



Civic Centre, Riverside, Stafford

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Dear Members

Planning Committee

A meeting of the Planning Committee will be held on **Wednesday, 7 February 2024** at **6.30pm** in the **Craddock Room, Civic Centre, Riverside, Stafford** to deal with the business as set out on the agenda.

Please note that this meeting will be recorded.

Members are reminded that contact officers are shown in each report and members are welcome to raise questions etc in advance of the meeting with the appropriate officer.

A handwritten signature in black ink, appearing to read "I. Curran".

Head of Law and Governance

PLANNING COMMITTEE - WEDNESDAY 7 FEBRUARY 2024

Chairman - Councillor B McKeown

Vice-Chairman - Councillor A Nixon

AGENDA

- 1 **Minutes**
- 2 **Apologies**
- 3 **Declaration of Member's Interests/Lobbying**
- 4 **Delegated Applications**

Details of Delegated applications will be circulated separately to Members.

	Page Nos
5 Planning Applications	5 - 28
6 Planning Appeals	29 - 50
7 Enforcement Matters	-

MEMBERSHIP

Chairman - Councillor B McKeown

B M Cross	D M McNaughton
F D J James	A Nixon
E G R Jones	M Phillips
P W Jones	J P Read
R Kenney	S N Spencer
B McKeown	

PLANNING COMMITTEE - 7 FEBRUARY 2024

Ward Interest - Nil

Planning Applications

Report of Head of Economic Development and Planning

Purpose of Report

To consider the following planning applications, the reports for which are set out in the attached **APPENDIX**:-

		Page Nos
23/38381/LBC	Land at St John's Church, Granville Terrace, Stone	5 - 15
	<p>This application has been referred to the Planning Committee by the Head of Economic Development and Planning because it relates to the removal of a condition which the Planning Committee attached to the listed building consent in resolving to approve application 21/35101/LBC.</p> <p>Officer Contact - Richard Wood, Development Lead, Telephone 01785 619324</p>	
23/38368/FUL	Land at St John's Church, Granville Terrace Stone	16 - 28
	<p>This application has been referred to the Planning Committee by the Head of Economic Development and Planning because it relates to the removal of a condition which the Planning Committee attached to the planning permission in resolving to approve application 21/35049/FUL</p> <p>Officer Contact - Richard Wood, Development Lead, Telephone 01785 619324</p>	

Previous Consideration

Nil

Background Papers

Planning application files are available for Members to inspect, by prior arrangement, in the Development Management Section. The applications including the background papers, information and correspondence received during the consideration of the application, consultation replies, neighbour representations are scanned and are available to view on the Council website.

Application:	23/38381/LBC
Case Officer:	Ed Handley
Date Registered:	15 November 2023
Target Decision Date:	10 January 2024
Extended To:	-
Address:	Land at St John's Church, Granville Terrace, Stone
Ward:	St Michael's and Stonefield
Parish:	Stone Town
Proposal:	Removal of Condition 12 (windows) on application 21/35101/LBC - Retention of unauthorised works to the church and erection of a two-storey rear extension (following demolition of existing single-storey extension) to convert the building into five residential units
Applicant:	BHG Developments
Recommendation:	<ol style="list-style-type: none"> 1. That with regard to condition 12 the Planning Committee resolve to determine this application in line with their consideration of application 23/38368/FUL regarding condition 6 of 21/35049/FUL, and 2. That if the Planning Committee resolve to approve the application, that listed building consent is granted with conditions 5 and 8 being varied.

REASON FOR REFERRAL TO COMMITTEE

This application has been referred to the Planning Committee by the Head of Economic Development and Planning because it relates to the removal of a condition which the Planning Committee attached to the listed building consent in resolving to approve application 21/35101/LBC.

Context

The application site comprises a grade II listed former church – and its grounds – which lies within Stone Conservation Area.

The main church building is a prominent feature on a principal approach into the historic town centre and conservation area. The building has been disused as a church since approximately 2012 and is principally of stone construction; it was erected in two main phases in the 1870s and in 1886 after a fire. Under permission 21/35049/FUL and listed building consent 21/35101/LBC the building is undergoing extension, alteration, and

conversion to residential accommodation. Listed building consent 21/35101/LBC was granted for the scheme which was previously allow on appeal and the replacement of the coloured-glass windows. The Planning Committee of Stafford Borough Council also resolved to grant planning permission and listed building consent under 21/35049/FUL and 21/35171/LBC respectively at the same time as 21/35101/LBC.

This application seeks to remove condition 12 of 21/35101/LBC; condition 12 reads:

“Notwithstanding condition 6 of this consent, and before unit 5 is first brought into use, the following windows within unit 5 shall be installed in accordance with the following and thereafter retained as such:

- *First floor, southeast-facing, window serving bedroom 5 (frame 10) shall be obscure glazed and non-opening to a height of 1.7m above floor level.*
- *First floor, southwest-facing, window serving the en-suite bathroom to bedroom 5 (frame 14) shall be obscure glazed to a height of 1.7m above floor level and hung from the right-hand side (external).*
- *First floor, southwest-facing window serving the landing (frame 14) shall be obscure glazed to a height of 1.7m above floor level and hung from the right-hand side (external).*
- *First floor, southwest-facing window serving the landing (frame 13) shall be obscure glazed to a height of 1.7m above floor level, the left-hand casement shall be non-opening, and the right-hand casement shall be hung from the right-hand side (external).”*

The conversion of the building involves the subdivision of the principal open space within the main church building, both horizontally and vertically, to provide four units with a fifth, larger, unit being created within the northern end of the church interior. At the time of submission of this application the construction of the extension which would house unit 5 had not commenced.

Planning permission and listed building consent was initially granted on appeal (reference APP/Y3425/W/16/3164139 and APP/Y3425/Y/16/3164144) to allow the conversion of the church to provide five dwellings, an extension to the church, the erection of an apartment building to the northern edge of the site fronting The Avenue (to provide four units), a detached garage, and a new access. The planning permission granted under APP/Y3425/W/16/3164139 has been amended under 19/31557/FUL and subsequently 21/35049/FUL. The listed building consent granted under APP/Y3425/Y/16/3164144 lapsed due to the failure to discharge condition 3 of that consent; notwithstanding this, works were well underway by 2021 and application 21/35101/LBC, for listed building consent, was submitted in retrospect and subsequently listed building consent was granted for the retention of the works allowed on appeal under reference APP/Y3425/Y/16/3164144 and to include the replacement of the previous coloured-glass windows.

In allowing the two appeals, the Inspector made no reference to the relationship between the proposed unit 5 and the neighbouring dwelling, Granville House; furthermore, no conditions were attached to either approval to control amenity with regard to obscure

glazing and/or how windows were to be fixed/openable. It is noted that condition 3 of the listed building consent allowed on appeal included a condition which required details of fenestration, however matters of amenity are not a material consideration in whether listed building consent should be granted and, therefore, it is considered that this condition related to the design and appearance of the windows rather than any matters relating to privacy or outlook.

Consequently, and having considered the merits of the proposed scheme, as set out in the agenda for the Committee meeting on 30 November 2022, in making recommendations to the Planning Committee with regard to applications 21/35049/FUL, 21/35101/LBC, and 21/35171/LBC, the Officer included no conditions relating to matters of amenity.

In the lead up to the meeting of the Planning Committee a representation was received from the occupiers of the neighbouring residential property – Granville House; this representation requested that a number of windows within unit 5 be obscure glazed and hung from specific sides to reduce impacts upon the privacy of the occupiers of Granville House. In presenting the first of the applications (21/35049/FUL) to the Planning Committee, the Officer invited the Committee to consider a condition if they were minded to agree with the neighbour that such measures were necessary; the Committee resolved to attach the condition. Consequently, in presenting the second of the applications (21/35101/LBC), the Officer recommended that the same condition be attached to listed building consent 21/35101/LBC should they resolve to grant consent in order for the fixing and obscure glazing of the windows to be secured appropriately by condition of the listed building consent and to avoid conflict between the two approvals. The Committee resolved to attach the condition.

Section 16 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that in considering whether to grant listed building consent for any works the Local Planning Authority 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. Furthermore, section 66 states the same with regard to the exercise of planning functions by the Local Planning Authority. It must be noted that impacts upon amenity are not a material consideration in whether listed building consent should be granted.

Officer Assessment – Key Considerations

1. Heritage conservation

The Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) requires that special regard is given to the desirability of preserving a listed building, its setting, and any features of special architectural or historic interest which it possesses.

The NPPF (National Planning Policy Framework) states that heritage assets are an irreplaceable resource which should be conserved 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. At paragraph 201 the NPPF requires the local planning authority to identify and assess the particular significance of any heritage asset which may be affected by a proposal, taking account of the available evidence and any necessary expertise and in determining an application, paragraph 203 requires that the local planning

authority takes account of – amongst other things – the desirability of sustaining and enhancing the significance of heritage assets.

Great weight should be given to the conservation of a heritage asset (paragraph 205); any harm to, or loss of, the significance of a designated heritage asset should require clear and convincing justification (paragraph 206). Where a proposed development would lead to less than substantial harm, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use (paragraph 208).

Policy N9 of The Plan for Stafford Borough requires that development sustains and, where appropriate, enhances the significance of heritage assets and their setting by understanding the heritage interest, encouraging sustainable re-use, and promoting high quality design. All potential loss of, or harm to, the significance of a heritage asset, including its setting, requires clear justification.

The Council's Conservation Officer raises no objection to the removal of condition 12 stating that the condition attached by the planning committee had no heritage justification and that the condition does not relate, in any way, to the historic interest of the grade II listed building.

It is not considered that the proposed removal of condition 12 would result in any harm with regard to the significance of the listed building or its setting.

Consequently, it is considered that the proposal is in accordance with section 16 of the NPPF and policy N9 of The Plan for Stafford Borough and that the works are acceptable.

