

<b>Agenda Item:</b>	5.1
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<b>Site:</b>	Land adjacent 10 Tower Road, Burton Upon Trent, Staffordshire, DE15 0NL
<b>Proposal:</b>	Erection of a detached dwelling (amended plans received)

### Report of Head of Service (Section 151 Officer)

This report has been checked on behalf of Legal Services by John Kirkham

### [Hyperlink to Application Details](#)

<b>Application Number:</b>	P/2016/01254	
<b>Planning Officer:</b>	Charlotte El Hakiem	
<b>Type of Application:</b>	Detailed Planning Application	
<b>Applicant:</b>	Mr Dominic Dillon	
<b>Ward:</b>	Winshill	
<b>Ward Member (s):</b>	Councillor D C Leese Councillor D Fletcher Councillor R A Faulkner	
<b>Date Registered:</b>	23 September 2016	
<b>Date Expires:</b>	18 November 2016	

This application has been called in by Councillor Faulkner for the following reasons:

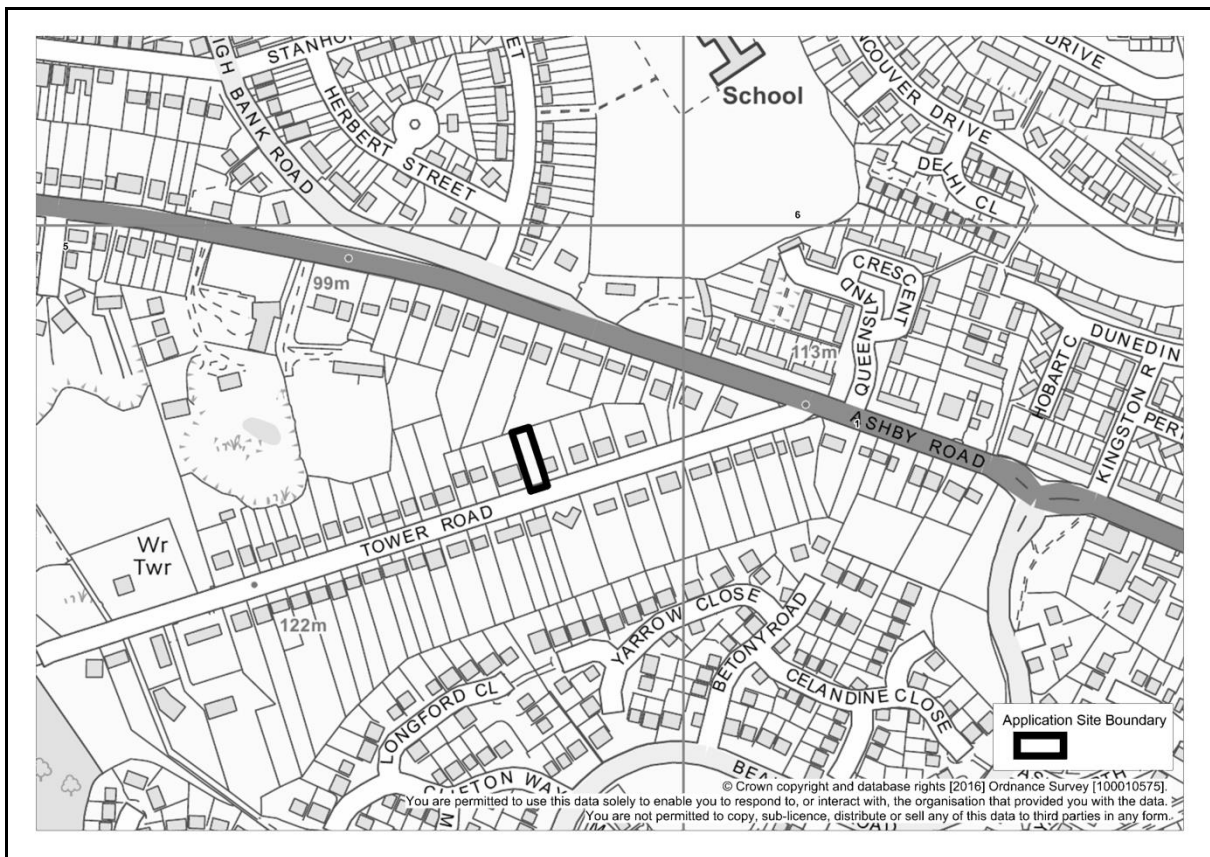
Following a meeting between a resident affected by the application and officers of the Council, I believe the application needs to be seen and debated by the Planning Committee prior to a decision being made.

The reasons for call in are drainage/sewer issues and overbearing with planned building being in close proximity to existing buildings.

