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<b>Agenda Item:</b>	5.1
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<b>Site:</b>	43 Shobnall Street, Burton Upon Trent, DE14 2HH
<b>Proposal:</b>	Erection of two storey detached building comprising of 2 no. one bedroom flats and 2 no. two bedroom flats including partial demolition of 43 Shobnall Street at ground floor level to form vehicular access and erection of external staircase to first floor accommodation.

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

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

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

<b>Application Number:</b>	P/2019/00601	
<b>Planning Officer:</b>	Kerry Challoner	
<b>Type of Application:</b>	Detailed Planning Application	
<b>Applicant:</b>	Mr Allister Gardiner	
<b>Ward:</b>	Shobnall	
<b>Ward Member (s):</b>	Councillor Mrs S McKiernan Councillor P Walker	
<b>Date Registered:</b>	05 June 2019	
<b>Date Expires:</b>	29 July 2019	
<b>Reason for being on Agenda</b>	The application has been called in by Councillor Paul Walker who shares the concerns raised by Shobnall Parish Council.	

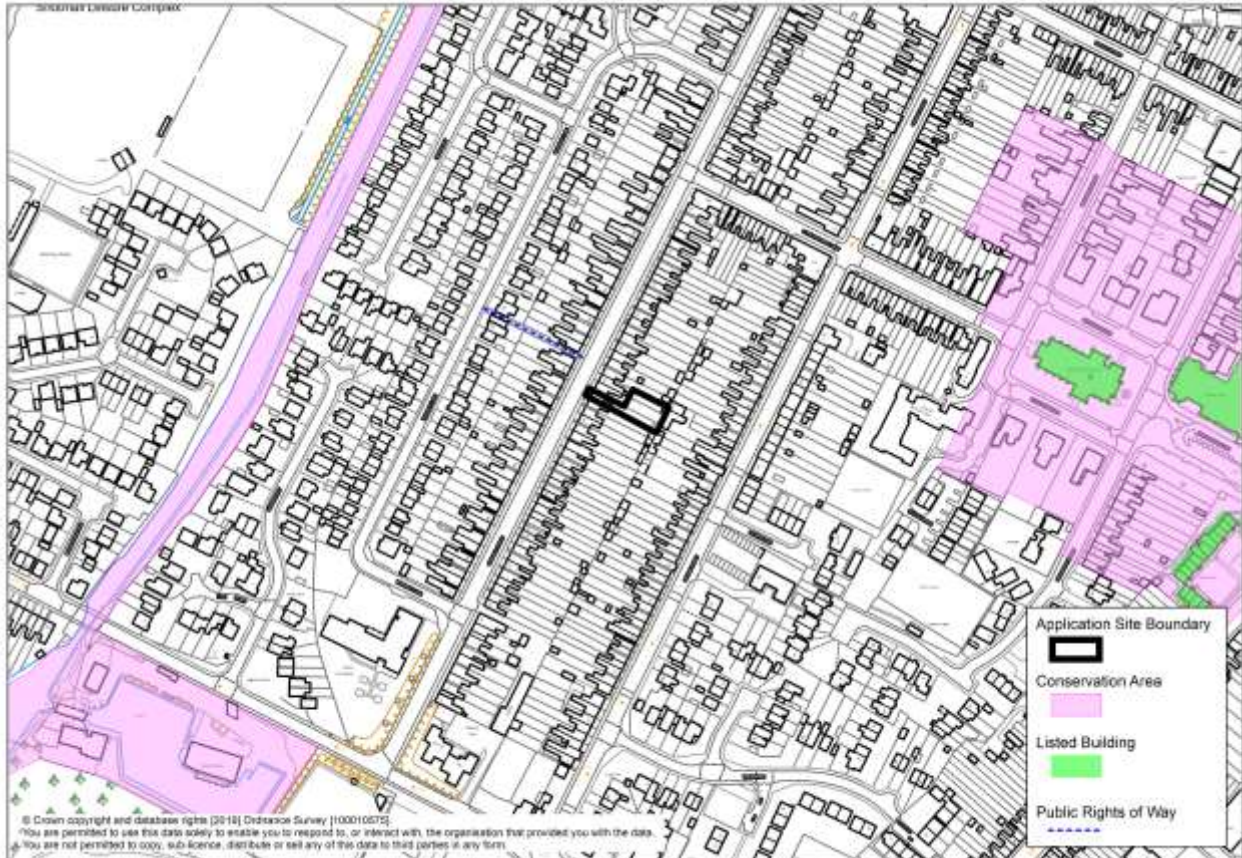
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## 1. Executive Summary

