		<p>SP35 – Accessibility and Sustainable Transport DP1 – Design of New Development DP3 – Design of New Residential Development, Extensions and Curtilage Buildings DP5 – Protecting the Historic Environment: All Heritage Assets, Listed Buildings, Conservation Areas and Archaeology DP7 – Pollution and Contamination</p>
	<p>Neighbourhood Plan Policies</p>	<p>Branston Neighbourhood Plan Policies</p>
	<p>Supplementary Planning Documents (SPD)</p>	<p>East Staffordshire Design Guide Separation Distances and Amenity SPD</p>
	<p>Other Policies/Guidance</p>	<p>N/A</p>
<p>Relevant History</p>	<p>Dwelling approved under:</p> <p>OU/20679/001/PO - Land To South Of Main Street Branston – Outline for Residential plus B1, B2, B8 & C1 uses & construction of new vehicular access & alts. to existing access – Approve with Conditions - 08/03/1993</p> <p>RM/20679/005/PO - Land To South Of Main Street Branston – Reserved Matters application for the erection of fifty dwellings – Approve with Conditions - 05/12/1996</p> <p>RM/20679/008/PO - Land south of Main Street Branston - Submission of alternative reserved matters in respect of the siting, design and external appearance of fifty dwellings with garages, associated roads and footpaths and open space to that approved under RM/20679/005 dated 5th December 1996 on land to the south of Main Street, Branston – Approve with Conditions - 10/06/1998</p> <p>Approved Application at the application site:</p> <p>P/2024/00633 – 1 Hollyhock Way, Branston, Staffordshire, DE14 3FE – Erection of a single storey side and rear extension and erection of a 2 metre high boundary wall – Conditional Approval, Committee – 30/10/2024</p>	
<p>Site and Proposals</p>	<p><u>Site Description</u></p> <p>This application relates to a small area of former green space situated directly to the North (rear) of No.1 Hollyhock Way and adjacent to Acacia Lane, which formed part of the overall residential development known as Branston Leas. The site sits within the Parish of Branston. The land has been acquired from the developer of the residential estate and incorporated into the residential garden of No.1 Hollyhock Way and is enclosed by an approx. 2 metre high fence/gate to the North and West boundaries.</p> <p>The area surrounding the site is predominately residential in character, with a row of retail units to the rear (North) of the site, which forms the local centre for the new development. The land to the East of the application site is owned by East Staffordshire Borough Council and is an area of Public Open Space with a row of trees. The area of open space extends to the east to the rear of the houses and continues south along the railway line boundary (see plan below).</p> <p>The area of land previously benefited from tree planting, however the trees have been removed from the parcel of land subject to this application, however these trees were not protected by a Tree Preservation Order or situated within a Conservation Area and therefore consent was not required for their removal.</p> <p>The application site is within an area of known archaeological interest.</p> <p>The site is within settlement boundaries as defined in the adopted Local Plan.</p> <p>The application site sits within Flood Zone 2.</p>	



Proposals

This application for full planning permission seeks consent for the change of use of land to the rear of 1 Hollyhock Way to residential garden, erection of a 2 metre high boundary wall and retention of a 2 metre high fence and gate.

It is noted that the land has already been fence off to be incorporated into the residential garden of No.1 Hollyhock Way.

Proposed Site Layout:



The application proposes the erection of a 2 metre high boundary wall to the Western elevation to replace the existing timber boarded fence along the back of pavement in Acacia Lane and to continue on from the boundary wall that was granted consent under planning permission P/2024/00633. It is proposed to retain the existing 2 metre fence and gate to the Northern elevation.

The application originally sought consent to include the erection of a detached outbuilding on the land, however negotiations have taken place during the course of the application and the detached outbuilding has been omitted from the planning application.