## 1. Executive Summary

- 1.1 Planning permission is sought for the erection of a one and a half storey detached dwelling and associated parking.
- 1.2 The application site forms the side garden of No.10 Tower Road.
- 1.3 Statutory consultees have raised no objections. It is considered that the development is of sufficiently high quality design within its local context and complies with the supplementary Design Guide.
- 1.4 6 objections have been received from local residents, comments have been received from Winhill Parish Council and the application has been called in by Councillor Faulkner.
- 1.5 The proposal will not have an unacceptably adverse impact on the existing highway or sewerage networks or on the residential amenity of neighbouring properties

### Map of site



## 2. The site description

- 2.1 The application site is on the north side of Tower Road, the side garden of No. 10 Tower Road. The road is typically a linear row of properties of varying architectural styles and periods. The road is unadopted. The site measures a maximum of approximately 484sqm and has a total site area of 0.0484 hectares.

- 2.2 The majority of the site is lawned with a flat topography and is currently utilised as garden for no.10 Tower Road.
- 2.3 Beyond the site, approximately 50m in the north direction is a dwelling accessed via Ashby Road. The site is separated by a dense and mature tree line.
- 2.4 No.10 itself is a 2 storey property constructed in the mid 1900's, which has a larger plot compared with the spatial pattern of the area.

### 3. Planning history

- 3.1 No relevant history

### 4. The proposal

- 4.1 Planning permission is sought for the erection of a 4 bedroom one and half storey detached dwelling with associated parking for 3 vehicles. The proposed dwelling is one and half storey with a dormer window and two storey element matching the vernacular of no.10 Tower Road.
- 4.2 The property is proposed to follow the same building line as the adjacent property and has a projecting single storey rear element. .
- 4.3 The site, the current side garden of No.10 has small shrubs but no notable trees will need to be removed as part of the proposal.

#### List of supporting documentation

- 4.4 The following documents have been provided as part of the application:

**Documents associated with Planning Application, Reference ID: P/2016/01254**

[P-2016\\_01254\\_Location Plan.pdf](#)

[P\\_2016\\_01254\\_Application Form.pdf](#)

[P\\_2016\\_01254\\_Elevations and floor plans.pdf](#)

[P\\_2016\\_01254\\_REVISED\\_Street Scene\\_RECEIVED\\_23.11.2016.pdf](#)

[P\\_2016\\_01254\\_REVISED\\_Tower Road\\_RECEIVED\\_2.11.2016.PDF](#)

[P\\_2016\\_01254\\_Supporting Statement.pdf](#)

- 4.5 The relevant findings are dealt with in section 8 onwards below.

### 5. Consultation responses and representations

- 5.1 A summary of the consultation responses is set out below:

Statutory and non statutory consultee		Response
5.2	Parish Council	I would ask you to take full account of the concerns raised by the neighbour when considering the proposed dwelling

		and arrange a site visit if necessary. Also with regards to this and all other applications can you please note that a lack of an objection from the Parish Council should not be interpreted in any way as its support for the application.
5.3	SCC Highways	No objection subject to conditions
5.4	Severn Trent Water	No objection subject to conditions

Internal Consultees		Response
5.5	Environmental Health	No Objections subject to a condition relating to ground gas mitigation.

## 6. Neighbour responses

### 6.1 6 letters were received

Neighbour responses	
Principle	<ul style="list-style-type: none"> <li>There will be cumulative impact on the area with all these new developments.</li> </ul>
Impacts on Amenity	<ul style="list-style-type: none"> <li>My elderly mother suffers severely with MS and this would cast shade on our property and the patio area we were planning to build outside the kitchen window. It would block light and privacy from the kitchen window. My mum would feel more isolated in her own home.</li> <li>We believe the proposed development is out of character and its out of scale and is overbearing.</li> <li>Loss of view, loss of privacy, overlooking and overshadowing.</li> </ul>
Highways Impacts	<ul style="list-style-type: none"> <li>The access part of the application form says that no new vehicle access will be created but clearly a driveway is being created.</li> <li>The site has insufficient parking.</li> <li>The construction traffic will make the traffic even worse on the road. Have an impact on the general wear and tear of the road.</li> <li>Loss of garage insufficient parking.</li> <li>There should be improvements to the A511 junction.</li> <li>Adoption of Tower Road.</li> <li>Improvements to the pedestrian footways.</li> </ul>
Flood and drainage impacts	<ul style="list-style-type: none"> <li>Wholeheartedly object as the drains in the road will not be able to manage with such a huge property being added to the drainage system.</li> <li>Before the application is determined a camera survey should be done of the whole drainage system, to guarantee that this application will not result in any</li> </ul>