- 1.1 This application relates to three traditional Victorian terraced dwelling houses in Shobnall Street, Burton, along with their associated rear gardens. No.43 is a 3 bedroom dwelling house, whilst No's 44 and 45 have been converted into 5 bedroom Houses in Multiple Occupation. The properties do not benefit from any designated parking, instead relying on unrestricted on street parking to the opposite side of Shobnall Street.

- 1.2 Full planning permission is sought to alter the existing ground floor of No.43 Shobnall Street to provide vehicular access to the rear of the site, where a two storey building is proposed. The building would be sited along the rear boundaries of Nos, 43, 44 and 45 Shobnall Street and would provide 2 No.2 Bedroom and 1 No.1 Bedroom flats. An area of hardstanding is proposed which would accommodate car parking (7 No.spaces) and bin storage to serve the flats. The first floor of No.43 Shobnall Street would be retained as a 1 bedroom flat.
- 1.3 No technical issues have been raised by the Highways Authority, Severn Trent or the Councils Environmental Health Section that cannot be overcome by suitably worded conditions. Shobnall Parish Council have raised objections along with five neighbouring occupiers and local residents. The objections can be summarised as insufficient parking and garden space being provided, insufficient visibility for safe access/ egress onto Shobnall Street, the scheme is overdevelopment in an inappropriate location and conflict with the objectives of the Neighbourhood Plan.
- 1.4 The scheme is located within settlement boundaries as set out in the Local Plan where there is a presumption in favour of sustainable development. The Highways Authority have raised no objections in terms of highway safety and the parking provision is in line with the requirements set out in the Local Plan and the Shobnall Neighbourhood Plan. Whilst it is not considered that the proposed scheme would detrimentally impact upon the neighbouring occupiers of the site, the level of amenity for future occupiers of the proposed apartment block would be poor. In particular, a high number of the main windows would directly face the existing two storey wall of an adjacent building at close proximity, and due to the constraints of the site no communal garden area would be provided.
- 1.5 The application is therefore recommended for **refusal** on the grounds of the inadequate residential amenity being provided for future occupiers of the development; with this being in conflict with the objectives of key policies in the Local and Neighbourhood Plan.
- 1.6 **Members are advised that the above is a brief summary of the complex proposals and key issues contained in the main report below which provides full details of all consultation responses, planning policies and the Officer's assessment, and Members are advised that this summary should be read in conjunction with the detailed report.**

## Map of site



## 2. The site description

- 2.1 The application site comprises of a traditional two storey terraced property known as No.43 Shobnall Street along with an area of garden space to the rear of No's 43, 44 and 45 Shobnall Street. The site area extends to 472 sq m and is largely enclosed by 1.8m high close board fencing. Immediately to the rear of the application site is a two storey building located to the rear boundary of No.46 Grange Street. There are other examples of two storey buildings in the rear gardens of properties in Grange Street and Shobnall Street visible from the rear of the application site. There are parking restrictions in the form of double yellow lines to the frontage of No's 43-45 Shobnall Street.
- 2.2 No.43 Shobnall Street is currently in use as a single dwelling house, whilst No's 44 and 45 Shobnall Street have been converted to Houses in Multiple Occupation, each providing accommodation for 5 people sharing the same facilities including the kitchen and bathroom within each dwelling. The former rear garden area serving No's 44 and 45 Shobnall Street is overgrown and has been fenced off, leaving a rear yard area to serve each property.
- 2.3 The site is located within the Parish of Shobnall and within the settlement boundary for Burton upon Trent as set out in the Local Plan.

### 3. Planning history

- 3.1 There is no relevant planning history associated with the application site. The following history is relevant to surrounding two storey buildings located to the rear of properties in the locality:

Rear of 46 Grange Street (Immediately to the rear of the application site)  
22 January 2007- **CU/17369/003** - Continued use of building for domestic purposes and retention of rear outbuilding for storage purposes- Approved subject to conditions.

