

## Committee Report for P/2019/00361

Report of Head of Service (Section 151 Officer)

This report has been checked on behalf of Legal Services by Sherrie Grant

<b>Application Number</b>	P/2019/00361
<b>Planning Officer</b>	Gary Shilton
<b>Site Address</b>	18 Tulip Road Tutbury Staffordshire DE13 9LX
<b>Proposal</b>	Erection of a two storey rear extension
<b>Consultation Expiry Date</b>	25 <sup>th</sup> July 2019 (further re-consultation on the amended description to reflect the plans under consideration)
<b>Screening Opinion</b>	Environmental Impact Assessment not required.
<b>Application not determined within Statutory time period- Reason</b>	The application was called in by Councillor Gaskin for consideration by the Planning Committee. Ongoing negotiations between officers and the applicants seeking amendments and this request have taken the application outside of the statutory time period, but the applicant has agreed a further extension to the time limit until 16 <sup>th</sup> August 2019 to allow for the consideration of amendments and for the application to be considered by planning committee.
<b>Details of call in</b>	This application was called in by Councillor Gaskin for the following reasons:  'As it overlooks the buildings to the rear of the property so the principle development is the reason for call in'
<b>Relevant Planning Policy</b>	<p><b><u>Government Documents</u></b></p> <p>National Planning Policy Framework The National Planning Practice Guidance (NPPF)</p> <p><b><u>Local Plan Policies</u></b></p> <p>Principle 1: Presumption in Favour of Sustainable Development SP1: East Staffordshire Approach to Sustainable Development SP24: High Quality Design SP25: Historic Environment SP27: Climate Change, Water Body Management and Flooding SP29: Biodiversity and Geodiversity 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 DP6: Protecting the Historic Environment: Other Heritage Assets DP7- Pollution and Contamination</p> <p><b><u>Supplementary Planning Documents (SPD)</u></b></p> <p>East Staffordshire Design Guide Parking Standards Supplementary Planning Document 2017</p>

<p><b>Relevant Planning History</b></p>	<p>None</p>
<p><b>Consultation Responses</b></p>	<p>No representations received at the time of writing this report.</p>
<p><b>Neighbour Responses</b></p>	<p><u>Response to initial consultation</u></p> <p>Representations were received from 4 local residents at 3 addresses. The Material planning considerations have been summarised below:</p> <p><b>Character/ Design/ Layout</b></p> <ul style="list-style-type: none"> <li>• The massive proposed extension of the property moves the rear wall and windows of the property even closer to our boundary and this will render completely useless all the work we have done to attempt to restore some of our privacy and visual amenity.</li> <li>• Given that there are plenty of larger properties on other plots within the development, one can only assume that a larger one wasn't built there in the first place because the plot is wholly unsuitable.</li> <li>• We would also like to add that the size of the proposed extension is considerable in relation to the existing property. What if all the property owners in the same area wanted to do the same thing?</li> <li>• You are more than welcome to come and see just how intrusive this building is but, in truth, you only need to enter Cromwell Close and look at the bungalows at the end with these new buildings looming large over them to be able to see what the existing problem is, let alone the problems that would be created by such a huge increase in size of these properties.</li> </ul> <p><b>Residential amenities</b></p> <ul style="list-style-type: none"> <li>• Our previously private and secluded garden and property have been ruined by this building. We no longer enjoy being in the garden and hardly ever now use parts of our home due to the presence of windows which look directly down into our garden and the living and sleeping areas of our home. We now only have privacy in significant parts of our home by drawing the blinds, and have no privacy in our garden at all. When outside, we now have brick walls towering over us where there used to be trees and sky and birds.</li> <li>• The overwhelming dominance of the proposed structure will add further to the sense of claustrophobia and intrusion, and to the anxiety and stress that the building of this property has already imposed on us. The height and proximity of the structure are already overbearing in relation to a property such as ours, and bringing it closer and making it bigger will only serve to exacerbate the problem and to completely dominate what we can see from our property. There will be no means at all to have any privacy in our home and garden.</li> <li>• Firstly, Based on the details in the existing and proposed plan, the first floor window in the proposed extension is the same height as the current window but is somewhat wider, this increases the overall area of the window by around 66% (Based on estimates and assuming the plan is to scale).</li> <li>• Object to this application as it will result in a significant loss of privacy.</li> <li>• We would therefore request that, unlike when the original planning permission for the property was granted, you seriously consider the impact of the proposed building on the wellbeing of those of us who live in close proximity and who will be adversely affected by this, and refuse this application.</li> <li>• The rear of the proposed extension would be approximately 20% closer to the rear of our property (Estimate current distance 40 m, proposed new rear wall would be 7 m closer), The combined geometric impact of the bigger window being closer to our property would result in a significant loss of privacy, both in terms of the proportion of the garden that would be viewable and the increased proximity to the garden and the rear of the bungalow.</li> <li>• I would like to check that there are no windows that look out the left side of the first floor proposed extension, or, if there are windows are these privacy glass? Currently I'm not over looked which is why I opted for the plot where it is and I'd like it to remain this way.</li> <li>• Being in close proximity, built on elevated ground (compared to our property), and being two storey (compared to our bungalow), the property which is the subject of</li> </ul>