	<p>further expense to our family.</p> <ul style="list-style-type: none"> <li>• We do not want any more houses on Tower Road as it will put more strain on the drains.</li> <li>• Why something should be agreed that will benefit one resident and penalize others.</li> <li>• The inadequate drains will increase flood risk.</li> </ul>
Character and appearance	<ul style="list-style-type: none"> <li>• Tower Road is unique road and should be protected from these vulgar properties being built on it. Tower road is unique and traditional build. It will lose its uniqueness. The council needs to protect this.</li> <li>• Need to look at the frontage of the property.</li> <li>• Ground floor too big in relation to likely inhabitants.</li> </ul>
Miscellaneous	<ul style="list-style-type: none"> <li>• My family suffers from ill health and my elderly grandparents would have to move to regain privacy she deserves. I need the council to stop this so I can regain confidence.</li> <li>• What number would the new house have, will be forced to share our new number.</li> <li>• The council have always been very supportive to residents in the area. Now I am questioning if ESBC even care and just want to create more money coming into the council.</li> <li>• We were not consulted on the pre application advice, this the first we have heard, this is uncaring and inconsiderate.</li> <li>• Little consideration has been used when completing the application form, the information is inaccurate.</li> <li>• The application form includes such minimal information and is misleading. The applicant answers no to everything and therefore I have no confidence.</li> <li>• Covenant to maintain our front gardens.</li> <li>• it is incumbent on residents for the general upkeep of the road. Is it possible to put safeguards in place.</li> </ul>
Ward Member	<p>Following a meeting between a resident affected by the application and officers of the Council, I believe the application needs to be seen and debated by the Planning Committee prior to a decision being made.</p> <p>The reasons for call in are drainage/sewer issues and overbearing with planned building being in close proximity to existing buildings.</p>

## 7. Policy Framework

### National Policy

- National Planning Policy Framework
- National Planning Policy Guidance

### Local Plan

- SP1: East Staffordshire Approach to Sustainable Development
- SP2 Settlement Hierarchy
- SP4 Distribution of Housing Growth 2012-2031
- SP16 Meeting Housing Needs
- SP24 High Quality Design
- SP25 Historic Environment
- SP26 National Forest
- SP27 Climate Change, Water Body Management and Flooding
- SP29 Biodiversity and Geodiversity
- SP34 Health and Wellbeing
- DP1 Design of New Development
- DP2 Designing in Sustainable Construction
- DP3 Design of New Residential Development, Extensions and Curtilage Buildings
- DP5 Protecting the Historic Environment: All Heritage Assets, Listed Buildings, Conservation Areas and archaeology
- DP6 Protecting the Historic Environment: Other Heritage Assets
- DP7 Pollution and Contamination
- DP8 Tree Protection

### Emerging Winhill Neighbourhood Plan

- Policy 8: Support for Creative and Innovative Infill Development
- Policy 9: Support for Good Design
- Policy 12: Parking

## 8. Principle of Development

8.1 The NPPF states that at the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking. Paragraph 14 of the NPPF states that for decision-taking this means:

- approving development proposals that accord with the development plan without delay; and
- where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:
- any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or
- specific policies in this Framework indicate development should be restricted.

8.2 Paragraph 251 of the NPPF states that 'due weight should be given to relevant policies in existing plans according to their degree of consistency with the NPPF. The closer the policies in the plan to the framework, the greater the weight that may be given'.

## 9. 5 Year land Supply

9.1 The most recent calculation uses figures as at 31st March 2016 and concludes there is 5.72 years of supply. Therefore the policies in the plan can be considered up to date.

## 10. Local Plan

10.1 The Council has adopted a positive approach in seeking to meet objectively assessed development needs of the Borough. The policies in the plan provide a clear framework to guide sustainable growth and the management of change, thereby following the Government's presumption in favour of sustainable development.

10.2 Strategic Policy 1 sets out the East Staffordshire Approach to Sustainable Development. Principles listed in the policy include social, environmental and economic considerations to be taken into account in all decision making where relevant. The principles are:

- located on, or with good links to, the strategic highway network, and should not result in vehicles harming residential amenity, causing highway safety issues or harming the character of open countryside;
- it is convenient and safe to walk, cycle and travel by public transport between (and for larger sites, around) the site and existing homes, workplaces, shops, education, health, recreation, leisure, and community facilities and between any new on-site provision;
- retains, enhances, expands and connects existing green infrastructure assets into networks within the site and within the wider landscape;
- re-uses existing buildings where this is practicable and desirable in terms of the contribution the buildings make to their setting
- integrated with the character of the landscape and townscape, provides for archaeological investigation where this is appropriate and conserves and enhances buildings of heritage importance, setting and historic landscape character;
- designed to protect the amenity of the occupiers of residential properties nearby, and any future occupiers of the development through good design and landscaping;
- high quality design which incorporates energy efficient considerations and renewable energy technologies;
- developed without incurring unacceptable flood risk or drainage problems and uses Sustainable Drainage Systems (SUDS) where appropriate;
- does not harm biodiversity, but rather enhances it wherever possible, including increasing tree-cover, especially as part of the National Forest;
- creates well designed and located publicly accessible open space;
- would demonstrably help to support the viability of local facilities, businesses and the local community or where new development attracts new businesses and facilities to an area this does not harm the viability of existing local facilities or businesses;

- would contribute towards the creation of sustainable communities through the provision of a mix of housing types and tenures;
- uses locally sourced, sustainable or recycled construction materials (including wood products from the National Forest where this is appropriate), sustainable waste management practices and minimises construction waste;
- safeguards the long term capability of best and most versatile agricultural land (Grade 1, 2 and 3a in the Agricultural Land Classification) as a resource for the future; and
- would result in the removal of contamination and other environmental problems associated with the site.