Rear of 73 Shobnall Street  
18 August 2006- **PA/30457/003** - Conversion of car repair workshop into 2 dwellings and erection of a single storey front extension- Approved subject to conditions.

Rear of 42 Grange Street  
08 June 2004- **CU/03007/004** - Change of use of detached workshop to a dwelling and associated alterations - Approved subject to conditions.

### 4. The proposal

- 4.1 Full planning permission is sought for the redevelopment of the rear gardens of No's 43, 44 and 45 Shobnall Street with the erection of a two storey detached building to provide 2.No. two bedroom and 2.No one bedroom flats. Alterations are proposed to the ground floor of No.43 Shobnall Street to provide undercroft vehicular access to the apartment block. A parking area comprising 7 spaces would be provided to the frontage of the new detached building along with a waste bin storage area. It is proposed that the first floor of No.43 Shobnall Street would be retained as a 1.No bed apartment, which would be accessed via an external staircase to the rear.
- 4.2 During the course of the application, the applicant has revised the plans for the proposed detached building in order to reduce its overall scale and footprint and provide additional parking spaces. The proposed new building as revised would have a footprint of 9.1m x 13.7m, and an overall height of 7.5m (5.5m to the eaves). The building would have red facing brick to the elevations with grey roof tiles over. An area of timber cladding is proposed to the frontage of the building along with Antracite Grey Upvc windows.

#### List of supporting documentation

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

- Existing Elevations to 43-45 Shobnall Street and Site Sections
- Proposed Elevations to 43-45 Shobnall Street and Site Sections
- Existing and Proposed Layout Plans to 43 Shobnall Street
- Proposed Site Layout and External Works
- Proposed New Building- Floor Plans
- Proposed New Building- Elevations
- Planning Statement

- 4.4 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	Shobnall Parish Council	<p>Shobnall Parish Council objects to the above planning application and the Parish Council has asked ESBC Councillor Paul Walker (and he agreed) to call it in for consideration by the Planning Committee. The objections of the Parish Council are:</p> <ul style="list-style-type: none"> <li>▪ There is insufficient parking for all residents of the neighbouring HMOs (Shobnall Neighbourhood Plan Policy T5)</li> <li>▪ Residents will not have access to a garden/green space</li> <li>▪ It is believed that there would be insufficient visibility for safe access/egress onto/from Shobnall Street</li> <li>▪ Although off-street parking is provided in the proposal the additional vehicles will add to the congestion in the area and adversely impact on residents</li> <li>▪ Councillors are of the opinion that the proposal is a backyard development, resulting in overdevelopment of the site</li> <li>▪ The parish council concurs with the objections set out by Mr G Noble and other residents, which are as follows:</li> </ul> <p>Despite the applicant attempting to use the Local Plan to justify this development it clearly is at odds with many fundamental principles. In addition to 4.2 which I originally stated below, I gather that the Parish Council also raised an objection based upon 8.4</p> <p><i>Dwellings suitable for family occupation should have access to private garden space of at least 70 sq.m, and those with 3 or more bedrooms should have in excess of 100 sq.m of private garden space.</i></p> <p>Neither of these appears to have been addressed by the amended plan which merely increases parking spaces from 5 to 7, ironically further degrading garden space. Furthermore Policy HD3 states:</p> <p><b><i>Shobnall's particular housing needs include:</i></b></p> <ul style="list-style-type: none"> <li>▪ <i>Starter homes and homes suitable for young families</i></li> <li>▪ <i>Affordable housing</i></li> <li>▪ <i>Larger family homes</i></li> </ul> <p>There is no mention of rented multiple occupancy dwellings or small flats in either 8.5 or 8.6 which follow</p>