this application already towers over us and has an overbearing dominance on our property and this has greatly affected our enjoyment of our garden and home

**Non material planning comments**

- We have attempted to mitigate the effects of this original inconsiderate building, at considerable expense to ourselves, by planting trees and allowing our hedge to grow but these only have a limited effect and offer no respite from the intrusion at all in the winter when the leaves are off the trees.

Consultation responses to amended drawings

Representations have been received from 2 local residents from 1 address. Material planning considerations have been summarised below:

**Character/ Design/ Layout**

- The fact that the original application was for a slightly larger extension must not be allowed to affect the consideration of these revised plans which must be considered on their own, regardless of what may originally have been submitted.
- The fact that the original plans were for a bigger extension makes no difference whatsoever to the effect that the current proposals will have on us and this is therefore not a material consideration.

**Residential Amenities**

- As previously explained, this extension places a bigger window, at a high elevation, much closer to our property than the existing window which already represents a significant invasion of our privacy which has cost us a great deal of stress and anxiety and which has caused us to spend significant amounts of time and money attempting to mitigate the effects of (which has been only partially successful). Any change to the size and proximity of this window will render these changes completely useless and permit unimpeded views down into our previously private garden and into the living and sleeping areas of our home.
- The existing building has been built on higher land than ours and towers over the top of us. Any increase in its size will further add to the air of overbearing dominance that this building imposes on us.
- We also note with interest your comment when you came to visit us that the applicant could not put windows on the side elevation of the proposed extension because they would then overlook the properties on either side. There is no reason at all that our privacy should be sacrificed in order to preserve someone else's unless the properties on Heritage Park enjoy some kind of special protection which has not been afforded to us). The fact that there is nowhere the windows can be fitted without invading someone's privacy only goes to prove that the proposed extension is completely unsuitable for such a plot in what is now a densely populated built up area.
- We therefore request that you refuse this application so that we do not have to suffer any further loss of enjoyment of our own property.

Consultation response to further amended drawings:

No further neighbour representations have been received at the time of writing this report.

**Tutbury Parish Council**

The Parish Council object to the erection of the extension in stating that: \_

Having a 2 storey extension will have an impact on the privacy for at least five properties over Green Lane whose rear gardens back onto Green Lane.

This property is in an elevated position making it appear more dominant over these neighbouring properties and will impact on the light in the properties.

Residents will lose their right to light.

The large extension will not be in keeping with the rest of the street scene and is seen as an over development of the property.