10.3 As will be discussed below, it is considered that the development suitably satisfies SP1.

10.4 The Local Plan sets out in Strategic Policies 2 and 4 a development strategy directing growth to the most sustainable places. Burton Upon Trent and Uttoxeter are identified as the main settlements to take housing development mostly in the form of sustainable urban extensions with some limited growth in the rural area, principally within settlement boundaries. The following elements guide the development strategy:

- Focus the majority of development at Burton upon Trent
- Allocate a significant level of development at Uttoxeter
- Identify and support those villages that have a range of essential services and good transport links, including public transport links, to larger towns and their employment areas; and
- Control new development in all other villages and hamlets.

10.5 The site is not within reasonable walking distance of services and facilities contrary to that encouraged by Local Plan Policy SP1, and the nearest bus stop of Ashby Road is at some distance from 10 Tower Road such that car usage is likely. However, the application site is within the development boundary of Burton upon Trent such that there is a policy presumption in favour of the principle of residential development here, as per Local Plan Policies SP2 and SP4. It is also noted that the site is well located to the strategic highway network and is considered acceptable in terms of highway safety by the Highway Authority (i.e. in terms of the Ashby Road junction).

10.6 As will be discussed in more detail below, in terms of sustainable development and other aspects of Local Plan Policy SP1 it is considered that the development would not have an adverse impact of the physical environment or the amenity of neighbours. It would integrate well with the area's existing character including its grain and the style and size of nearby dwellings and demonstrates good design and high quality materials. Furthermore, issues relating to drainage, contamination, energy efficiency/sustainable construction, new landscaping/tree planting, biodiversity and residents privacy can all be suitably resolved by conditions.

10.7 In terms of the public economic aspect of sustainable development (as detailed in the NPPF) the development is considered to be neutral, bringing only benefits for a very short duration during the construction phase.



- 10.8 Policy 8 of the emerging Winshill Neighbourhood Plan, which is out for further public consultation and so in its current form has limited weight, supports creative and innovative infill development. Proposals that provide additional housing capacity and fit with the overall character of the area, would be of appropriate scale in terms of plot size, layout and density and would not significantly impact on the amenity of others would be supported. Proposals will need to make a positive contribution to the immediate areas with particular attention made to the design matters of building height, scale, mass, design, appearance and materials.
- 10.9 In principle the use of garden land as infill is supported by the emerging Neighbourhood Plan. Matters of detail are covered in later sections of this report. The NPPF attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. The NPPF states that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

## 11. Design and Impact on the character and appearance of the area

- 11.1 The NPPF (Para.53) also require proposals for dwellings in gardens to not have a detrimental impact on the character and appearance of an area. The Council's Supplementary Planning Document regarding design states "*the Council will expect new houses... to be well-designed and well-related to their context*". The National Planning Policy Framework (paragraphs 131 and 132) advises that development should be "*making a positive contribution to local character and distinctiveness*" and that the suitability of an application should be judged through a balance between impact upon the street scene and securing the optimum viable use of a site. Strategic Policy 1 and 24 state that development proposals must contribute positively to the area in which they are proposed. Policy SP24 lists a number of criteria that developments are expected to achieve including *creating a sense of place, reinforcing character, reflecting densities, achieving an appropriate layout that integrates with the existing environment and context, including space around dwellings, and where possible minimise the production of carbon through sustainable construction.*
- 11.2 Detailed Policy 1 re-iterates the design principles set by SP24 stating that development must respond positively to the context of the surrounding area, exhibit a high quality of design and be compliant with the East Staffordshire Design Guide. Issues raised include the development's density, height and massing relative to any views, vista and skylines and how the proposed materials relate to context including local vernacular.
- 11.3 Detailed Policy 2 aims for development to achieve high sustainability and environmental credentials adopted energy efficiency techniques and other standards where possible, including orientation in terms of solar gain.
- 11.4 Detailed Policy D6 requires development to respect the setting of non listed historic assets, which the Water tower is considered to be.
- 11.5 The East Staffordshire Design Guide requires the design of development to demonstrate a strong, considered and sensitive response to its context. Design which is relevant to the site and wider context is considered to be important, as

this can support local distinctiveness. It also states that “*On an ‘infill’ site the development must be appropriate not just to the prevailing character of the area, but also to the buildings and spaces immediately adjacent to the plot*”. DP3 .