		<p>this. HD5 goes on to state:</p> <ul style="list-style-type: none"> <li>▪ <i>Residential Spine (Shobnall Street and Grange Street).</i></li> <li>▪ <i>Key design features include consistent regularity of rooflines and building forms in long terraces, and use of materials including redbrick and slates.</i></li> <li>▪ <i>Traditional Terraces.</i></li> <li>▪ <i>Key characteristics include the close-knit block structure achieving a sense of enclosure, doors opening directly onto the street, consistent rooflines, and use of unfinished brick.</i></li> </ul> <p>It is unlikely any such development would fully comply with this. A development between Shobnall Street and Grange Street is not mentioned as a possibility. The applicant attempts to justify doing so by giving examples of pre-existing developments to the rear of properties already accessed through archways; however, these were original constructions concomitant with frontages and originally used as workshops or stables. The conversion to dwellings would be in line with the Local Plan but NOT wholesale construction of such buildings. Finally, 8.10 clearly states:</p> <p><i>The built environment in the older parts of Shobnall (i.e. the areas largely to the north of Shobnall Road) has a particular character which should be protected and enhanced by new development. This includes not only the Conservation Areas, but also other residential and commercial streets.</i></p> <p>The proposed development not only detracts from this character, but degrades the layout, destroying gardens and greenspaces, reducing available natural light and partially demolishing much needed family homes. This will not only affect property prices in the area but add to traffic on what is already a busy and congested street.</p> <p>Should this proposal go through it sets a dangerous precedent for the area that, if extended along Shobnall Street will irrevocably destroy one of the oldest and best preserved residential streets in the town. I therefore urge you to reject this application and any others of a similar nature that may be submitted by developers in the future.</p>
5.3	SCC Highways	No objections were raised. Conditions requiring the access, parking and turning areas to be completed and provided prior to first occupation are required.
5.4	Environment Agency	The site has low environmental risk, after a review of the information submitted the Environment Agency have no

		comment to make.
5.5	Severn Trent Water	No objection subject to a condition requiring the submission and approval of a drainage scheme for the disposal of foul and surface waters.

Internal Consultees		Response
5.6	Environmental Health	No objections were raised.

## 6. Neighbour responses

6.1 Neighbours were notified of the application and a site notice has been posted. Three responses were received from residents in Shobnall Street in relation to the original scheme. Neighbours were re notified following receipt of revised plans. Five responses were received, including three who responded previously. One response in support of the proposal was also received in response to the revised plans. The objections raised during the course of the application process can be summarised as:

Neighbour responses	
Principle	<ul style="list-style-type: none"> <li>The proposal would directly conflict with the objectives of the Shobnall Neighbourhood Plan.</li> <li>The proposal would be at odds with the character of the area and would set a precedent</li> <li>The proposal would conflict with the historical and architectural character of the area.</li> </ul>
Impacts on Amenity	<ul style="list-style-type: none"> <li>Loss of Light and privacy</li> <li>Increased Noise and Disturbance</li> <li>Insufficient garden areas to support the proposed development.</li> </ul>
Highways Impacts	<ul style="list-style-type: none"> <li>The access would be dangerous and the parking is insufficient. The lack of parking is already an issue within the locality along with congestion.</li> <li>The proposed development would result in a dangerous situation on Shobnall Street, particularly to pedestrians.</li> </ul>
Flood and drainage impacts	<ul style="list-style-type: none"> <li>Impact on existing sewerage and concerns regarding possible flooding were raised.</li> </ul>
Other Matters	<ul style="list-style-type: none"> <li>There is a lack of access for Emergency Services.</li> <li>Loss of property value</li> <li>Increased impact on local services</li> </ul>
Ward Member	Councillor Paul Walker has objected to the proposal, sharing the concerns/ objections raised by Shobnall Parish Council as set out above.

## 7. Policy Framework

### National Policy

- National Planning Policy Framework
- National Planning Policy Guidance

### Local Plan

- Principle 1: Presumption in Favour of Sustainable Development
- SP1: East Staffordshire Approach to Sustainable Development
- SP2 Settlement Hierarchy
- SP4 Distribution of Housing Growth
- NP1: Role of Neighbourhood Plans
- SP16 Meeting Housing Needs
- SP17 Affordable Housing
- SP24 High Quality Design
- SP27 Climate Change, Water Body Management and Flooding
- SP35 Accessibility and Sustainable Transport
- DP1 Design of New Development
- DP2 Designing in Sustainable Construction
- DP3 Design of New Residential Development, Extensions and Curtilage Buildings
- DP7 Pollution and Contamination

### Shobnall Neighbourhood Plan

- T5 - Parking
- HD2- Housing Design Quality
- HD3 - Housing Mix

### Supplementary Planning Documents

- Car Parking Standards SPD
- Separation Distances and Amenity SPD
- Housing Choice SPD
- East Staffordshire Design Guide SPD

## 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 framework states that for decision-taking this means approving development proposals that accord with the development plan without delay.