The ESBC parking policy states that a 4 bedroom house require 3 parking spaces and this

	<p>property will only have 2.</p> <p>The extension is so close to the line of the road Green Lane. Neighbouring properties that back onto Green Lane have raised concern that vehicles have accidentally ran into their gardens. By allowing the extension along this road will permanently alter the line of sight and boundary to this rural Lane This extension may set a precedent for other properties.</p> <p><u>Consultation response to amended drawing:</u></p> <p>The Parish Council would like to reiterate the existing objections and would like to speak at the planning committee for this application.</p> <p><u>Consultation response to a further amendment to the proposal</u></p> <p>The Parish Council would like to reiterate the existing objections and would like to speak at the planning committee for this application.</p>
<p><b>Human Rights Act Considerations</b></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 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.</p>
<p><b>Crime and Disorder Implications</b></p>	<p>It is considered that the proposal does not raise any crime and disorder implications.</p>
<p><b>Equalities Act 2010</b></p>	<p>Due regard, where relevant, has been taken to the East Staffordshire Borough Council's equality duty as contained within the Equalities Act 2010.</p>
<p><b>Planning Officer's Assessment</b></p>	<p><u><b>Site Description</b></u></p> <p>The application site consists of a new build two storey detached dwelling which forms part of a new residential area which is currently being built out. The dwelling is sited within the settlement limits of the village of Tutbury. The majority of the dwellings garden is sited to the south west of the dwelling with an existing parking area to the northern elevation of the dwelling. There is a high hedgerow which forms the western boundary with Green Lane.</p> <p>The area is residential in character with older dwellings to the north and west of the application site separated by Green Lane, which is a single track road. The dwellings immediately to the west and north west of the site are bungalows with dwellings beyond. The dwelling is set at a higher level than Green Lane with the land sloping away to the west and north west beyond this towards the bungalows.</p> <p><u><b>Proposals</b></u></p> <p>The application seeks consent for the erection of a two storey rear extension which would measure 3m deep x 6m width x 7m overall height .</p> <p>During the course of the application negotiations have taken place to seek to address initial concerns and representations received in objection to the proposal. The proposal has been amended by the reduction in depth of the proposed extension from 4.5m to 3m, the side/ rear extension has been omitted and replaced with additional parking due to the increase in the number of bedrooms within the dwelling. The amended plans have been labelled to indicate the size of the proposed extension.</p> <p>The proposal includes facing brickwork and grey slate roof tiles to match the existing dwelling.</p> <p><u><b>OFFICER ASSESSMENT</b></u></p> <p>The main considerations are the principle of the development, impacts on visual and residential amenities, highway safety, Heritage Assets, Flood Risk and Biodiversity.</p>

**Principle of the Development**

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 11 of the NPPF states that for decision-taking this means:

- approving development proposals that accord with an up-to-date development plan without delay; or
- where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:
- the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
- 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.

**Local Plan**

East Staffordshire Local Plan Policies SP1 and SP35 aim to ensure development is located on sites with good links to the highway network, development is convenient and safe to walk, cycle 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.

Policy SP24 of the East Staffordshire Local Plan states that development proposals must contribute positively to the area in which they are proposed and reinforce character and identify through local distinctiveness. Policy DP1 expands upon this aim with specific reference to the design of new development.

Policy DP1 states that planning permission will normally be granted for development which responds positively to the context of the surrounding area and in itself exhibits a high quality design.

Policy DP3 requires householder extensions to have no materially adverse effects on neighbouring properties through issues including overlooking, loss of light to principal windows or private amenity space or create an overbearing impact. The Local Plan policies are supplemented by the East Staffordshire Design Guide and the NPPF (in paragraph 127) indicated that developments should have due regard to the future amenities of residents. This policy also requires extensions to dwellings which are outside of settlement boundaries to be modest in relation to the existing dwelling and retain its identity.

**Visual Amenities**

The existing dwelling sits within a prominent position backing onto Green Lane, this proposal has been set back from the side elevations of the dwelling and below the existing ridgeline of and would form a subservient two storey extension to the rear of the dwelling.

The proposal is within a sustainable location within the settlement boundary of Tutbury and the retained garden area would be considered reasonable for a four bedroomed dwelling.

The existing dwelling would be enlarged to the rear, although visible from Green Lane and Cromwell Close, the proposed extension would be seen against the existing dwelling and the reduced size of the proposal is considered proportionate to the existing dwelling. In this context the proposed development is not considered to adversely affect the streetscene.

Comments have been received in relation to the proposed rear elevation moving closer to the rear boundary of the dwellinghouse and the impact upon visual amenity. However the principle of a dwelling in this location has already been established and the loss of view is not a material planning consideration.