- 11.6 Policy DP 3 of the Adopted Local Plan ensures that `where infilling is proposed in the gardens of houses, it will only be permitted where 1) it would not result in the unacceptable intensification of the area 2) it would be sensitively integrated into the townscape or landscape 3) it would not be visually obtrusive or poorly screened from neighbouring properties and 4) the size of the garden to the new dwelling, and existing building is appropriate for the size of the dwelling and reflects the spatial pattern of the area.
- 11.7 Draft Policy 9 of the emerging Winshill Neighbourhood Plan supports new development proposals that exhibit good design and contribute positively to the built environment of the Parish.
- 11.8 The application site is the side garden area of No.10 Tower Road, which is situated in the linear row of dwellings on the northern side of the road. The site is characterised by a two storey dwelling with a projecting gable and hipped roof. The dwelling is partially rendered and part brick work. To the west of No.10 is a flat grassed area bordered by a low fence separating the curtilage from No.12 Tower Road, a detached bungalow. The site has the appearance of a residential garden area. The site is open to the streetscene. Whilst the overall feel of the road as one approaches the plot from the east is of a linear arrangement of detached dwellings of different styles and scales in large plots, this site stands out as a larger plot in the context of the spatial pattern of the area.
- 11.9 The proposed development would have a frontage dwelling that respects the area’s building line and style of dwellings, with this dwelling being in keeping with the size, style, height and general design of No.10. The property itself has changed in design through the lifespan of the application from a more contemporary design to a more modest design reflecting more the local vernacular. The proposed property has a ridge height of 7.5m lowering to 6.7m. the property has a two storey projecting gable and hipped roof similar to No.10 itself, but with much lower eaves detail and the provision of a dormer window.
- 11.10 The dwelling proposed is proposed to have part brickwork, part render, similar to the adjacent dwelling. The suggested materials for the overall development are all high quality and would be in keeping with the local vernacular.
- 11.11 Whilst a number of neighbour objections have been received relating to the modern design, this has now been amended to a more appropriate design with segmental brick arches and a mixture of brickwork and render which is more in accordance with the character of the area. A number of neighbour letters describe Tower Road as unique. The LPA would agree that the character of Tower Road is difficult to define with varying architectural styles, size and heights of dwellings. Tower Road has established over time with plots being brought forward at different time periods and therefore in different architectural styles, this case is no different to the type and form of development already existing on Tower Road albeit just in a more modern way. Overall it is considered that the proposed development is well considered presenting a suitable siting, density and design for its setting. By creating another dwelling

fronting the road it will blend well with the existing built form, density and grain rather than being unacceptable intensification and be well contained within the current garden area of No.10.

- 11.12 Visually appropriate external materials, rooflights, boundary treatment, landscaping, surfacing materials and a restriction on future extensions, alterations, outbuildings, solar panels and alterations can all be secured by condition for visual amenity reasons.
- 11.13 The application site has a dense boundary of trees to the rear of the site bordering a residential dwelling on Ashby Road, none are the subject of a TPO. All of these trees are to be retained. This is considered acceptable in relation to Detailed Policy 8 and Strategic Policy SP24 regarding existing trees.
- 11.14 In conclusion, subject to the stated conditions the development will suitably comply with the character and appearance requirements of Local Plan Policies SP24, DP1 and DP3, the East Staffordshire Design Guidance and the NPPF.
- 11.15 The proposal is also felt to conform to the emerging Winshill Neighbourhood Plan Policies 8 and 9.

## **12. Residential Amenity**

- 12.1 The National Planning Policy Framework and DP1, DP3 of the Local Plan seek to ensure new residential development will not have an adverse impact on the amenities of new or existing residents by way of loss of light, overlooking or overbearing
- 12.2 The National Planning Policy Framework and Policies DP1 and DP3 of the Local Plan seek to ensure new residential development will not have an adverse impact on the amenities of new or existing residents by way of loss of light, overlooking or overbearing. Policy DP3 also advises that garden areas should be commensurate to the dwelling/household size and allow outdoor activities to be undertaken in reasonable privacy. The East Staffordshire Design Guide provides additional detail on the assessment of light to windows in Annex 1.
- 12.3 The proposed dwelling would front Tower Road and have a long rear garden and have a distance of over 50m to the property at the rear situated on Ashby Road. The relationship between the existing dwelling at No.10 and the proposed dwelling would be also be satisfactory. The proposed dwelling has a rear projecting element but this complies with the 45 degree test. If a line is drawn from the rear windows of no.10 at an oblique angle, if it does not touch the proposed development, it can be confidently concluded that there would be no loss of light. It is also clear that the new dwelling and No 10. itself would have adequate private amenity space subject to the provision of suitable boundary treatment. The development will have no amenity impacts on dwellings to the existing property (No 10), property to the rear of the site or opposite given the separation distances involved.
- 12.4 Again given the separation distances involved, the development suitably complies with Policy DP3, the East Staffordshire Design Guide and the NPPF in terms of the amenity of the nearest dwelling No.12. Objections have been raised on the original scheme submitted at the beginning of this application,