<p>Consultation Responses</p>	<p><u>Original Consultation Responses:</u></p> <p><u>SCC Archaeology</u> – Given the nature and scale of the proposal, no archaeological issues are raised with the proposals.</p> <p><u>Environmental Health</u> – Recommend a precautionary condition for contaminated land to be added to the decision notice, however otherwise no further comments.</p>
<p>Branston Parish Council</p>	<p><u>Originally commented that:</u></p> <ul style="list-style-type: none"> • The impact on visibility for drivers, particularly in relation to the nearby corners. • The impact of neighbouring property’s right to light • The application setting a precedent for other similar developments in the area • The applications compliance with 4.9 SPD reference (which refers to amenity space) <p>Following amendments to the original scheme and amendments to the development description a full re-consultation has been undertaken. This is due to expire on the 22nd November 2024 and any comments received will be reported in the Late Paper at Committee.</p>
<p>Neighbour Responses</p>	<p><u>Original Neighbour Responses:</u></p> <p>Four representations were received objecting to the application, for the reasons summarised below:-</p> <ul style="list-style-type: none"> • By taking down a fence and replacing it with a two storey building is not in keeping with the rest of the estate • No need for a two storey building with a pitched roof, the house is already a large family home and that changes will negatively impact those living on Acacia Lane. • Proposed building is too high and will block light from our property. • Natural landscaping has already been removed to fence off the area so this will further impact Who owns the piece of land the proposed outbuilding will be sited on as it appears to be beyond the garden boundary. Informed that it was only to be used as additional parking. • Concerns that the proposed building may be used in the future as a residential building and sublet due to the installation of a toilet etc when there is already a ground floor toilet in the main house. Two ground floor toilets and two upstairs toilets if planning application P/2024/00633 gets approved, resulting in a total of 5 toilets at the property. • Confusion over applications • Noise nuisance from gaming or other activities • Concerns of traffic flow if parking on Acacia Lane and ability to get off drive ways safely. Road is busy enough as it is without more cars coming and going into this new building. • Will invade privacy. • Brick building straight onto the footpath, is not in keeping with the estate • Pitch of roof is too high and will be overpowering • Parking issues at the property. • Concerns that the property may be let as a HMO and that the size of the property is already a large family home. • Loss of privacy to front windows

- Building too close to outlook of neighbouring properties
- Noise and movement disturbance from gates being installed directly onto the pavement.
- Proposed building too high and will block out light and views of trees
- Proposed second floor window will invade privacy

Concerns were also raised in relation to decreasing the value of other properties, however this is not a material planning consideration and therefore cannot be taken into account when determining a planning application.

Following amendments to the original scheme and amendments to the development description a full re-consultation has been undertaken. This is due to expire on the 22nd November 2024 and any comments received will be reported in the Late Paper at Committee.

Planning Officer's Assessment

ASSESSMENT

The main considerations are the principle of development, the impact on visual amenities and heritage assets, the impact on residential amenities and the highway safety implications. Having regard to these considerations the local and national policies listed on page 1 of this report are relevant.

Principle of the Development

The application site is located within settlement boundaries as defined in the adopted Local Plan, is within an existing residential area and is an area of former green space which formed part of the residential development and therefore the proposal is considered acceptable. The site did not form part of the Council's public open space, which is set to the east of the site, but formed part of the greenspace within the housing estate.

Impact on Visual Amenities

The proposed change of use will not adversely affect the character and appearance of this locality as the scale of the additional piece of land to be used as residential garden (approx. 39.9 sqm) is commensurate with the size of the dwelling and well located in terms of being situated immediately to the rear of the dwelling.

A condition to restrict permitted development rights on this piece of land is recommended in order to reduce the amount of domestic paraphernalia in this location.

The application includes the erection of a 2 metre high boundary wall to replace the existing 2 metre fencing. A boundary wall to replace the existing fencing on the Western elevation of the existing garden was approved under planning application P/2024/00633 and it is noted that other properties within the locality, including the property adjacent to the application site (No. 2 Hollyhock Way) have an existing boundary wall as the boundary treatment and therefore it is considered to relate well to its surrounding as this is an existing feature within the street scene and locality.

It is proposed to retain the existing 2 metre high gate to the North of the site. There is an existing gate to the piece of public open space to the east of the site and therefore it is considered that the gate relates well to its surrounding as an existing feature within the street scene and locality, however a condition restricting vehicular access and parking on the piece of land is recommended to ensure that the area is used as residential garden and for no other purpose.

Whilst the proposals result in the loss of a small area of green space, a small grassed area remains, the public open space and trees within it remain unaffected and the estate as a whole provides significant areas of greenspace and open space, the loss of this small area is therefore not considered to significantly impact on the visual amenity of the area.

It is considered that the proposals as amended would have no adverse impact on the character and appearance of the area.