Given the separation distance to the bungalows to the rear and despite the change in land levels between the two, the extension is not considered to be overbearing in relation to these.

The use of matching materials would aid with the integration of the proposal with the host dwelling and within the streetscene.

Therefore on balance the proposal is not considered to cause demonstrable harm to the locality and it is considered that the proposed extensions and alterations would integrate satisfactorily with the character of the surrounding area in accordance with Local Plan Policies DP1 and DP3.

**Residential Amenities**

The proposed extension would have a first floor rear facing principle window to an additional bedroom and a first floor side facing en-suite. The proposal would also have a ground floor rear and side facing windows to the proposed living room.

The intervening boundary treatments to the rear and sides of the dwelling would restrict any overlooking or loss of privacy from the proposed ground floor windows.

The first floor bedroom window to the rear elevation would directly face towards the rear of No.45 Portway Drive at a distance of 37m, with the closest dwelling on Cromwell Close (from a 45 degree angle from the first floor window), at a distance of 26m. Taking into consideration the change in ground level and the distance from these dwellings it is not considered that this would result in a sufficient loss of privacy to warrant a refusal on these grounds.

With regard to the extension to the dwelling in relation to the other neighbouring properties, given the separation distances between the proposed first floor window and the neighbouring dwellings it is not considered that the proposal would be detrimental to the amenities of those properties by way of loss of light or privacy or by being overbearing.

Comments have been received in relation to the loss of privacy to the occupiers of the dwellings to the rear. Whilst it is acknowledged that there would be some overlooking of the gardens to the rear of the dwelling however given the separation distance from the window to the neighbouring properties boundary (directly to the rear) 15m this would not be considered significant to warrant a refusal on these grounds.

The side facing bathroom window to the extension is not obscure glazed however given the proximity to the neighbouring dwelling this can be conditioned to be obscurely glazed to protect the amenities of the neighbouring dwelling to the north east.

Therefore on balance the proposed extension is not considered to cause sufficient harm to the amenities of the occupiers of neighbouring dwellings to warrant a refusal of the proposal on these grounds. Therefore the application is considered to comply with Local Plan Policy DP3.

**Highway Safety**

The Council's Parking Standards SPD sets out standards for different uses and different sized dwellings including space size, accessibility and the quantity of car parking spaces required for different uses.

The application site has an area of hardstanding to the north elevation of the dwelling. The existing area of parking would provide parking spaces within the curtilage of the dwelling. This application seeks to extend the existing dwelling to provide one additional bedroom, which would total four bedrooms. The SPD would expect a four bedroomed dwelling to have a minimum of three parking spaces. The existing access with the highway would remain unaltered.

The amended plans demonstrate that three parking spaces would be provide to the northern elevation of the dwelling. This therefore complies with the parking standards set out in the Parking Standards SPD.

Comments have been received in relation the extension impacting on the line of sight and boundary along Green Lane. The boundary would remain unaltered and would be between the highway and the extension, therefore the proposed extension is not considered to cause impact upon highway safety along Green Lane to the rear over and above the existing situation.

Given the increase in the number of bedrooms it is considered reasonable to require that the

parking is conditioned to be provided and retained to prevent on road parking which could impact upon the highway network.

The proposal is therefore considered to comply with Local Plan Policies SP1 and SP35.

**Heritage Assets**

Paragraph 126 of the NPPF states the Local Planning Authorities should recognise that heritage assets are an irreplaceable resource and conserve them in a manner appropriate to their significance.

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. Section 66 (1) 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. Case law has established that this means that considerable 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.

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.

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.

The nearest Conservation Area is approximately 600 metres away from the Tutbury Conservation Area. Given the distance between the site and the Conservation area it is not considered that there is any intervisibility between them.

The nearest Listed Building is a cast iron Mile Post situated on the outskirts of the village adjacent to the A511, Burton Road which is approximately 425m away. There is no intervisibility between the proposal and this listed structure.

The separation distances with the heritage assets are such that the proposed development will have no impact on the setting of the conservation area or any listed buildings or their setting and Sections 66 (1) and Section 72 are therefore not engaged.