Policies and Guidance: -

National Planning Policy Framework

Paragraphs: 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, and 214

The Plan for Stafford Borough

Policies: N1 Design; N8 Landscape character; N9 Historic environment

Supplementary Planning Document (SPD) – Design

Planning (Listed Buildings and Conservation Areas) Act 1990

2. Other

The consideration of this application must be based on the impacts upon the historic interest of the building and its reasons for designation. Whilst the occupants of the neighbouring property have raised concern regarding implications involving amenity it is not considered that residential amenity comprises any part of the reason for the designation of this heritage asset and, therefore, matters of amenity should not be taken into consideration. Such matters would be considered should any development, as defined under section 55 of the Town and Country Planning Act 1990 and which require planning permission, be proposed; any such development would be the subject of a

separate application under that legislation. Matters of amenity must be taken into account in consideration of application 23/38368/FUL which seeks to remove condition 6 permission 21/35049/FUL which restricts the windows in the same manner as condition 12 of 21/35101/LBC.

Should the Planning Committee resolve to approve the removal of condition 12, it would be appropriate to also vary the wording of conditions 5 and 8 of listed building consent 21/35101/LBC.

It is noted that condition 8 of 21/35101/LBC contains a drafting error and this application presents an appropriate opportunity to resolve this issue. Condition 8 should refer to the colour finish of external doors to unit 5 rather than windows and it is recommended that condition 8 be revised to read: *“All external doors to the new dwelling are to be retained and painted in Dulux Weather Shield 'Burnt Cherry’”*. With regard to application 23/38192/DCON, which sought confirmation of compliance with conditions of listed building consent 21/35101/LBC, if the Planning Committee resolves to approve the removal of condition 12, it is considered that condition 5 should be varied to acknowledge compliance and require the retention of the coloured glass windows in accordance with the approved details rather than to require that the windows be replaced in accordance with the approved documents.

3. Concluding comments

Whilst it is recommended that the Planning Committee consider whether the proposed development would be acceptable in the absence of condition 12, it is recommended that the same decision is made with regard to that condition as that made with regard to application 23/38368/FUL in order for there to be no conflict between planning permission and associated listed building consent.

Should the Planning Committee resolve to approve the removal of condition 12, it is recommended that condition 5 be varied in line with the reasoning set out in section 3 of this report and that condition 8 be revised to read *“All external doors to the new dwelling are to be retained and painted in Dulux Weather Shield 'Burnt Cherry’”*.

Consultations

Conservation Officer:

No objection.

- Condition 12 relates to matters of amenity and privacy, specifically in relation to windows to unit 5. The condition was not recommended by the Conservation Officer and was attached by the planning committee.
- The condition does not, in any way, relate to listed building matters of historic and architectural interest or significance and solely relates to residential amenity. Residential amenity is not a matter of consideration under an application for listed building consent and should be addressed under any application for planning permission.
- There is no historic building objection to the removal of condition 12.

Stone Town Parish Council:

No objection.

Neighbours (12 consulted):

Two representations received in objection from one household, raising the following points:

- Condition 12 is identical to, and in place to comply with, an existing planning restriction imposed to protect privacy and amenity of the occupiers of the adjacent dwelling.
- The restriction does not affect the size or position of the windows as approved and was imposed on the first occasion that details of fenestration were presented to the Planning Committee.
- The existing restriction is the minimum necessary to protect privacy and amenity in accordance with policy N1 and is entirely reasonable.
- The condition relates to a corridor, an en-suite shower room, and a secondary window to a bedroom.
- Without the condition, future occupants of unit 5 would have a clear and direct line of view into a bedroom, kitchen/dining room, and garden.
- There is no right to a view over another's property, however there is a right to privacy.

Site notice expiry date: 11 January 2024

Newsletter advert expiry date: 27 December 2023

Relevant Planning History

79/08961/FUL –	Extensions to church hall – Approved 10 October 1979
84/16631/FUL –	New car park entrance, reposition oil tank, and installation of steps – Approved 31 October 1984
15/21725/COU –	Temporary change of use from church car park and offices to van hire business – Refused 4 December 2015 (Subsequent enforcement appeal dismissed)
15/22081/FUL and 15/22082/LBC	Conversion of church and erection of two-storey extension (following demolition of existing single storey extension) to provide 4 residential units and the erection of 2.5 storey building fronting The Avenue to provide 4 apartments on the former church car park – Refused 18 June 2015

16/23671/FUL and 16/23672/LBC	Conversion of church and erection of rear two-storey extension (following demolition of existing single-storey extension) to provide five residential units and the erection of a 2.5 storey building fronting The Avenue to provide four apartments on the former Church car park – Not determined. Allowed on appeal, reference APP/Y3425/W/16/3164139 and APP/Y3425/Y/16/3164144 (10 August 2017)
18/27950/DCON –	Discharge of conditions 3 and 4 of 16/23671/FUL and 16/23672/LBC – Discharged 6 March 2018
18/28055/DCLB –	Discharge of conditions 3a, 3b, 3c, 3d, 3e, 3f, 3g, 3h and 3i of 16/23672/LBC – Refused 30 July 2021
19/31557/FUL –	Variation of condition 2 of APP/Y3425/W/16/3164139 – Approved 23 January 2020
20/33452/LBC -	Repositioning of roof lights approved by listed building consent APP/Y3425/Y/16/3164144 and internal works to include the removal of a staircase, removal of internal walls within units 1 and 2 and other minor alterations – Refused 6 August 2021
21/35049/FUL -	Variation of condition 2 (plans) of permission 19/31557/FUL – Approved 31 August 2023
21/35101/LBC –	Retention of unauthorised works to the church and erection of a two-storey rear extension (following demolition of existing single-storey extension) to convert the building into five residential units – Approved 31 August 2023
21/35171/LBC -	Retention of unauthorised works to include the repositioning of roof lights approved by listed building consent APP/Y3425/Y/16/3164144 and internal works to include the removal of a staircase, removal of internal walls within units 1 and 2 and other minor alterations – Approved 31 August 2023
23/38192/DCON -	Compliance of conditions on 21/35101/LBC – Decision issued 9 November 2023

Recommendation, should the Planning Committee resolve to approve the application

Approve subject to the following conditions:

1. This consent relates to the originally submitted details and specification and to the following drawings, except where indicated otherwise by a condition attached to this consent, in which case the condition shall take precedence:-

1:1250 Location plan revision B

1:500 Block plan revision D

14/1/3242/5A U Proposed ground floor plan

14/1/3242/5B U Proposed first floor plans

14/1/3242/5C E Proposed sections

14/1/3242/5D E Sections

14/1/3242/9 J Street scene

14/1/3242/18 B Conservation details sheet 1

14/1/3242/19 B Conservation details sheet 2

14/1/3242/20 B Conservation details sheet 3

14/1/3242/21 C Conservation details sheet 4

14/1/3242/22 B Conservation details sheet 5

14/1/3242/35 A Sleeper wall details

14/1/3242/36 E Proposed SW elevation

14/JPK/4675/3 E Proposed elevations

2. Repair works shall be carried out in accordance with the following documents unless an alternative schedule of dilapidation and repair is first submitted to, and approved in writing by, the local planning authority:
 - Drawing 5705-003 B
 - 'Masonry and Timber Repair Schedule' by HBL Associates Ltd, dated December 2017
3. The structural steelwork required to carry out the conversion of the listed building shall be installed in accordance with drawing Drawing 5705-002 F unless an alternative scheme is first submitted to, and approved in writing by, the local planning authority.
4. Stone cleaning shall be carried out in accordance with the following documents unless an alternative scheme is first submitted to, and approved in writing by, the local planning authority:
 - External pre-cleaning (DOFF/Thermotech system): Sandstone (Alan Bridgman, Stone Co. Draft issue number 1. dated 6 February 2018)
 - External abrasive (JOS/TORC. system) cleaning sandstone (Alan Bridgman, Stone Co. Draft issue number 1. dated 6 February 2018)
 - Repairing/renovating and conserving masonry (Stone restoration details) (Alan Bridgman. undated) (received 25 October 2021)