Impact on Heritage Assets

The site is in an area of known archaeological interest, however whilst there is some historic environment interest in the area (the projected line of the Roman road and Ryknield Street runs through or close by the application site) given the scale of the proposal and the

	<p>development history at the site, SCC Archaeology have not raised any archaeological concerns with the proposals The proposal will therefore have no impact on the significance of this heritage asset.</p> <p>Impact on Residential Amenities The proposal as amended will not significantly adversely affect the amenities of occupiers of neighbouring properties, given that the use of the land as residential garden would not result in any additional noise or disturbance over and above the existing situation.</p> <p>The 2 metre boundary wall is to replace the existing 2 metre high fencing and is therefore considerable acceptable and will not significantly adversely affect the amenities of occupiers of neighbouring properties by way of loss of light or by being overbearing as it replaces the existing fence and the separation distance from the proposed boundary wall and the frontages of properties on Acacia Lane is approx. 16 metres.</p> <p>Highways Safety Implications Despite the proposed retention of the existing access gate to the North of the site, the proposal does not propose to alter the existing access or parking arrangements at the property, however a condition to prevent vehicular access to the site from Acacia Lane is recommended to ensure the development will not have any adverse impact on highway safety.</p> <p>Flood Risk Implications Whilst the application site is located in Flood Zone 2, given the nature of the application only relating to the expansion of garden land with no additional structures to be built on the site (except for the boundary wall and fencing/gate), the proposal as amended is not considered to result in any adverse impact in terms of flooding and would not increase the probability of flood risk to other properties within the area.</p> <p>Contamination The application site is in an area of known contaminated land. Environmental Health has commented that whilst the wider development has previously been investigated/remediated for contaminated land, it is recommended that a precautionary condition for contaminated land is added to the decision notice in case of any unforeseen isolated pockets of contaminated land are found during the development.</p> <p>Ecology/Biodiversity (including Trees) In respect of trees it is noted that some trees have been removed from the parcel of land prior to the submission of the application, however these were not protected by a Tree Preservation Order or within a Conservation Area and therefore did not require consent for removal, however an informative will be added to the decision notice to advise the applicant that it is recommended that replacement trees are planted. The trees situated on the Public Open Space adjoining the site (to the East) are to remain unaffected.</p> <p>Other Matters The application site sits within an Amber Impact Zone for Great Crested Newts and it is therefore considered appropriate to include the standard informative within the decision notice to remind the applicant of their responsibilities in relation to Great Crested Newts.</p>
Conclusion	<p>There are no other material considerations relevant to this proposal and therefore it is considered to satisfactorily comply with Local Plan Policies Principle 1, SP1, NP1, SP24, SP25, SP27, SP35, DP1, DP3, DP5 and DP7, Branston Neighbourhood Plan Policies, the East Staffordshire Design Guide and the National Planning Policy Framework.</p>
Section 106 required?	<p>No</p>
Recommended Condition(s)	<p>1. Time Limit - 3Yr Standard The development hereby permitted shall be begun before the expiration of three years from the date of this permission.</p> <p>Reason: To conform 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.</p> <p>2. Approved Plans</p>

The development hereby permitted shall be carried out in accordance with the following approved plans subject to compliance with other conditions of this permission:

Drawing No's:

Drawing No. 50779-2024-NH-11A – 1:1250 Location Plan – dated as received 14/11/2024
Drawing No. 50779-2024-NH-13E – 1:250 Existing and Proposed Site Layout and 1:200 Existing and Proposed West Elevations – dated as received 22/10/2024

Reason: For the avoidance of doubt to ensure the development will not adversely affect the appearance of the locality, the amenities of neighbouring properties, or the safe and efficient use of the adjoining highway(s) in accordance with East Staffordshire Local Plan Policies SP24, SP35, DP1 and DP3, Branston Neighbourhood Plan Policies, the East Staffordshire Design Guide, Separation Distances and Amenity Supplementary Planning Document, Parking Standards Supplementary Planning Document and the National Planning Policy Framework.

3. Matching Materials

All external materials used for the boundary wall shall match those of the existing building including colour, size, coursing and texture unless otherwise first agreed in writing with the Local Planning Authority.

Reason: To safeguard the character and appearance of the building(s) and its surroundings in accordance with East Staffordshire Local Plan Policies SP1, SP24, DP1 and DP3 (delete as necessary), the East Staffordshire Design Guide and the National Planning Policy Framework.