relating to loss of outlook, overbearing and loss of light. Taking account of these concerns the applicant has moved the rear extension to the other side of the property. Whilst the addition of the proposed dwelling would result in a change of outlook to No.12, and it is acknowledged that this outlook would be different, it is not considered that the proximity of the dwelling would have an adverse impact on the amenity of the occupants of No.12. This has been tested through the application of the 25 degree test, this is when the impact of a development is measured when windows are opposite the proposed development and when drawing a 25 degree line from these windows, if it would hit the proposed development it may contribute to a loss of light to those windows. In this case, the proposed dwelling would be situated 6m away from the principal windows and have an eaves height of 3.2m with a hipped roof. The proposal complies with the 25 degree test and from a design point of view with its low eaves, hipped roof and positioning of the dwelling it would not have an adverse impact on light to the side windows of no.12. It is considered that the application complies with the necessary tests for amenity and the provisions of local Plan Policy DP3.

- 12.5 However to secure the future protection of the amenity of these occupiers it is proposed to remove permitted development should be removed to prevent any alterations, outbuildings and or extensions that would have a harmful impact on neighbours' amenity such as reducing separation distances to an unacceptable level. With such conditions imposed, the proposal will comply with the Local Plan, the NPPF and the Design Guide in terms of residential amenity.

### **13. Sustainability (including energy efficiency and low carbon)**

- 13.1 Policy DP2 of the Local Plan sets out expectations for development which ensure the design and delivery of low carbon buildings including:

- incorporating the best environmental practice and construction techniques in line with the Governments zero carbon buildings policy
- the use of appropriate materials, form, orientation and layout of buildings to maximise the benefits of passive solar heating, cooling, lighting and natural ventilation;
- incorporating facilities to minimise the use of water and the creation of waste, and which maximise opportunities for recycling;

- 13.2 In this case the orientation of the dwellings is very much necessarily dictated by the site's relationship with the road and other existing buildings. Notwithstanding this, the new dwelling would benefit from solar gain by way of the south facing front windows and natural lighting would be achieved in principal rooms. A condition can be used to achieve sustainable construction techniques, energy efficiency and efficient water use, including grey water recycling if feasible. Sustainable drainage will also be sought by condition (see below).

### **14. Highway Matters**

- 14.1 Section 4 of the NPPF sets out the role transport policies play in facilitating sustainable development which contributes to wider sustainability and health objectives. Decisions should ensure development proposals have taken the opportunities for sustainable transport modes, ensure safe and suitable access to the site can be achieved for all people and improvements can be undertaken

within the transport network that cost effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.

- 14.2 Policy SP1 aims to ensure development is located on sites with good links to the highway network, is convenient and safe to walk and cycle to and travel by public transport. Developments should not result in vehicles harming residential amenity, causing highway safety issues or harming the character of the open countryside.
- 14.3 The Council's parking standards SPD sets out standards for different uses including space size, accessibility and the quantity of car parking spaces required for different uses. The emerging Winshill Neighbourhood Plan would expect all new developments to provide suitable off street parking based on two spaces per dwellings.
- 14.4 The issue of the site's good location in relation to the highway network but poor location in relation to future residents being able to use non car modes to reach services and faculties has been covered above. It is concluded that the site's location within the settlement boundary, and also close to where a dwelling has been approved next to the Water Tower, overrides any concerns regarding limited opportunities to use non car modes for sustainable travel.
- 14.5 It is appreciated that the road does not have a designated footway for future residents or other pedestrians. However, the use of Tower Road by pedestrians does not appear to be unduly unsafe given relatively low volume of traffic on this 'non through road', the low to moderate speeds and the road's straight alignment, which affords good forward visibility between vehicles and pedestrians. Adding additional vehicles from one dwelling to this situation will also not materially alter the present safety of pedestrians, including manoeuvres to and from the new access and driveway, which would be akin to manoeuvres from existing drives along the road.
- 14.6 The proposed dwelling will adequately be able to provide 3 parking bays which will prevent day to day parking on that part of Tower Road that fronts the site, which could impact on the passage and turning of other vehicles to a limited degree. The proposal conforms to the Borough Council's SPD and the emerging Winshill Neighbourhood Plan.
- 14.7 The Highway Authority has limited its considerations to the impact of the scheme on highway safety in terms of the public highway i.e. the junction of Tower Road and Ashby Road, concluding that it has no objections. This stance is agreed with as the access offers sufficient visibility in both directions to make safe manoeuvres.
- 14.8 Neighbours have raised the issue of how the development will impact on the unadopted road that they pay to be maintained (through a private residents' association) both in terms of construction traffic and car usage by future residents. These, however, are private matters to be resolved by the developer and the Residents' Association. The applicant has noted that the new residents of the dwelling would need to join the Residents' Association such that the yearly contributions to the general maintenance pot would increase. The separate private issue regarding making appropriate arrangements for making

good any construction traffic related damage can be mentioned to the applicant/developer by the LPA via an informative.