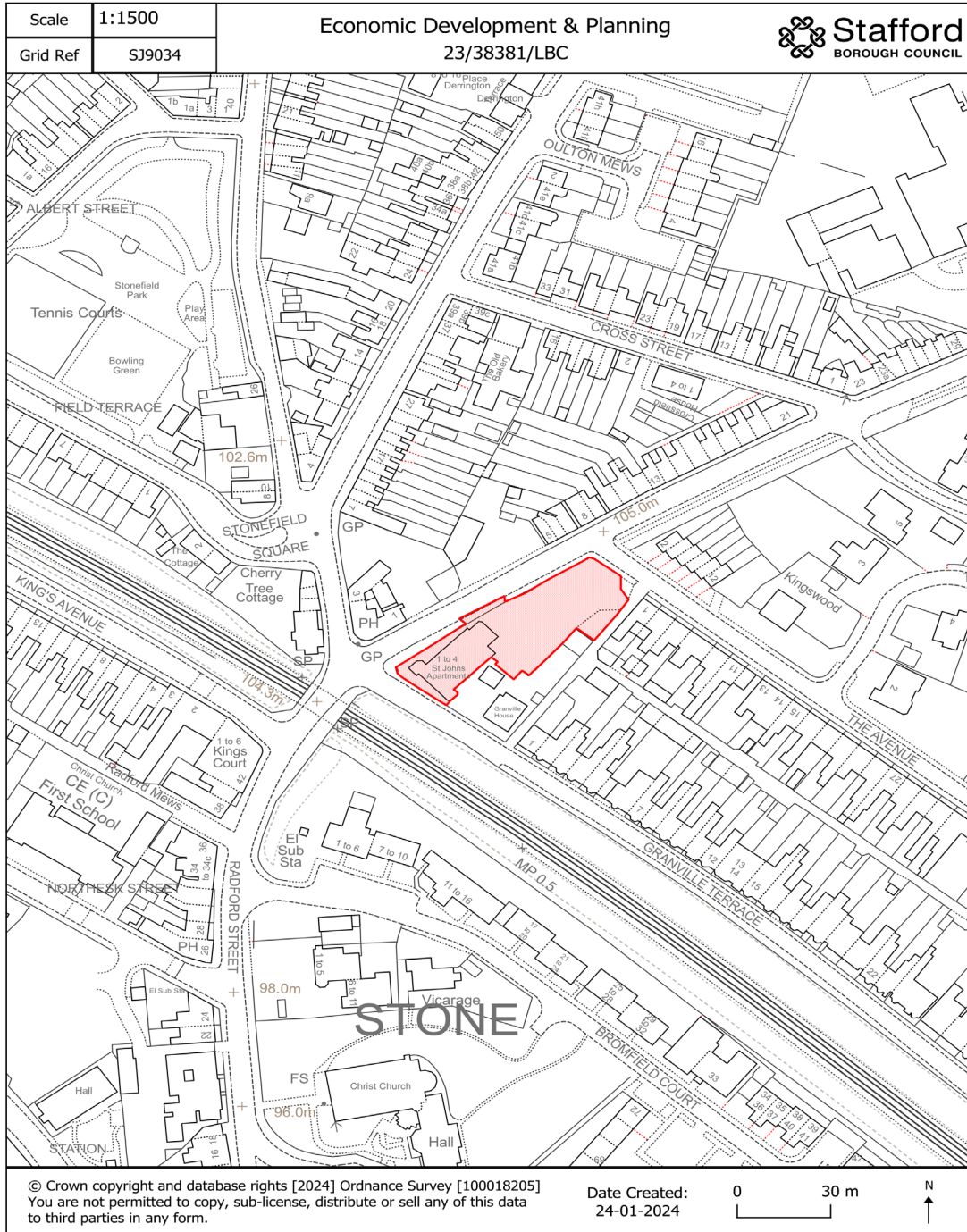
5. The replacement coloured glass windows, shall be retained in accordance with drawing 14/JPK/4675/3 E and the Holdsworth Windows Limited document (sheets 1 and 2 of 2).
6. Notwithstanding any description/detail within the application documents, except for the replacement of the coloured glass windows all new and/or replacement windows and doors shall be installed in accordance with the ODC door and glass systems report (reference EST-12401, received 14 September 2022)
7. Repairs and restoration of the listed building with regard to the following elements shall be carried out in accordance with the following documents unless an alternative scheme is first submitted to, and approved in writing by, the local planning authority:
 - Clock: Clock restoration details from Smiths of Derby
 - Pews: Drawings 14/1/3242/5A U and 14/1/3242/5B U
 - Organ: To be cleaned and retained in situ.
8. All external doors for the new dwelling are to be retained and painted in Dulux Weather Shield 'Burnt Cherry'.
9. All new guttering shall be Rain Clear moulded ogee cast aluminium guttering to match the shape of the existing church guttering.
10. All new external brickwork shall be Ibstock Warwick Old English, unless otherwise approved in writing by the local planning authority.
11. All new external render shall be in accordance with details to be submitted to, and approved in writing by, the local planning authority before its first application.

The reasons for the Council's decision to approve the development subject to the above conditions are:

1. To define the permission.
2. In order to safeguard the architectural and historic character of this Grade II Listed Building. (Policy N9 of The Plan for Stafford Borough).
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11. In order to safeguard the architectural and historic character of this Grade ii Listed Building. (Policy N9 of The Plan for Stafford Borough).
12. To define the permission.

23/38381/LBC
Land At St Johns Church
Granville Terrace
Stone



Application:	23/38368/FUL
Case Officer:	Ed Handley
Date Registered:	4 December 2023
Target Decision Date:	29 January 2024
Extended To:	-
Address:	Land at St John's Church, Granville Terrace, Stone
Ward:	St Michael's and Stonefield
Parish:	Stone Town
Proposal:	Removal of Condition 6 (windows) on application 21/35049/FUL - 'Variation of condition 2 (plans) of permission 19/31557/FUL'
Applicant:	BHG Developments
Recommendation:	<ol style="list-style-type: none"> 1. That the Planning Committee consider whether the development would, without condition 6, be acceptable, and 2. That if the Planning Committee resolve to approve the application, that permission is granted with conditions 2, 3, and 4 varied.

REASON FOR REFERRAL TO COMMITTEE

This application has been referred to the Planning Committee by the Head of Economic Development and Planning because it relates to the removal of a condition which the Planning Committee attached to the planning permission in resolving to approve application 21/35049/FUL.

Context

The application site comprises a grade II listed former church – and its grounds – which lies within Stone Conservation Area.

The main church building is a prominent feature on a principal approach into the historic town centre and conservation area. The building has been disused as a church since approximately 2012 and is principally of stone construction; it was erected in two main phases in the 1870s and in 1886 after a fire. Under permission 21/35049/FUL and listed building consent 21/35101/LBC the building is undergoing extension, alteration, and conversion to residential accommodation. Planning permission 21/35049/FUL was granted for the variation of condition 2 (plans) of permission 19/31557/FUL, which itself was a variation of condition 2 (plans) of the scheme allowed on appeal for the conversion

of the listed building, its extension, and the provision of a new apartment block on the site. The Planning Committee of Stafford Borough Council also resolved to grant listed building consent under 21/35101/LBC and 21/35171/LBC at the same time as 21/35049/FUL.

This application seeks to remove condition 6 of 21/35049/FUL; condition 6 reads:

“Notwithstanding any description/details within the application documents, and before unit 5 is first brought into use, the following windows within unit 5 shall be installed in accordance with the following and thereafter retained as such:

- *First floor, southeast-facing, window serving bedroom 5 (frame 10) shall be obscure glazed and non-opening to a height of 1.7m above floor level.*
- *First floor, southwest-facing, window serving the en-suite bathroom to bedroom 5 (frame 14) shall be obscure glazed to a height of 1.7m above floor level and hung from the right-hand side (external).*
- *First floor, southwest-facing window serving the landing (frame 14) shall be obscure glazed to a height of 1.7m above floor level and hung from the right-hand side (external).*
- *First floor, southwest-facing window serving the landing (frame 13) shall be obscure glazed to a height of 1.7m above floor level, the left-hand casement shall be non-opening, and the right-hand casement shall be hung from the right-hand side (external).”*

The conversion of the building involves the subdivision of the principal open space within the main church building, both horizontally and vertically, to provide four units with a fifth, larger, unit being created within the northern end of the church interior. At the time of submission of this application the construction of the extension which would house unit 5 had not commenced.

Planning permission and listed building consent was initially granted on appeal (reference APP/Y3425/W/16/3164139 and APP/Y3425/Y/16/3164144) to allow the conversion of the church to provide five dwellings, an extension to the church, the erection of an apartment building to the northern edge of the site fronting The Avenue (to provide four units), a detached garage, and a new access. The planning permission granted under APP/Y3425/W/16/3164139 has been amended under 19/31557/FUL and subsequently 21/35049/FUL. The listed building consent granted under APP/Y3425/Y/16/3164144 lapsed due to the failure to discharge condition 3 of that consent; notwithstanding this, works were well underway by 2021 and application 21/35101/LBC, for listed building consent, was submitted in retrospect and subsequently listed building consent was granted for the retention of the works allowed on appeal under reference APP/Y3425/Y/16/3164144 and to include the replacement of the previous coloured-glass windows.

In allowing the two appeals, the Inspector made no reference to the relationship between the proposed unit 5 and the neighbouring dwelling, Granville House; furthermore, no conditions were attached to either approval to control amenity with regard to obscure glazing and/or how windows were to be fixed/openable. It is noted that condition 3 of the listed building consent allowed on appeal included a condition which required details of

fenestration, however matters of amenity are not a material consideration in whether listed building consent should be granted and, therefore, it is considered that this condition related to the design and appearance of the windows rather than any matters relating to privacy or outlook. No conditions were attached to the planning permission allowed on appeal relating to residential amenity.

Consequently, and having considered the merits of the proposed scheme, as set out in the agenda for the Committee meeting on 30 November 2022, in making recommendations to the Planning Committee with regard to applications 21/35049/FUL, 21/35101/LBC, and 21/35171/LBC, the Officer included no conditions relating to matters of amenity.

In the lead up to the meeting of the Planning Committee a representation was received from the occupiers of the neighbouring residential property – Granville House; this representation requested that a number of windows within unit 5 be obscure glazed and hung from specific sides to reduce impacts upon the privacy of the occupiers of Granville House. In presenting the first of the applications (21/35049/FUL) to the Planning Committee, the Officer invited the Committee to consider a condition if they were minded to agree with the neighbour that such measures were necessary; the Committee resolved to attach the condition.

Officer Assessment – Key Considerations

1. Heritage conservation, character and appearance

The Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) requires that special regard is given to the desirability of preserving a listed building, its setting, and any features of special architectural or historic interest which it possesses.

The NPPF (National Planning Policy Framework) states that heritage assets are an irreplaceable resource which should be conserved 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. At paragraph 201 the NPPF requires the local planning authority to identify and assess the particular significance of any heritage asset which may be affected by a proposal, taking account of the available evidence and any necessary expertise and in determining an application, paragraph 203 requires that the local planning authority takes account of – amongst other things – the desirability of sustaining and enhancing the significance of heritage assets.

Great weight should be given to the conservation of a heritage asset (paragraph 205); any harm to, or loss of, the significance of a designated heritage asset should require clear and convincing justification (paragraph 206). Where a proposed development would lead to less than substantial harm, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use (paragraph 208).

Policy N9 of The Plan for Stafford Borough requires that development sustains and, where appropriate, enhances the significance of heritage assets and their setting by understanding the heritage interest, encouraging sustainable re-use, and promoting high quality design. All potential loss of, or harm to, the significance of a heritage asset, including its setting, requires clear justification.

The Council's Conservation Officer raises no objection to the removal of condition 6 stating that the condition attached by the planning committee had no heritage justification and that the condition does not relate, in any way, to the historic interest of the grade II listed building.