## 5 Year land Supply

- 8.2 The most recent calculation uses figures as at 31<sup>st</sup> March 2019 and concludes there is 6.33 years of supply. Therefore the policies in the Local Plan can be considered up to date.

### Local Plan

- 8.3 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.
- 8.4 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.
- 8.5 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.
- 8.6 This proposal for residential development falls within the settlement boundary of Burton upon Trent and as such in principle adheres to the spatial sustainability criteria within Policy SP1 and the settlement hierarchy as set out in Strategic Policy SP2 of the Local Plan which encourages new development to be focussed to the main towns and larger villages. There is a desirability for optimising land use within Burton and the delivery of windfall housing would play a part in meeting the Boroughs housing requirements and achieving sustainable growth. It is noted that there are similar two storey buildings (also providing residential accommodation) within close proximity of the site and the revised layout plan adequately shows how the new building could be integrated into the site. The general principles of sustainable development as required within the criteria of Policy SP1 are discussed in further detail in the assessment below.
- 8.7 Policy HD3: Housing Mix as set out in the Shobnall Neighbourhood Plan requires new housing development to deliver an appropriate mix of housing types and sizes to meet the current and future needs of Shobnall residents. In particular starter homes, affordable housing and larger family homes are required. The proposal would result in 3 x 1 bed and 2 x 2 bed accommodation being provided. Taking into consideration the need to provide homes for the younger generation and those on lower incomes as described in the Neighbourhood Plan, it is considered that these smaller residential units could meet with the need set out.
- 8.8 It is therefore concluded that the scheme in principle would meet the sustainability criteria of national and local planning policies in terms of the delivery of new residential development.

## **9. Design and Impact on the character and appearance of the area**

- 9.1 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.
- 9.2 Strategic Policies 1 and 24 state that development proposals must contribute positively to the area in which they are proposed. The policy lists a number of criteria developments are expected to achieve including creating a sense of

place, reinforcing character, reflecting densities and where possible minimise the production of carbon through sustainable construction.

- 9.3 Policy DP1 of the Local Plan re-iterates the design principles set by Policy 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.
- 9.4 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 will be important, as this can support local distinctiveness. The Guide allows for development which employs a more modern architectural style but in terms of its proportions and siting it should still complement its surroundings.
- 9.5 The East Staffordshire Design Guide is equally applicable to the policy aspirations of SP24. It states that:
- (a) Residential layouts should be designed with focus on the streets and spaces between dwellings rather than the individual buildings themselves;
  - (b) The location of buildings in relation to streets should create interesting streetscapes including consciously arranged views and vistas within and out of the development;
  - (c) Long straight and sweeping roads should be avoided with a preference for traffic calming inherent in the design of the development;
  - (d) Repetitive house types should be avoided;
  - (e) The cramming together of large numbers of detached properties should be avoided.
  - (f) High proportions of frontage car parking will not be acceptable.
- 9.6 Detailed policy 2 aims for development to achieve high sustainability and environmental credentials adopted energy efficiency techniques and other standards where possible.
- 9.7 Visually, it is considered that the proposals would be in keeping with the existing character and appearance of the area. Providing undercroft vehicular access through an existing terraced property is not unusual in Victorian terraces, in particular where accesses were often historically provided to work shop areas to the rear. It is noted that many of the frontages of properties in Shobnall Road have been altered, in particular at ground floor, with the addition of porches, extensions and alterations to original fenestration details. As such, the alterations proposed to No.43 Shobnall Road in order to facilitate vehicular access to the rear of the site are not considered to be unacceptable. The Highways Impacts are discussed in detail in the relevant section later in this report.
- 9.8 Turning to the proposed two storey apartment block. This would not be highly visible from the street scene and public amenity, but it is acknowledged that it would be visible from the rear gardens of neighbouring dwelling houses. There

are examples of large single and two storey outbuildings (including dwellings) located along the rear boundaries of properties in Shobnall Road and Grange Street to the rear. As such, it is not considered that the provision of a two storey building could be considered out of context with the urban grain of the locality. During the course of the application the scale, in particular the depth of the building and its footprint have been reduced. As proposed, Officers consider that a refusal on the grounds of the impact on the character of the area could not be sustained.