4. PD Rights Outbuildings

Notwithstanding the provisions of Class E of Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any Order revoking and re-enacting that order, no buildings or structures shall be erected within the land the subject of this permission unless planning permission has first been granted by the Local Planning Authority.

Reason: To safeguard the character and appearance of the area in accordance with East Staffordshire Local Plan Policies SP24 and DP3, the East Staffordshire Design Guide and the National Planning Policy Framework.

5. Vehicular Access

No vehicular access shall be constructed from Acacia Lane and no vehicles shall be stored on the site unless planning permission has first been granted from the Local Planning Authority

Reason: To safeguard the character and appearance of the area in accordance with East Staffordshire Local Plan Policies SP24 and DP3, the East Staffordshire Design Guide and the National Planning Policy Framework.

6. Contaminated Land Condition (Reporting of unexpected contamination)

In the event that contamination is found at any time when carrying out the approved development it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken by a competent person in accordance with 'Land Contamination Risk Assessment ('LCRM') which was published in 2020'. Where remediation is necessary a remediation scheme must be prepared to bring the site to a condition suitable for the intended use by removing unacceptable risk to human health, buildings and other property and the natural and historic environment, which is subject to the approval in writing of the Local Planning Authority. The scheme must ensure that the site will not qualify as Contaminated Land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

Following completion of measures identifies in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority prior to bringing the development into first use.

Reason: In order to safeguard human health and the water environmental and identify potential contamination on-site and the potential for off-site migration in accordance with East Staffordshire Local Plan and the National Planning Policy.

<p>Recommended informative(s)</p>	<p>1. Engagement (Proactive) During the course of consideration of this proposal the Local Planning Authority has negotiated with the applicant to ensure the development complies with relevant development plan policies and material planning considerations including the National Planning Policy Framework. It is therefore considered that the Local Planning Authority has worked proactively with the applicant to secure a development that improves the economic, social and environmental conditions of the area in accordance with the requirements of paragraph 38 of the National Planning Policy Framework.</p> <p>2. Land Contamination You are advised that in relation to land contamination mitigation that the responsibility for securing a safe development rests with the developer and/or landowner.</p> <p>3. Trees The applicant is advised that it is recommended that replacement trees are planted of a similar species and of at least a light standard (6-8cm) within the site in the next planting season</p> <p>4. Great Crested Newts The applicant is reminded that, under the Conservation of Habitats and Species Regulations 2017 (as amended) and the Wildlife and Countryside Act 1981 (as amended), it is an offence to (amongst other things): to deliberately capture, disturb, injure or kill great crested newts; damage or destroy a breeding or resting place; intentionally or recklessly obstruct access to a resting or sheltering place. Planning permission for a development does not provide a defence against prosecution under this legislation. Should great crested newts be found at any stage of the development works, then all works should cease and a professional and/or a suitably qualified and experience ecologist (or Natural England) should be contacted for advice on any special precautions before continuing, including the need for a license.</p>
<p>Biodiversity Net Gain Wording for Decision Notice:</p>	<p>Biodiversity Net Gain</p> <p>Unless an exception or a transitional arrangement applies, the effect of paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 is that planning permission granted for the development of land in England is deemed to have been granted subject to the condition “(the biodiversity gain condition”) that development may not begin unless:</p> <p>(a) a Biodiversity Gain Plan has been submitted to the planning authority, and</p> <p>(b) the planning authority has approved the plan.</p> <p>The planning authority, for the purposes of determining whether to approve a Biodiversity Gain Plan in respect of this permission would be East Staffordshire Borough Council.</p> <p>This development has been considered as an exempt development in accordance with the submissions and the requirements set out in the following link: Biodiversity net gain: exempt developments - GOV.UK (www.gov.uk)</p>
<p>Officer Details</p>	<p>Paige Stanley</p> <p>Tel 01283 508644</p> <p>Paige.stanley@eaststaffsbc.gov.uk</p>
<p>Human Rights Act Consideration</p>	<p>There may be implications under Article 8 and Article 1 of the First Protocol regarding the right of respect for a person’s private and family life and home, and to the peaceful enjoyment of possessions. However, these issues have been taken into account in the determination of this application.</p>
<p>Crime and Disorder Implications</p>	<p>It is considered that the proposal does not raise any crime and disorder implications.</p>
<p>Equalities Act 2010</p>	<p>Due regard, where relevant, has been given to the East Staffordshire Borough Council’s equality duty as contained within the Equalities Act 2010.</p>