It is not considered that the proposed removal of condition 6 would result in any harm with regard to the significance of the listed building or its setting.

Consequently, it is considered that the proposal is in accordance with section 16 of the NPPF and policy N9 of The Plan for Stafford Borough and that the works are acceptable.

Policies and Guidance: -

National Planning Policy Framework

Paragraphs: 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, and 214

The Plan for Stafford Borough

Policies: N1 Design; N8 Landscape character; N9 Historic environment

Supplementary Planning Document (SPD) – Design

Planning (Listed Buildings and Conservation Areas) Act 1990

2. Residential amenity

The occupants of the neighbouring property have raised concern regarding implications involving amenity. The neighbour states that the condition is in place to ensure an adequate level of privacy and is the minimum necessary to protect the privacy of occupiers of their home in accordance with policy N1 of The Plan for Stafford Borough. They state that condition relates to windows to a corridor and an en-suite bathroom, as well as a secondary window to a bedroom. In the absence of the condition, future occupiers of unit 5 would have a view into a bedroom, kitchen/dining room, and garden of Granville House.

Further comments are made with regard to the application site comprising land outside of the applicant's ownership; the applicant has signed ownership certificate B confirming that they have served notice on the landowner as is appropriate in this situation.

In making a recommendation to the Planning Committee in November 2022 the Officer concluded, on balance, that the proposed development was acceptable with regard to amenity and that no conditions were required in this regard.

The Officer's report relating to application 21/35049/FUL stated:

"The southeast elevation of St Johns Church faces onto the driveway and side elevation of Granville House; at their closest, the two buildings are separated by 11.25m, increasing to 13.0m. There are five openings on the northwest side elevation of Granville House, which serve the main access door, cellar stairs, and pantry at ground floor, and W.C. and landing/stairs at first floor; none of

which are habitable rooms and, consequently, none of which can be defined as principal windows with regard to local policy and guidance.

There is no specific policy or guidance with regard to the separation distance to be achieved between such properties in these circumstances, however whilst it relates to extensions and alterations to existing dwellings guideline 6 of the Council's Design SPD (supplementary planning document) is considered to be a reasonable starting point in the absence of any such policy or guidance. Guideline 6 recommends that a distance of 12m is achieved between a principal window and the wall of another dwelling with more than one storey and no principal windows; this is to ensure appropriate levels of outlook from habitable rooms within extensions and alterations to existing dwellings. It must also be acknowledged that this application involves the conversion of an existing urban building which, given that it relates to a historic building, within a physically constrained site, could clearly not be carried out in complete accordance with up-to-date standards. There is, therefore, a balance to be made in the planning consideration of this application in relation to the appropriate re-use of the historic building and the need to provide adequate levels of amenity. Given the context of the proposal and the site it is considered that a relaxation of standards with regard to new development is justified and balanced against the national and local policy support for bringing under utilised historic buildings back into use. Furthermore, the Council's Design SPD itself allows for relaxation; particularly where characteristic patterns of development are already established.

It is considered that outlook from the proposed units within the listed building would be acceptable in that a minimum separation distance of 11.25m would be achieved and that the windows in the scheme allowed at appeal, and consequently permitted under 19/31557/FUL, were coloured glass allowing for limited views out.

There would be no implications with regard to outlook from the adjacent dwelling – Granville House – as there would be no alteration to the form and massing of the application building by virtue of the replacement of the coloured glass windows.

With regard to privacy the only policy or guidance set out relates to directly facing principal and rear elevations. With regard to this application the relationship between St Johns Church and Granville House is one akin to a principal/rear elevation containing a number of principal windows at the former and a side elevation at the latter where the main architectural features and principal windows are present on the elevation fronting Granville Terrace. There is no protection given, in policy or guidance, to non-principal windows and in considering appropriate separation distance with regard to privacy the guidance given in guideline 6 of the Design SPD (12m separation distance) is again considered to be a reasonable starting point.

On the elevation facing Granville House ten coloured glass windows have been replaced. At ground floor, from left to right, these serve the open plan living space in unit 2 (two windows), unit 2 bedroom, and the games room within the dwelling (two windows); at first floor they serve the open plan living space in unit

4 (two windows), unit 4 bedroom, and the en-suite and library within the dwelling (two windows). At ground floor the windows are obscure glazed to a height of 2.0m above floor level and at first floor the windows are obscure glazed to a height of 1.50m above floor level (in all cases this is the bottom two lights).

Consequently, when stood adjacent to the windows an occupier of the proposed units within St Johns Church would have the opportunity to look out across the curtilage of Granville House. The obscure glazing and presence of the garage limits the impacts from the windows within the dwelling which afford limited views of the garden to Granville House. Within unit 2 the windows afford limited views from the top light towards the side elevation of the garage and the side elevation of Granville House across the associated parking area. Within unit 4 the windows afford limited views from the top light towards the side elevation of the dwelling, the roof of the garage restricts views into the rear garden of Granville House.

In order to aid the perception of privacy between the two properties, the bottom two lights (up to 1.5m above floor level) of the replacement windows facing onto Granville House have been obscure glazed. Furthermore, to appease the concerns of neighbouring residents the applicant has submitted a unilateral undertaking to ensure that the side-opening casements would remain restricted to open only 25.4cm (10 inches) which is the measurement of the stone window reveals. Whilst it is not considered that the replacement windows would result in such undue loss of privacy as to justify the refusal of this application or that the unilateral undertaking would be necessary in order to approve the application, it is considered that the restricted opening, secured by a unilateral undertaking, would be of benefit to further reduce the incidences whereby occupiers would view each other from their respective homes and the Planning Committee is invited to consider whether it is appropriate or necessary to grant permission subject to, or without the benefit of, this unilateral undertaking.

It is not considered that the relationship between the application building and Granville House, with regard to privacy, would result in undue harm which would justify the refusal of this application. Views between principal windows within the application building and openings serving the hall (entrance door), cellar stairs, pantry, W.C., and landing/stairs are not considered to result in any undue loss of privacy due to the nature of the respective internal spaces.

Given the orientation and context of the building there is no concern regarding amenity in relation to other elevations of the property where coloured glass windows have been replaced.

The alterations to the position of the roof lights are not considered to result in any implications with regard to amenity.

Comments are made with regard to increased noise pollution. The application relates to amendments to an existing planning permission for the conversion of, and works to, the listed building within the settlement of Stone; it is not considered likely that noise emanating from the proposed residential units would result in any undue harm to the occupiers of any existing neighbouring dwellings

– it is not uncommon for dwellings to be in close proximity in such a setting without any restrictions on the opening of windows.

This application does not involve any alterations to other elements of the scheme, including the proposed extension to the listed building. Consequently comments made regarding windows to these elements are not relevant in consideration of the application.

Consequently, it is considered that an appropriate level of amenity would be retained for the existing and future occupiers of the application site and surrounding properties in accordance with paragraph 130 (f) of the NPPF.”

It should be noted that paragraph 130 of the NPPF is now paragraph 135 following the December 2023 publication of the NPPF.

The Planning Committee were invited to consider a condition if they were minded to agree with the neighbour that measures were necessary to reduce impacts upon their residential amenity and that of any future occupiers of their home. The Committee resolved to attach a the condition which is the subject of this application and which requires that a number of windows within unit 5 be obscure glazed and hung from specific sides to reduce impacts upon the privacy of the occupiers of Granville House.

3. Other

Planning Practice Guidance states that there is no statutory limit on the degree of change permissible to conditions under s73, but the change must only relate to conditions and not to the operative part of the permission. The change must also not extend the time period in which development must commence, nor change the description of development.

As an approval under s73a would result in a new permission being issued it is considered that, should the Planning Committee resolve to approve the removal of condition 6, it would be appropriate to also vary the wording of conditions 2, 3, and 4 of permission 21/35049/FUL.

It is apparent that, as of November 2023, the development was in breach of condition 3 of permission 21/35049/FUL which relates to the provision of the access, parking, and turning areas.

With regard to the access, it is acknowledged that, as of November 2023, the access was built as a simple dropped crossing which does not comply with the approved kerbed radius junction. Approval of this application subject to condition 3 written in verbatim from permission 21/35049/FUL would be unreasonable in that it would render the applicant in breach of condition immediately following any approval. The local highway authority raise no objection to the variation of condition 3 to ensure that the new access is provided in accordance with drawing 14/1/3242/8 revision L as approved under 18/27950/DCON prior to the occupation of either unit 5 or any of the new-build apartments.

Furthermore, at the date of submission of the application five car parking spaces (those annotated 1-5 and shown to the southwest of the turning space on drawing 14/1/3242/8 rev L) had been provided, the remaining parking and turning areas had not yet been provided and the space was being used as part of the compound in association with the

construction of the new-build apartments. It is acknowledged that the additional parking provision would be required for the newbuild apartments rather than those units which have been completed and occupied and the local highway authority raise no objection to the variation of condition 3 to ensure that the appropriate parking provision is in place prior to the occupation of either unit 5 or any of the new-build apartments.

Therefore, if the Planning Committee resolves to approve the removal of condition 6, it is recommended that condition 3 be revised to read: *“Unit 5 within the listed building and the new-build apartments shall not be occupied unless and until the new access, parking, and turning area shown on drawing 14/1/3242/8 Rev L and approved under 18/27950/DCON have been provided and they shall thereafter be retained as such”*.

With regard to application 23/38191/DCON, which sought confirmation of compliance with conditions of permission 21/35049/FUL, if the Planning Committee resolves to approve the removal of condition 6, it is considered that conditions 2 and 4 should be varied to acknowledge that the development has been carried out in compliance with these conditions and to require retention of the relevant works (visibility splays and footpath) rather than to require the provision of the works within a certain period of time.

4. Concluding comments

It is recommended that the Planning Committee consider whether the proposed development would be acceptable in the absence of condition 6 of permission 21/35049/FUL.