**Flood Risk**

Section 14 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.

Strategic Policy 27 expects all new development to incorporate Sustainable Drainage Systems (SUDS).

The site lies entirely within Flood Zone 1 and as such is at a low risk from fluvial flooding. There is no requirement to submit a flood risk assessment. Therefore the application complies with the provision of local Plan Policy SP27.

	<p><b><u>Biodiversity</u></b></p> <p>Paragraph 175 within Section 15 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.</p> <p>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.</p> <p>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.</p> <p>Trees/shrubs within the site are, in the most part, to be retained and as such the local habitat will remain fairly constant. This is considered to comply with Local Plan Policy SP29</p> <p><b><u>Other Matters</u></b></p> <p>In one of the representations the local residents concerned suggests that consideration be given to revising the scheme by re-siting window units in the north eastern elevation. Whilst these comments are noted, for the reasons set out above it is considered that the scheme as proposed would be acceptable.</p> <p><b><u>Conclusion</u></b></p> <p>The proposed extensions as amended, although within a prominent location due to the raised position are not considered to be likely to cause demonstrable harm to the character and appearance of the locality to warrant a refusal on these grounds and is therefore considered to be in accordance with the policies of the Local Plan and the Design Guidance.</p> <p>The proposed extension given the orientation and relationship to the neighbouring dwellings especially the bungalows to the rear which are set at a lower level than 18 Tulip Road are a sufficient distance away from the occupiers of the neighbouring properties so as not to have a sufficiently detrimental impact on the amenity of the occupiers to warrant a refusal of the proposal on these grounds.</p> <p>The proposed parking plan would meet the Local Authority parking standards guidance subject to a condition to retain the parking is considered acceptable.</p> <p>There are no issues in relation to flooding or biodiversity as part of the scheme.</p> <p>The proposed development is not within a conservation area and given the separation distances, it is not considered that the proposal would have an impact on views into, or those out of, the nearest conservation area, nor is any listed building or its setting affected. The statutory duties under Sections 66 (1) and 72 are therefore not engaged.</p> <p>The application proposal is considered acceptable and appropriate within an existing residential curtilage in a residential area. The amended design is considered acceptable within the context of the area. The application is acceptable in principle and of an appropriate design and is therefore in accordance with Policies SP1, SP24, SP25, SP27, SP29, SP35, DP1, DP3, DP5, DP6 and DP7 of the Local Plan and the NPPF.</p>
<p><b>Planning Officer's response to Parish Council and Neighbour's Comments</b></p>	<p>It is considered that the above Officer Assessment responds to the material planning considerations received within the comments of the Parish Council and neighbours.</p>
<p><b>RECOMMENDATION</b></p>	<p>Accordingly, taking into consideration the above mentioned planning considerations the recommendation is to <b>PERMIT</b> the proposal, subject to the following conditions:-</p> <ol style="list-style-type: none"> <li>1. Time limit condition (3 years) (0000001a)</li> <li>2. Compliance with the approved plans (00002)</li> <li>3. Matching materials (00002G)</li> </ol>



	<p>4. Provision and retention of parking (Bespoke) 5. Obscure Glazing (00016F)</p> <p>The following informative' s should also be included with the above recommendation;</p> <p>1. Engagement Informative</p>
<b>Engagement</b>	<p>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>
<b>Section 106 Required?</b>	<p>No</p>
<b>Background Papers</b>	<p>The following papers were used in the preparation of this report:-</p> <ul style="list-style-type: none"> <li>• The Local and National Planning policies outlined above in the report.</li> <li>• All papers and drawings on the planning application file reference P/2019/00361</li> </ul>

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:

50305-2018-AK-01 Location Plan scaled at 1:1250 dated as received on 19 December 2018

50305-2019-AK03C Proposed Site layout, Floor Plans, Roof Plan, Elevations and Section scaled at 1:500 and 1:100 received on 4 March 2019

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 in accordance with East Staffordshire Local Plan Policies SP1, SP24, SP35, DP1, DP3 and DP7, the East Staffordshire Design Guide, and the National Planning Policy Framework.