9.9 Appropriately worded conditions could be used to ensure that the proposed new building is constructed from suitable materials.

9.10 Overall, it is considered that the proposed design and visual impacts of the scheme are appropriate and would respect the character and layout of the area in accordance with Local Plan Policies SP24 and DP1 and the NPPF.

## **10. Residential Amenity**

10.1 The National Planning Policy Framework and SP1, DP1 and DP3 of the Local Plan seeks 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.

10.2 The Councils recently adopted Separation Distances and Amenity SPD sets out overall spacing standards for new residential development to ensure that existing and future occupiers have a good level of amenity and privacy to enjoy the place where they live.

10.3 The Shobnall Neighbourhood Plan requires new development to achieve a high standard of design and states that family accommodation should include access to garden space. Policy HD2 sets out that appropriate provision of private or green space is required in new housing schemes.

10.4 Turning first to No.43 Shobnall Street. The proposed alterations to the existing dwelling would result in the creation of a 1 bedroom flat at first floor. The access would be provided via an external staircase to the rear. The lower section of the staircase is of a height which may impact on the neighbouring occupiers at No.42 by providing a raised platform adjacent to the boundary, however it is noted that appropriate screening to protect the privacy of the neighbours could be secured via condition. The proposed accommodation in No.43 Shobnall Street is considered to be of appropriate size.

10.5 No's 44 and 45 Shobnall Street are in use as 5 bed HMO's as set out earlier in this report. Both properties would be provided with a small area for residents to sit outside and such this is as per the existing situation and is therefore not considered to be unacceptable in itself.

10.6 In terms of the new accommodation block, the objectives of the separation distances which are set out in relation to neighbouring properties, including No's 43, 44 and 45 Shobnall Street are met. There are no proposed first floor windows which would result in direct overlooking of adjacent garden areas. Therefore, the impact on the existing privacy and light of the neighbouring occupiers is considered to be acceptable.

- 10.7 Notwithstanding the above, it is considered that the amenity for future occupiers, in terms of outlook and daylight is limited to several of the key - and habitable - rooms being provided. The rear elevation of the proposed building is located a 1.6m distance away from an existing two storey building to the rear of the site. Taking into consideration the proposed layout of the building, the kitchen and living space of the two bed flats, along with one of the bedroom windows would directly face this flank wall. The bedroom windows of the 1 No. bed units would also face this building. This relationship would result in an overbearing and overshadowing impact on the amenities of future occupiers of the dwelling, given the height of this building and its close proximity. In this respect, the proposal would fail to comply with Local Plan Policies SP1, DP1 and DP3 which require a high standard of design and residential amenity for future occupiers of new development.
- 10.8 The future occupiers of the new accommodation block would benefit from off road parking and a bin storage area, however no communal garden is proposed as part of the scheme. The Separation Distances and Amenity SPD requires a minimum garden size of 10 sq. m per flat to be provided. Furthermore, the Shobnall Neighbourhood Plan in Policy HD2 requires appropriate provision of private or shared green space to meet or exceed standards set out in Local and National Planning Policies and guidance.
- 10.9 Whilst the communal area proposed would serve well as a parking and bin storage area, it would not function as meaningful garden/amenity space for residents. The layout of the site would therefore fail to allow outdoor domestic activities to be undertaken and would be contrary to the requirements set out in Policies SP1, DP1 and DP3 of the Local Plan, the Separation Distances and Amenity SPD, Policy HD2 of the Shobnall Neighbourhood Plan and the NPPF.

## 11. Historic Environment

- 11.1 Paragraph 184 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, so that they can be enjoyed for their contribution to the quality of life of existing and future generations.
- 11.2 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.
- 11.3 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. 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.