Should the Planning Committee resolve to approve the removal of condition 6, it is recommended that conditions 2 and 4 are varied in line with the reasoning set out in section 3 of this report and that condition 3 also be varied as set out within section 3 of this report in order to resolve a current breach of that condition and to allow the applicant the opportunity to resolve the situation.

Consultations

Conservation Officer:

No objection.

- Condition 6 relates to measures in relation to residential amenity and privacy, specifically in relation to window openings to unit 5 (works not yet started). The condition was attached by the planning committee and was not requested by the Conservation Officer.
- Condition 6 does not, in any way relate to matter of historic or architectural interest or significance and relates solely to matters of residential amenity. Consequently, there are no conservation comments with regard to the proposed removal of condition 6 as it would not impact upon the historic and architectural interest of the grade II listed building.

Highway Authority:

(Surgery 10 January 2024):

No objection.

- No objection to the variation of condition 3 to ensure that parking provision is provided prior to the first occupation of either unit 5 or the new-build apartments.
- No objection to the variation of condition 3 to prohibit the occupation of either unit 5 or the new-build apartments prior to the provision of the access as previously approved.

Cannock Chase National Landscape Officer:

No objection.

Stone Town Parish Council:

Does not wish to comment.

Neighbours (12 consulted):

One representation received in objection, raising the following points:

- The condition relates to a corridor, en-suite bathroom, and a secondary window to a bedroom.
- The condition is in place to ensure an adequate level of privacy for the occupiers of the adjacent residential property in accordance with policy N1 of The Plan for Stafford Borough.
- The condition is the minimum necessary to protect the privacy of the occupiers of the adjacent dwelling. Without the condition future occupants of unit 5 would have a clear and direct line of view into a bedroom, kitchen/dining room, and garden.
- There is no right to a view over another's property, however there is a right to privacy.
- The application site contains land outside of the applicant's control.

Site notice expiry date: 11 January 2024

Newsletter advert expiry date: 3 January 2024

Relevant Planning History

79/08961/FUL -	Extensions to church hall – Approved 10 October 1979
84/16631/FUL -	New car park entrance, reposition oil tank, and installation of steps – Approved 31 October 1984
15/21725/COU –	Temporary change of use from church car park and offices to van hire business – Refused 4 December 2015 (Subsequent enforcement appeal dismissed)

- 15/22081/FUL and – Conversion of church and erection of two-storey extension
15/22082/LBC (following demolition of existing single storey extension) to provide 4 residential units and the erection of 2.5 storey building fronting The Avenue to provide 4 apartments on the former church car park – Refused 18 June 2015
- 16/23671/FUL and – Conversion of church and erection of rear two-storey extension
16/23672/LBC (following demolition of existing single-storey extension) to provide five residential units and the erection of a 2.5 storey building fronting The Avenue to provide four apartments on the former Church car park – Not determined. Allowed on appeal, reference APP/Y3425/W/16/3164139 and APP/Y3425/Y/16/3164144 (10 August 2017)
- 18/27950/DCON – Discharge of conditions 3 and 4 of 16/23671/FUL and
16/23672/LBC – Discharged 6 March 2018
- 18/28055/DCLB – Discharge of conditions 3a, 3b, 3c, 3d, 3e, 3f, 3g, 3h and 3i of
16/23672/LBC – Refused 30 July 2021
- 19/31557/FUL – Variation of condition 2 of APP/Y3425/W/16/3164139 – Approved
23 January 2020
- 20/33452/LBC - Repositioning of roof lights approved by listed building consent
APP/Y3425/Y/16/3164144 and internal works to include the removal of a staircase, removal of internal walls within units 1 and 2 and other minor alterations – Refused 6 August 2021
- 21/35049/FUL - Variation of condition 2 (plans) of permission 19/31557/FUL –
Approved 31 August 2023
- 21/35101/LBC – Retention of unauthorised works to the church and erection of a
two-storey rear extension (following demolition of existing single-storey extension) to convert the building into five residential units –
Approved 31 August 2023
- 21/35171/LBC - Retention of unauthorised works to include the repositioning of roof
lights approved by listed building consent
APP/Y3425/Y/16/3164144 and internal works to include the removal of a staircase, removal of internal walls within units 1 and 2 and other minor alterations – Approved 31 August 2023
- 23/38191/DCON - Compliance of conditions on 21/35049/FUL – Decision issued 9
November 2023

Recommendation, should the Planning Committee resolve to approve the application

Approve subject to the following conditions:

1. This permission relates to the originally submitted details and specification and to the following drawings, except where indicated otherwise by a condition attached to this consent, in which case the condition shall take precedence:-
 - 1:1250 Location plan revision E
 - 1:500 Block plan revision E
 - 14/1/3242/1
 - 14/1/3242/2
 - 14/1/3242/3
 - 14/1/3242/4
 - 14/1/3242/5a Rev U
 - 14/1/3242/5b Rev U
 - 14/1/3242/6 Rev Q
 - 14/1/3242/7 Rev C
 - 14/1/3242/8 Rev L
 - 14/1/3242/9 Rev J
 - 14/1/3242/10 Rev C
 - 14/1/3242/11
 - 14/1/3242/36 Rev E
2. Visibility splays at the new vehicular access shall be retained in accordance with drawing 14/1/3242/8 revision L, as approved under 18/27950/DCON, and kept free of all obstructions to visibility over a height of 600mm above the adjacent carriageway level for the life of the development.
3. Unit 5 within the listed building and the new-build apartments shall not be occupied unless and until the new access, parking, and turning area shown on drawing 14/1/3242/8 Rev L and approved under 18/27950/DCON have been provided, and they shall thereafter be retained as such.
4. The footpath between The Avenue and the north end of the proposed vehicular access onto Longton Road shall be retained in accordance with drawing 14/1/3242/8 revision L as approved under 18/27950/DCON.

5. All construction, including demolition, site works and deliveries to the site shall only take place between the hours of 0800 and 1800 Monday to Friday and 0800 to 1400 on Saturday, and not at all on Sundays or public/bank holidays. There shall be no burning on site during development.

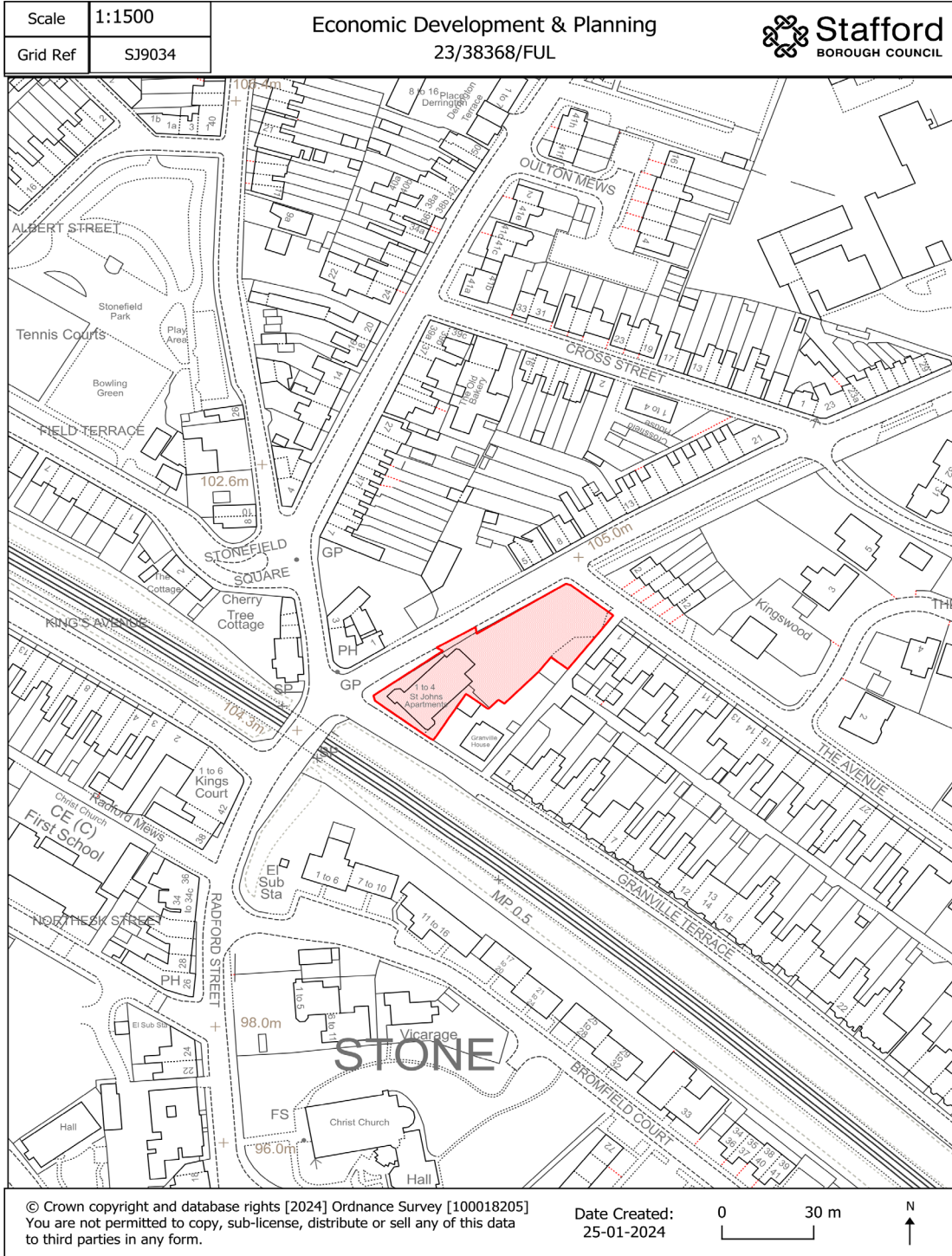
The reasons for the Council's decision to approve the development subject to the above conditions are:

1. To define the permission.
2. In the interests of the safety and convenience of users of the highway. (Policy T1c of The Plan for Stafford Borough).
3. In the interests of the safety and convenience of users of the highway. (Policy T1c of The Plan for Stafford Borough).
4. In the interests of the safety and convenience of pedestrians. (Policy T1 and N1o of The Plan for Stafford Borough).
5. To safeguard the amenities of the area (Policy N1e of The Plan for Stafford Borough).
6. To ensure an adequate level of privacy for occupiers of adjacent residential properties (Policy N1e and Stafford Borough Council Space About Dwellings Guidance)

Informatives

- 1 In accordance with the requirements of Article 35 of the Town and Country Planning (Development Management Procedure) (England) (Order) 2015, as amended, and the National Planning Policy Framework 2023, the Council has worked in a positive and proactive way in determining the application and has granted planning permission.