## 15. Historic Environment

- 15.1 Paragraph 126 of the NPPF states that Local Planning Authorities should recognise that heritage assets are an irreplaceable resource and conserve them in a manner appropriate to their significance.
- 15.2 In determining planning applications with respect to any building or other land in a conservation area, local planning authorities are under a statutory duty under Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area. Case law has established that this means that considerable importance and weight has to be given to that statutory duty when balancing the proposal against other material considerations. Where a proposed development will lead to substantial harm to or total loss of significance of a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss.
- 15.3 Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 provides that in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. Again, as for the Section 72 duty referred to above, case law has established that this means that considerable importance and weight has to be given to that statutory duty when balancing the proposal against other material considerations.
- 15.4 Strategic Policy 25 states that Development proposals should protect, conserve and enhance heritage assets and their settings, taking into account their significance, as well as the distinctive character of the Borough's townscapes and landscapes.
- 15.5 Detailed policy 5 goes into more detail regarding Historic Assets, Listed Buildings, Conservation Areas and Archaeology. Detailed policy 6 aims to protect other heritage assets which are not necessarily covered by listed building or conservation area status, such as shopfronts and the setting of important historic landscapes.
- 15.6 The nearest Conservation Area is approximately 878 metres away (Burton No. 2 and No. 3 Town Centre Conservation Area), starting at the eastern boundary of Stapenhill Cemetery. The nearest Listed Buildings are:
- The Stone Archway Gateway to the Cemetery ( Grade II) - 1240m from the application site.
  - Church of St Mark, Church Hill Street (Grade II) - 621m from the application site.
  - Church of St Peter, Stapenhill Road (Grade II) - 1509m from the application site

15.7 The separation distances involved are such that the proposed development will have no impact on these heritage assets such that Sections 66 and Section 72 are not engaged. Additionally, whilst the Water Tower is a local landmark, it is not a listed building and therefore the Section 66 duty is not engaged. In any event, given the distance between the site and the tower and its surrounding land, the proposed development will not visually affect the tower or its setting.

## **16. Flood Risk and Drainage**

16.1 Section 10 of the National Planning Policy Framework seeks to ensure that new development is not at risk from flooding, or does not increase flood risk elsewhere. It advocates the use of a sequential test with the aim of steering new developments to areas with the lowest probability of flooding. The Environment Agency produces flood risk maps which classifies land according to probability of flooding. The areas of highest risk are classified as Flood Zone 3, with a 1 in 100 or greater annual probability of flooding, and the areas of lowest risk are classified as Flood Zone 1, with a less than 1 in 1000 annual probability of flooding.

16.2 Strategic Policy 27 expects all new development to incorporate Sustainable Drainage Systems (SUDS). Systems will discharge clean roof water to ground via infiltration techniques, limit surface water discharge to the greenfield run-off rate and protect and enhance wildlife habitats, heritage assets, existing open space, amenity areas and landscape value. Strategic Policy 34 and Detailed Policy 8 cover the issue of pollution in relation to human health, which is relevant to the disposal of foul water.

16.3 The site is located within Flood Zone 1 and as such there is not an issue in terms of flooding relating to nearby water bodies. A suitable surface and foul water drainage system can be secured by condition to prevent localised flooding and to protect human health and water environment. An informative can stress that the sustainable disposal of surface water will be sought first under the condition, as required by Policy SP27. The proposed use of permeable blocks for the access, parking and turning area will aid the sustainable drainage of surface water. The use of such materials can be secured by condition for visual and drainage reasons.

16.4 The concerns of neighbours regarding new connections to the sewer along Tower Road are noted but cost issues are private matters. The foul drainage has been raised as a major concern over the development and as such Severn Trent Water has been consulted. They have no objections and have approved the scheme of drainage proposed. Severn Trent will have assessed the capacity of the existing network and if a further dwelling would exacerbate any problems. It is important to emphasise that as long as the development does not make any existing situations worse and they can mitigate any impacts that may be created by the development only then a reason for refusal could not be substantiated, a new development of this nature cannot seek to solve existing problems in the area so long as they would not contribute to further problems. For the reasons discussed above, it is concluded that subject to conditions the scheme will suitably comply with the NPPF and the Local Plan in terms of flooding and drainage matters including protecting the water environment and human health.