- 11.4 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.
- 11.5 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.
- 11.6 There are no heritage assets- Conservation Areas or Listed Buildings- within the immediate vicinity of the application site. It is not considered that the proposal will have any impact on views into, or those out of any designated areas, or affect any listed building or its setting and that the statutory duties under Section 66(1) and under Section 72 are not therefore engaged.

## **12. Sustainability (energy efficiency and low carbon)**

- 12.1 DP2 of the Local Plan sets out expectations for development which ensure the design and delivery of low carbon buildings and energy improvements to existing buildings. A number of criteria apply to achieve sustainable development.
- 12.2 The proposed detached building containing 4 new residential units will be constructed using modern and efficient methods resulting in dwellings that are well insulated and energy efficient. Whilst there is no specific design for solar gain it is considered that the proposed new dwellings will be constructed to a high standard in terms of energy efficiency and will not result in a significant increased carbon footprint. It is therefore considered that the proposals would accord with policy SP2 of the Local Plan.

## **13. Highway Matters**

- 13.1 The NPPF in section 4 sets out the role transport policies play in facilitating sustainable development which contributes to wider sustainability and health objectives. Decisions should consider 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.
- 13.2 Policies SP1 and SP35 of the Local Plan 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. For those developments likely to have an impact on the wider highway infrastructure, proposals should be

accompanied by a transport assessment clearly setting out how the likely impacts of the development will be addressed.

- 13.3 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.

Neighbourhood Plan policies (those relating to parking)

- 13.4 The Shobnall Neighbourhood Plan sets out parking requirements for new development through Policy T5: Parking. New residential development, including change of use, will generally be expected to provide car parking spaces at the following quantities. Where proposals do not provide parking at these levels (whether higher or lower), applicants will be required to justify the level of provision, and to demonstrate that parking demand arising from the development will not worsen existing parking problems.

Residential car-parking standards

- For developments providing 1-bedroom dwellings, 1.5 parking spaces per dwelling will be expected (rounded up to the nearest whole number)
- For 2 or 3 bedroom dwellings, a minimum of 2 parking spaces will be expected.
- For larger dwellings (including Houses in Multiple Occupation requiring planning permission), provision of 1 additional parking space per additional bedroom, for each dwelling, will be expected.

- 13.5 In the supporting Planning Statement, the applicant has referred to the existing parking provision for No's 43, 44 and 45 Shobnall Street. This is unrestricted on street parking along Shobnall Street and surrounding roads. Immediately to the frontage of the dwellings, there are double yellow lines, and as such there would be no net parking loss through the provision of a new access onto this side of Shobnall Street.
- 13.6 It is intended that the new dwellings would be most suited to single people or couples who work within the vicinity or who could commute sustainably either on foot or by public transport. Public bus services operate along Shobnall Road to the south of the site and Grange Street. Services which operate from these local bus stops provide access to Burton, Queens Hospital, Winshill and Swadlincote. Connections to other destinations can be made from Burton Town Centre.
- 13.7 The existing dwellings, including No.43 Shobnall Road do not benefit from off street or designated parking. To the immediate frontages on Shobnall Street, there are double yellow lines which inevitably restrict any on street parking. The proposed layout of the site has been revised during the course of the application in order to ensure that the required parking spaces are provided to serve the new apartment block to the rear. Whilst no additional parking is proposed to serve No.43 Shobnall Street, on the basis that this dwelling currently does not benefit from any designated parking provision, and the existing 3 bed dwelling would become a 1 No. bed flat as part of the proposals it is not considered that the parking provision would be unacceptable. The comments made by the Parish Council that there is insufficient parking for all residents of the neighbouring HMOs is noted. No's 44 and 45 Shobnall Street

have been converted into 5 bedroom Houses in Multiple Occupation (HMO's) however planning consent was not required for this change of use. In terms of Policy T5 of the Neighbourhood Plan there is no set requirement for parking provision for HMO's which do not require planning permission. Again, given the existing situation, it is not considered reasonable for further off road parking to be provided to serve previous developments which did not themselves require planning permission.