23/38368/FUL
Land At St Johns Church
Granville Terrace
Stone



 PLANNING COMMITTEE - 7 FEBRUARY 2024

Ward Interest - Nil

Planning Appeals

Report of Head of Economic Development and Planning

Purpose of Report

Notification of new appeals and consideration of appeal decisions. Copies of any decision letters are attached as an **APPENDIX**.

Notified Appeals

Application Reference	Location	Proposal
23/37448/HOU Delegated refusal	Ashwood 93 Hilderstone Road Meir Heath	Erection of two-storey front/side extension, single storey rear extension
22/36317/FUL Delegated Refusal	Land At Embry Avenue Stafford	Erection of two two-bed semi-detached houses and two one-bed maisonettes with associated parking and amenity space
21/35138/REM Committee Refusal	Former Eagle Inn Car Park Newport Road Eccleshall	Residential development for up to 2 dwellings appearance, landscaping, layout, scale the outline was not an EIA

Decided Appeals

Application Reference	Location	Proposal
23/37040/HOU Delegated Refusal Appeal Allowed	Chardry Ley Boat Lane Weston	Retrospective application for retention of unauthorised boundary wall
21/33778/FUL Delegated Refusal Appeal Dismissed	Hillside Nurseries Leadendale Lane Rough Close	Replacement of existing ancillary residential accommodation

Application Reference	Location	Proposal
23/37454/HOU Delegated Refusal Appeal Allowed	18 St Ives Close Stafford	Erection of a single storey extension to the rear elevation
22/35688/LDC Non determination and costs Appeal dismissed and costs refused	Lock House Restaurant Trent Lane Great Haywood	Lawful Development Certificate - To confirm the use of former tea rooms as single residential unit in connection with existing dwelling.
23/37530/HOU Delegated refusal Appeal allowed	Holmlea Marston Lane Marston	Retrospective approval for change of design and window placement from planning approval 20/33423/HOU granted in March 2021 and permission for additional storey to original property

Previous Consideration

Nil

Background Papers

File available in the Development Management Section

Officer Contact

John Holmes, Development Manager, 01785 619302



Appeal Decision

Site visit made on 30 November 2023

by A. J. Boughton MA (IPSD) Dip.Arch. Dip.(Conservation) RIBA MRTPI
an Inspector appointed by the Secretary of State

Decision date: 10th January 2024

Appeal Ref: APP/Y3425/D/23/3328815

Chardry Ley, Boat Lane, Weston, Staffordshire ST18 0HU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr James Dunne against the decision of Stafford Borough Council.
 - The application Ref: 23/37040/HOU dated 27 January 2023 was refused by notice dated 14 August 2023.
 - The development proposed is to retain existing new-build boundary wall.
-

Decision

1. The appeal is allowed and planning permission is granted to retain existing new-build boundary wall at Chardry Ley, Boat Lane, Weston, Staffordshire ST18 0HU in accordance with the terms of the application Ref: 23/37040/HOU dated 27 January 2023 and the plan Ref:372/PD/100 submitted with it.

Preliminary Matters

2. The application seeks permission to retain works which have already been carried out. No plans have been provided to show the position prior to these works and in consequence I have determined the matter according to my observation of visibility and movement of traffic at the time of my site visit. The appeal site abuts, but lies outwith, the perimeter of the Weston Conservation Area (No.5). Although the Council refer to suggestions for hedgerow planting along the perimeter wall this would be on land outwith the application site boundary. In any event the Council indicate that the works have no harmful impact on heritage assets which, having regard to Section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, agrees with my own observations. I therefore consider the main issue to be:-

Main Issue

3. The main issue is the effect of the proposal upon highway safety.

Reasons

4. The appellant has constructed a new boundary wall with entrance gate in a location which is close to the junction of Boat Lane with the A518 Stafford Road which, at this point lies within a 30mph speed limit being within the settlement of Weston. The junction is close to a crossing over the Trent and Mersey Canal which creates a crest in the road and consequent limited forward visibility for users travelling in either direction; this encourages a degree of caution for users of the main road at this point. Although a busy highway, and noting the central

markings which prevent overtaking for those approaching from the west, the geometry of the junction is such that any road user intending to enter Boat Lane from the A518 in either direction will do so at a low speed. The elevation of the A518 at the canal bridge crossing allows a better view of the area affected by the works for users intending to turning right into Boat Lane than that enjoyed by those approaching from the west due to the tight entry radius off the main road. However in neither case is it likely that vehicles would be travelling at such speed that they would be unable to stop promptly in the area of Boat lane which fronts the appeal site if confronted by a vehicle emerging from the appeal site or, for that matter, from the narrow section of Boat Lane beyond the appeal site. This is because there is sufficient opportunity and width for vehicles to pause or pass and manoeuvre around oncoming or emerging vehicles in the relevant part of the highway.

5. Boat Lane narrows to a single lane as it wraps round the application site such that visibility to the left for users emerging from Chardry Ley is limited. Further, forward visibility for users of Boat Lane approaching this point and the junction beyond is equally limited which would ensure equal caution. Consequently, whilst normal expectation of visibility cannot be met, the specific circumstances and layout of the highway around the site entrance encourage sufficient caution such that the risk of collision between highway users, both motorised and non-motorised, is low.

6. I therefore conclude for the reasons given and having regard to all matters raised, that no harm to highway safety arises from the development which is the subject of this appeal and identified on the plans submitted with it. Therefore no conflict arises with policy T2 of The Plan for Stafford Borough 2014 which seeks safe and adequate access nor, in consequence, with the development plan as a whole and on that basis the appeal succeeds. As the works have been carried out no timing condition is necessary.

Andrew Boughton

INSPECTOR



Appeal Decision

Site visit made on 6 December 2023

by K Townend BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10th January 2024

Appeal Ref: APP/Y3425/W/23/3319821

Hillside Nurseries/Wrekin View, Leadendale Lane, Rough Close, Stoke-on-Trent ST3 7NL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Andrew Lovatt against the decision of Stafford Borough Council.
 - The application Ref 21/33778/FUL, dated 22 March 2021, was refused by notice dated 21 October 2022.
 - The development proposed is described as replacement of existing residential accommodation.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. A revised National Planning Policy Framework (the Framework) was published on 20 December 2023 accompanied by a written ministerial statement (WMS). The revised Framework is a material consideration which should be taken into account from the day of publication. The paragraphs most pertinent to this appeal and to considering appeals in Green Belts are unchanged, other than their numbering. Having considered the revisions and in light of the principles of natural justice, in this instance I do not consider it necessary to invite any submissions from the parties on the revised Framework.

Main Issues

3. The main issues are:
 - Whether the proposal would be inappropriate development in the Green Belt, having regard to the National Planning Policy Framework and any relevant development plan policies;
 - The effect of the proposal on the openness of the Green Belt;
 - Whether the proposed development would provide a suitable location for housing, having regard to the development strategy for the area;
 - The effect of the proposal on trees; and
 - Whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations, so as to amount to the very special circumstances required to justify the proposal.

Reasons

Inappropriate development

4. The appeal site comprises part of Hillside Nurseries which is located within the Green Belt and situated outside of any identified settlement boundary. The nursery occupies a sloping site and consists of a variety of nursery structures and buildings, a detached dwelling, and an existing static caravan. The use of the site as a nursery/ garden centre, with ancillary residential accommodation in the form of the static caravan, was confirmed through a lawful development certificate in September 2020.
5. Paragraph 154 of the National Planning Policy Framework (the Framework) sets out the categories of development which may be regarded as not inappropriate in the Green Belt, subject to certain criteria. New buildings within the Green Belt are inappropriate unless, amongst other things, they are a replacement building that is in the same use and not materially larger than the one it replaces.
6. Policy SP7 of The Plan for Stafford Borough, 2011-2031, adopted 2014 (PSB) seeks to limit development outside of the defined settlement boundaries. Within the Green Belt the policy requires development to be consistent with national policies.
7. The appeal proposal is to replace the existing static caravan and a former greenhouse with a permanent dwelling. However, it is well-established in the courts that a caravan is not a building and, therefore, the proposal would not constitute a replacement building. Moreover, the new dwelling would be materially larger than the caravan currently on site and the proposed dwelling would not be the same use as the former greenhouse it is to replace. The proposed development would, therefore, not comply with any part of the exception detailed under paragraph 154(d) of the Framework.
8. The appellant could replace the existing caravan with a larger caravan under the certificate of lawfulness, providing the new structure complied with the limitations within the definition of a caravan. The certificate of lawfulness confirmed that the site, shown edged red in the Second Schedule, has been used continuously as a nursery/ garden centre with associated ancillary development, including the caravan. Although supporting information submitted with the certificate indicated the location of the different uses on the site the formal certificate does not specify the position or size of the caravan and, therefore, contrary to the Council's assertion, the certificate would not prevent a larger unit being placed anywhere within the red edge of the site.
9. This is a valid fallback position and there is a realistic possibility that a new, larger, caravan would be brought onto site should the appeal before me fail. However, the siting of a replacement caravan would not be a building and would be carried out under the existing certificate of lawfulness. Even if the appellant replaced the existing caravan with a larger caravan the proposal to replace the caravan with a permanent dwelling would not comply with 154(d) of the Framework. As such, although a larger caravan is a valid fallback the fallback would not constitute development and, therefore, would not be inappropriate development in the Green Belt.