16.5 For the reasons discussed above it is concluded that subject to conditions the scheme will suitably comply with the NPPF and the Local Plan in terms of flooding and drainage matters including protecting the water environment and human health.

## **17. Biodiversity**

17.1 Paragraph 118 within Section 11 of the National Planning Policy Framework states that if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, planning permission should be refused.

17.2 The Natural Environment and Rural Communities Act 2006 states that public authorities in England have a duty to have regard to conserving biodiversity as part of policy or decision making.

17.3 Strategic Policy 29 lists criteria including development to retain features of biological interest which produces a net gain in biodiversity, in line with Staffordshire biodiversity action plan species and supporting developments with multi-functional benefit.

17.4 Trees/shrubs within the site are, for the most part, to be retained and as such the local habitat will remain fairly constant, however, precise details of the landscaping scheme will be secured by a suitably worded condition to ensure any trees removed as part of the scheme are replaced as necessary with further stipulation on the type of trees to ensure heavy standards are planted to provide more immediate habitat and coverage on the site.

17.5 In light of the above, it is considered that the impact upon protected species can be controlled and suitably mitigated against by way of the inclusion of suitable mitigation measures in accordance with Local Plan Policy SP29.

## **18. Contamination Issues**

18.1 A condition and informative can suitably resolve the contaminated land and infill gas issues raised by the Contaminated Land Officer compliance with Policies SP34 and DP7.

## **19. Conclusions**

19.1 Considering all of the above, it is concluded that subject to various conditions the proposal suitably complies with the overall aims of the relevant Local Plan Policies, the emerging Winshill Neighbourhood Plan, the East Staffordshire Design Guide and the NPPF including the aims of the relevant sustainability criteria of Policy SP1.

19.2 It is acknowledged that the development is not well located in terms of access to services by non car modes but it is nonetheless well located relative to the strategic highway network and the site is within the development boundary of Burton where residential development is supported in principle. The scheme which represents garden land development is in keeping with the layout, scale and density of dwellings in the locality. The plot size and dwelling design and materials also complement the site's context.



- 19.3 The amenities of neighbouring dwellings will not be materially harmed subject to certain conditions given the separation distances involved and design and scale of dwellings and highway safety is not compromised. Issues relating to drainage, biodiversity, tree protection and planting, sustainable construction and contamination can all be resolved by conditions.
- 19.4 The site is not in a conservation area and given the separation distances and the form of existing built development, it is not considered that the proposal would have an impact on views into, or those out of any conservation areas nor would any Listed Building or its setting be affected and therefore the statutory duties under Sections 66 and 72 are not engaged.
- 19.5 On balance having taken account of the scheme's overall environmental, social and economic impacts it is considered that the scheme does represent sustainable development and fits the overall aims of the Development Plan, SPDs and the NPPF. The proposal also complies with the emerging Winshill Neighbourhood Plan.

## 20. RECOMMENDATION

### 20.1 **PERMIT** subject to the following conditions –

- Standard time limit for the commencement of the development.0000001a
- Compliance with the approved plans (subject to other conditions).00002
- Notwithstanding the stated details, approval of all external materials (including colours) and compliance with such, including the garage doors, the front wall and railings and the framework for the open porches and compliance with the approved details.00002F
- Submission and approval of a surface water and foul water drainage scheme and implementation of such (with SUDS being required where ground conditions allow).00005a
- Submission of full landscaping and boundary treatment including details of tree protection measures for retained trees, the planting of native trees and the provision of boundary treatment along that part of the side boundary. 00003b
- Implementation of the approved landscaping scheme.00003b
- Submission and approval of a scheme regarding sustainable construction and energy efficiency and compliance with such. Bespoke Condition
- Completion and retention of the approved boundary treatment scheme.00003d
- Completion of the access, parking and turning areas in a bound and porous material/s (with exact material/s to be first approved by LPA) and such remaining available for their dedicated purposes for the life of the development.00004a
- All rooflights to fit flush with the roof slope in which they are set and have black frames.000006i
- All windows and external doors to be set back from outer face of wall by 50mm 00006b
- Removal of PD rights for future extensions, outbuildings, external alterations including any new windows and rooflights, boundary treatment for amenity and visual reasons.00012a

## **21. Background papers**

21.1 The following papers were used in the preparation of this report:

- The Local and National Planning policies outlined above in section 7
- Papers on the Planning Application file reference P/2016/01254

## **22. Human Rights Act 1998**

22.1 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 potential issues are in this case amply covered by consideration of the environmental impact of the application under the policies of the development plan and other relevant policy guidance.

## **23. Crime and Disorder Implications**

23.1 It is considered that the proposal does not raise any crime and disorder implications.

## **24. Equalities Act 2010**

24.1 Due regard, where relevant, has been had to the East Staffordshire Borough Council's equality duty as contained within the Equalities Act 2010.

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