- 13.8 Overall, therefore, it is considered that the highway safety objectives and parking requirements as set out in the Car Parking Standards SPD and the Shobnall Neighbourhood Plan would be met through this proposal.
- 13.9 The County Highway Authority have considered the scheme and have raised no objections. In particular, the access arrangements are not considered to prejudice the safe and free flow of the Highway. The speed at which vehicles would access and leave the site would be sufficiently slow given the width of the undercroft area to ensure that pedestrian safety would be maintained. Taking into consideration the set back from the back of pavement of 2.8m sufficient visibility splays would be maintained. The proposed vehicular crossing would be subject to a separate highway agreement which would ensure that the works are carried out to the required specifications. As such, it is considered that the proposal would meet with the objectives of Local Plan Policies SP1 and SP35 in relation to highway Safety.

#### **14. Flood Risk and Drainage**

- 14.1 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.
- 14.2 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.
- 14.3 The site is not located within an identified flood risk area being in Flood Zone 1 nor is it an identified local flooding hotspot. Severn Trent Water Ltd have been formally consulted with regard to the proposal and have raised no objections subject to the submission and approval of a scheme for the disposal of foul and surface water.
- 14.4 In light of the above, it is considered that a suitable drainage strategy can be employed to adequately address the drainage requirements for the proposed development. The proposal is therefore considered to be compliant with Local Plan Policy SP27 and the NPPF.



## 15. Section 106 Contributions

- 15.1 Planning Practice Guidance states that there are specific circumstances where contributions for affordable housing and tariff style planning obligations (section 106 planning obligations) should not be sought from small scale and self-build development. One of these circumstances is that contributions should not be sought from developments of 10-units or less, and which have a maximum combined gross floorspace of no more than 1,000 square metres (gross internal area). This guidance came into force in 2016. Therefore there is no basis to seek affordable housing or financial contributions for this application.

## 16. Conclusions

- 16.1 In conclusion, in principle the site is sustainably located and the development could be integrated into the site without detrimentally impacting on the existing residential amenities of neighbouring occupiers or the character and appearance of the area. The Highways Authority have raised no objections and consider the impact on highway safety in Shobnall Street to be acceptable. Parking provision as proposed would meet with the requirements set out in the Borough Councils Car Parking SPD and Policy T5 of the Shobnall Neighbourhood Plan. No heritage assets would be affected by this proposal.
- 16.2 Notwithstanding the above, however, the impact on the residential amenities of future occupiers is not considered to be acceptable. The development fails to provide adequate outlook or communal garden/amenity space to serve the new residential units, and as such the development fails to comply with Local Plan Policies SP1, SP24, DP1 and DP3, the Shobnall Neighbourhood Plan, the Separation Distances and Amenity SPD and The National Planning Policy Framework.

### 16.3 RECOMMENDATION

**REFUSAL of planning permission** for the following reason:

Detailed Policy 1 (DP1) of the East Staffordshire Local Plan (2012 - 2031) requires that the design of the development responds to the environmental context and the density and mix of the development is in relation to its context. Detailed Policy 3 (DP3) of the Local Plan requires that development should not unacceptably impact on residential amenities. Strategic Policy 24 (SP24) of the Local Plan states that layouts for new development should integrate with the existing environment and context, including space around dwellings, public and private space. The Separation Distances and Amenity SPD sets out requirements for new residential development in order to ensure a good level of residential amenity is achieved for existing and future occupiers. Policy HD2 of the Shobnall Neighbourhood Plan requires appropriate provision of private or shared green space to serve new housing development.

The proposed development would be detrimental to the residential amenities of the future occupiers of the dwellings located within the two storey accommodation block to the rear of the site by reason of the overbearing and overshadowing impact of the adjacent two storey building to the east of the site and the lack of communal amenity garden space proposed as part of the scheme. As such the proposed development is contrary to Local Plan Policies

SP1, SP24, DP1 and DP3, the Shobnall Neighbourhood Plan, the Separation Distances and Amenity SPD and The National Planning Policy Framework.

## **17. Background papers**

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

- The Local and National Planning Policies outlined in the report above.
- Papers on the Planning Application file reference: P/2019/00601

## **18. Human Rights Act 1998**

18.1 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.

## **19. Crime and Disorder Implications**

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

## **20. Equalities Act 2010**

20.1 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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