10. For the above reasons, the proposed permanent dwelling would be inappropriate development in the Green Belt and would conflict with Policy SP7 of the PSB and would not comply with any of the exceptions set out in paragraph 154 of the Framework.

Openness of the Green Belt

11. A fundamental aim of Green Belt policy is to keep land permanently open, as set out in paragraph 142 of the Framework. Openness is an essential characteristic of the Green Belt that has spatial as well as visual aspects. The appeal site lies within the Green Belt and also outside of any settlement and, for planning purposes, is therefore considered as in the countryside.
12. The site forms part of the existing nursery which is a mix of buildings and structures which have been developed over time. The existing nursery structures, including the existing caravan, are not uncommon in rural areas and the existing nursery does not harm the countryside. However, the existing structures do have an existing visual and spatial impact on the openness of the Green Belt.
13. The former greenhouse on the appeal site, at the time of my visit, was a lightweight frame with no covering. The visual impact of this structure on the Green Belt is limited and temporary, as too is the visual impact of the caravan. The proposed dwelling would have a greater visual impact than the existing polytunnel frame structure on the site as the proposed building would be a solid structure. However, I acknowledge that the polytunnel could be recovered and, therefore, have a greater visual impact than it currently does. Moreover, a larger caravan could be placed on the appeal site which would also have a greater visual impact than the existing caravan. In my judgement the appeal proposal would not have a greater impact on the visual aspect of the openness of the Green Belt than the fallback position.
14. The new dwelling would not significantly reduce the sprawling nature of the existing nursery, as contended by the appellant, and would only replace two existing structures with one. Nonetheless, a permanent dwelling on the appeal site would result in a permanent building where there is currently only temporary structures. For this reason, the proposal would have a significantly greater spatial impact on the openness of the Green Belt than the existing polytunnel or existing caravan. Moreover, the fallback position would also have less of a spatial impact than the proposed development and would, therefore, be less harmful than the appeal before me. In my judgement the proposal would not represent a benefit to the openness, as the appellant asserts.
15. That a permanent dwelling would be more likely to be maintained than a caravan would not justify the harm to the openness of the Green Belt. If the condition of any caravan on the site deteriorates it would be likely to be replaced with a newer one. Furthermore, if the business were to cease operating, or the need for ancillary residential accommodation were to cease, then the caravan could be removed and the impact on the openness of the Green Belt would be reduced. A permanent dwelling would have a permanent and harmful spatial impact on the openness of the Green Belt.
16. For the above reasons, the proposal would have a spatial impact which would result in loss of the openness of the Green Belt contrary to Paragraph 142 of the Framework which identifies the essential characteristics of Green Belts as

their openness and their permanence. I give substantial weight to the harm to openness, as set out in the Framework.

Suitability of location

17. The proposal seeks consent for the erection of a new dwelling on the site and, contrary to the appellant's assertion that the proposal does not seek the erection of a dwelling, the proposed development would constitute a dwelling. As such Policies SP3, SP7 and C5 of the PSB are relevant to my determination of the appeal and I have no compelling evidence to justify why I should not give these policies full weight.
18. Policy C5 of the PSB provides the policy for new residential proposals outside the settlements listed in Policy SP3 (the settlement hierarchy) and provides three exceptions to the general restriction on new housing. The appeal proposal would not meet any of the exceptions listed.
19. I acknowledge that there is already a caravan used as residential accommodation. However, the proposal would not meet the criteria for replacement dwellings in C5 of the PSB as the existing structure is a caravan, the new dwelling would be of a larger floor area and in a different position to the existing caravan.
20. As with the Green Belt assessment the fallback position, that the appellant could site a larger caravan on the appeal site, is a material consideration. However, although the proposed dwelling may be similar in size and position to a caravan that could be brought onto site, a new caravan would still be a temporary form of construction and would, therefore, not justify a permanent dwelling on the site under Policy C5.
21. The existing caravan also has restricted residential use as ancillary accommodation to the nursery business through the wording of the certificate of lawfulness. The ancillary nature of the accommodation is to the business rather than ancillary to the existing dwelling. Any replacement caravan would equally be ancillary to the nursery. As such there is no requirement for the proposed dwelling to have a physical or functional reliance on the main dwelling, contrary to the Council's assertion.
22. I accept that the proposed dwelling is intended to be ancillary to the business, as the existing caravan is, and that a replacement caravan could be placed on the site and occupied as ancillary accommodation. However, although a condition could be imposed to require the occupation of the proposed dwelling to be limited to a person solely or mainly employed at the nursery, and thereby not create a separate planning unit, I do not have compelling evidence before me that such a dwelling is required on the site.
23. It is not clear from the submitted evidence that a permanent dwelling has to be located on the appeal site and that a dwelling for the appellant could not be within a nearby settlement. I am not convinced, from the evidence before me, that the proposal is justified to support the existing business or for any other reasons, including the appellant caring for their elderly parents. That there is existing ancillary accommodation would not justify a permanent dwelling outside of the settlement. For these reasons, a condition to restrict the occupation of the proposed dwelling to be ancillary to the nursery business

would not be sufficiently related to the development proposed and would, therefore, fail the tests for conditions.

24. Moreover, I have no substantive evidence before me that the land supply for housing in the Local Authority area is constrained or that the land proposed for the dwelling is under-utilised, as asserted by the appellant. At the time of my visit the structure on the appeal site was in use as part of the nursery and appeared to be a key area for the display and sale of plants. The proposed dwelling would reduce the structures and land available for the nursery business. The support in paragraph 124(d) of the Framework for more effective use of land needs to be balanced against the development of land outside of the settlement.
25. For the above reasons, I find that the proposal is not a suitable location for housing having regard to the development strategy for the area. Accordingly, the proposal would fail to comply with Policies SP3, SP7 and C5 of the PSB which, taken together, seek to limit development outside of the defined settlement boundaries and require new housing outside of the settlements to meet certain criteria.

Effect on trees

26. There are existing trees within the wider nursery site, within the garden of the existing dwelling, close to the existing caravan and on the edge of the entrance. There is also existing hedging between the caravan and the access driveway and parking area.
27. However, notwithstanding that the appellant contends that only poor-quality trees would be likely to be affected, in my judgement, none of the existing trees would be close to the siting of the proposed dwelling. The Council has not provided any detail of which trees they contend would be harmed and the proposed position of the dwelling would be outside of the canopy of any of the existing trees, thereby enabling the retention of the existing trees.
28. From the evidence before me the proposed development would not be likely to adversely affect trees and I, therefore, find no conflict with Policies N1 or N4 of the Plan in that the proposed development would enable the retention and protection of existing landscaping features.
29. I also find no conflict with the relevant parts of the Framework in relation to trees and existing landscaping features.

Other considerations

30. The Framework indicates that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. I have found that the proposal would comprise inappropriate development in the Green Belt. In addition, there are adverse impacts on the spatial aspect of openness. Substantial weight is given to the harm to the Green Belt and very special circumstances will not exist unless the harm to the Green Belt, and any other harms, including the harm to the character and appearance of the area, are clearly outweighed by other considerations.
31. I have considered the fallback position, that the appellant could replace the existing caravan with a larger caravan on the appeal site, within the main

issues above. The fallback is a material consideration but would not justify a permanent dwelling for the reasons given.

32. The development would have associated social and economic benefits both during and post construction. However, given the small scale of the development and that the proposal would not increase the number of households in the area, these benefits would be limited. Nevertheless, these benefits contribute positively and carry limited weight in favour of the proposal.
33. That there is no objection to the design or appearance of the proposed dwelling and that it reflects the mix of dwellings in the immediate area is a neutral matter. The scheme would also have a neutral effect on biodiversity, the living conditions of the occupiers of neighbouring properties and highway safety. These matters weigh neither for, nor against the proposal.
34. For the above reasons I find that the other considerations in this case do not clearly outweigh the harm that I have identified to the Green Belt and other matters. Consequently, the very special circumstances necessary to justify the development do not exist.

Conclusion

35. The development conflicts with the development plan taken as a whole and the Framework. There are no material considerations to suggest the decision should be made other than in accordance with the development plan. Therefore, the appeal is dismissed.

K Townsend

INSPECTOR



Appeal Decision

Site visit made on 30 November 2023

by A. J. Boughton MA (IPSD) Dip.Arch. Dip.(Conservation) RIBA MRTPI
an Inspector appointed by the Secretary of State

Decision date: 10th January 2024

Appeal Ref: APP/Y3425/D/23/3326883
18 St Ives Close Stafford ST17 0HD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Keith Baskett against the decision of Stafford Borough Council.
 - The application Ref: 23/37454/HOU dated 28 April 2023 was refused by notice dated 26 June 2023.
 - The development proposed is a rear single storey extension.
-

Decision

1. The appeal is allowed and planning permission is granted for erection of a rear single storey extension at 18 St Ives Close Stafford ST17 0HD in accordance with the terms of the application Ref: 23/37454/HOU dated 28 April 2023 and the plans submitted with it, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plan: C119:100.
 - 3) The roof area of the extension hereby permitted shall not be used as a balcony, roof garden or similar amenity area without the grant of further specific permission from the local planning authority.

Preliminary Matter

2. Although not explicit in the refusal reasons, the Council refer in their appeal statement to the impact which would arise by the obscuring of two small windows in the flank wall of the adjoining dwelling, No.20, which are capable of opening onto the appeal site. I have nothing before me to explain how this unusual configuration came about, however, the appellant has observed that a 2.0m high fence erected against the boundary would have a similar effect to what is proposed. It is not before me to determine any legal rights that might be affected by the grant of planning permission but it is correct to observe that this issue cannot contribute to my reasoning on the matter to be determined since a refusal on such grounds could be seen to prejudice the appellant's right to privacy; on that basis I consider the main issues to be:

Main Issue

3. The main issue is the effect of the proposal upon the character and appearance of 18 St Ives Close and of the area.

Reasons

4. The proposal intends a flat-roofed single storey extension to part of the rear elevation of 18 St Ives Close (No.18) which is a semi-detached, two-storey property in a short residential cul-de-sac of similar properties. No.18 abuts, in part, the adjacent detached house, No.20 (No.20), and the proposed extension would increase the depth of that adjacency such that two small windows in its flank wall would be covered by what is proposed.
5. The proposal would be a modest addition at the rear of a dwelling of ubiquitous mid-twentieth century design. The Council appear to be concerned that the proposal uses differing materials and lacks a pitched roof such that this would affect the character and appearance of the dwelling and, in consequence, of the area. My observations direct that the proposal would not be apparent in the street scene, and although there is a general consistency in the frontal appearance of dwellings in St. Ives Close, such consistency exists notwithstanding that many other dwellings nearby have been extended at the rear. Whether or not such changes arose under the provisions of the Planning (General Permitted Development) (England) Order 2015 (The GPDO), these additions (which in many cases include conservatory structures using non-original materials such as UPVC) have not affected the character and appearance of the street in the way the Council suggest would be the case with the proposal.
6. Whilst the materials suggested in the appellant statement and flat-roofed design proposed would not be consistent with those found in the original building, the pursuit of high quality design is not signified by mundane repetition. Despite its modest size, the design of the proposal indicates a high degree of care and expertise in its execution. Even if the proposal were of lesser visual quality it would have very limited impact outwith the property curtilage and, on that basis, I cannot identify any planning harm would arise from any aspect of the proposal.
7. I therefore conclude there would be no conflict with policy N1 of The Plan for Stafford Borough 2014 (PSB) which seeks the enhancement of design quality, nor, therefore, with the development plan as a whole. Consequently having considered all matters raised and for the reasons given, the appeal succeeds subject to the usual plans and timing conditions. I consider, given the flat-roofed design and proximity to other dwellings, that it would be necessary to prevent access thereto other than for purposes of maintenance and repair to protect the privacy of neighbouring users. I have also considered conditions suggested by the Council but, as my reasoning indicates, a materials condition would not be necessary and relevant in this instance.

Andrew Boughton

INSPECTOR



Appeal Decision

Site visit made on 9 January 2024

by R Hitchcock BSc(Hons) DipCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12th January 2024

Appeal Ref: APP/Y3425/X/22/3308583

The Lock House, Trent Lane, Great Haywood, Staffordshire, ST18 0ST

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended against a failure to give notice within the prescribed period of a decision on an application for a certificate of lawful use (an LDC).
 - The appeal is made by Mr Mark Edwards against Stafford Borough Council.
 - The application ref 22/35688/LDC is dated 2 March 2022.
 - The application was made under section 191(1)(a) of the Town and Country Planning Act 1990 as amended.
 - The use for which a certificate of lawful use is sought is as a single dwellinghouse.
-

Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr Mark Edwards against the decision of Stafford Borough Council. This application is the subject of a separate decision.

Procedural Matters and Main Issue

3. Under s191(2)(a) of the 1990 Act, uses are lawful at any time if no enforcement action may then be taken in respect of them because the time for enforcement action has expired. The relevant time limit in the change of use of any building/s to use as a single dwellinghouse is four years beginning with the date of the breach as set out under s171B(2) of the 1990 Act.
4. The appeal relates to an application for an LDC that was not determined by the Council within the prescribed period. The Council have subsequently issued a statement for the purposes of this appeal highlighting that it would have refused the application on the basis of the evidence submitted. I have had regard to this statement in coming to my Decision.
5. Pursuant to the provisions of s195(2) and (3) of the 1990 Act, the main issue is whether or not a refusal of the application by the Council would have been well founded.

Reasons

6. The appeal relates to a group of buildings formerly in a mixed use consisting of a dwellinghouse and restaurant/café. The burden of proof in satisfying the requirement of s191(a) falls to the appellant to establish that the use of the buildings as a single dwelling commenced at least 4 years before the date of the application, hence on or before 2 March 2018 ('the relevant date'), and continued without any significant interruption thereafter. The appropriate

standard for testing the evidence is made on the balance of probabilities, that is to say, whether something is more likely than not.

7. The Planning Practice Guidance reflects prior Court judgments. It sets out that an appellant's own evidence does not need to be corroborated by independent evidence in order to be accepted. If the Council has no evidence of its own, or from others, to contradict or otherwise make the appellant's version of events less than probable, there is no good reason to dismiss the appeal, provided the appellant's evidence alone is sufficiently precise and unambiguous.
8. Between the appellant's application form submitted to the Council, the supporting statement, and the appeal documentation, there are a number of discrepancies in the dates when the commercial uses taking place on the site are said to have ceased. Additionally, the dates when an appeal inquiry¹ relating to the site took place are mis-stated as February 2018 rather than May 2018.
9. The appellant asserts that the residential use of the former restaurant and café areas of the site followed directly from the cessation of those commercial uses. The application form indicates that the residential use commenced on 1 December 2017 following closure of the restaurant on 31 November 2017 (not a valid date). The planning statement supporting the application stated that the business closed on 31 October 2017.
10. A signed statement of 28 February 2022 confirms the date of the closure of the restaurant as 30 November 2017. A Council Tax record for the business was shown as 'void' as of April 2018, indicating its closure by that time.
11. However, the cessation of one element of a dual mixed use does not automatically default to a single use. Only once actively supplanted by the residential use in the relevant areas of the buildings would that situation arise. As an element of a mixed-use site may lie dormant to be reinstated later, the essential matter in this case is when the residential use of the former commercial areas began and that it persisted continuously for 4 years thereafter.
12. Although any date for commencement in 2017 would provide for a 4-year period prior to the date of the LDC application, the appellant's signed statement sheds significant doubt as to when the residential use started. The statement advises 'In the light of the Inspectors findings, I was advised that I was safe from Enforcement proceedings in not reopening the business. The premises had no other authorised business use.' It continues – 'I therefore reincorporated the accommodation into my home, and it has been used for such purposes since that time and continuously up until the present day'.
13. To my mind, in the absence of reference as to the exact date the residential use commenced, this suggests that the residential use of the commercial parts of the building did not take place until after the Inspector's decision. This was issued on 4 May 2018. If the reference to 'time' in the final paragraph was to when the advice was provided to the appellant, this is confirmed as also after the appeal decision². Accordingly, the 4-year period could not have accrued on the date of the LDC application.

¹ APP/Y3425/W/17/3190637

² Paragraph 5 of the Appellant's Response to the Councils Planning Appeal Statement

14. It is the appellant's position that representation was made at the appeal proceedings in 2018. A copied extract of his appeal statement advises that 'Since this statement was drafted the premises have closed.' However, no dates are provided to clarify that statement, nor the date of the statement itself.
15. The appellant's representative advises that it was evident from the appeal site visit attended by him, the Council and the Inspector, that residential use was taking place at that time. This was on account of sofas placed in the dining room area.
16. However, notwithstanding that the date of the site visit was 1 May 2018, there is little evidence provided in support of that claim, either in the Inspector's decision, Council records, or by the appellant himself. Indeed, at paragraph 6 of the Inspector's Decision Letter, the Inspector states that 'the most recent use of the appeal site was a commercial use'. This appears to contradict the appellant's position.
17. Moreover, given the Council's request for clarification of that claim following confirmation it was unable to corroborate it from its own records, it was open to the appellant to provide additional evidence either at the time of the LDC application, or for the purpose of this appeal. Despite that request, there is little before me to substantiate it.
18. It is the appellant's assertion that the continued use of the shared kitchen formerly serving both the commercial and residential uses for only residential purposes was determinative. However, pursuant to the preceding considerations, the continuity of use in that part of the building does not adequately demonstrate that the remainder of the commercial areas were used for residential purposes, or when that might have commenced.
19. In support of the appeal, the appellant highlights that the Council has provided little evidence to challenge that provided by the appellant. It is contended the balance of evidence should justify the issuing of an LDC. However, that is not the test. In demonstrating the balance of probability there is a necessity to provide precise and unambiguous evidence. In LDC cases, the burden of proof remains squarely with the appellant.
20. Although little has been provided by the Council to contest the evidence of the appellant, I find that evidence lacks precision. It is not without ambiguity and, to my mind, is insufficient to demonstrate the date of commencement of the breach and any continuous use thereafter.
21. The appellant relies heavily on the evidence of his signed statement. Notwithstanding my finding that it has a significant degree of ambiguity, it is neither submitted as 'sworn truth', as a statutory declaration³, sworn on oath, or submitted as a witness verified affidavit. As a statement to which no sanctions necessarily apply, the weight to its content must therefore be limited.
22. For those reasons, I find the appellant's evidence to be imprecise and ambiguous. It is insufficient, on the balance of probability, to demonstrate when the residential use of the former commercial areas of the site commenced, or that it has continuously persisted since first commencement.

³ By provision of the Statutory Declarations Act 1835

Accordingly, I cannot reasonably conclude that it had taken place for 4 years or more prior to the date of the application for an LDC on 2 March 2022.

Other Matters

23. I note the frustrations of the appellant with regard to the extent of communication from the Council and its ultimate failure to issue a decision on the application. However, these are not matters for the determination of this appeal. A suggestion that the Council may have withheld relevant evidence is also a matter outside the scope of my considerations.

Conclusion

24. For the reasons given above, I conclude that the Council's deemed refusal to grant a certificate of lawful use in respect of the use of the site as a single dwellinghouse was well-founded and that the appeal should fail. I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act as amended.

R Hitchcock

INSPECTOR



Costs Decision

Site visit made on 9 January 2024

by **R Hitchcock BSc(Hons) DipCD MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 12th January 2024

Costs application in relation to Appeal Ref: APP/Y3425/X/22/3308583 The Lock House, Trent Lane, Great Haywood, Staffordshire, ST18 0ST

- The application is made under the Town and Country Planning Act 1990, sections 195, 322 and Schedule 6 and the Local Government Act 1972, section 250(5).
 - The application is made by Mr Mark Edwards for a full award of costs against Stafford Borough Council.
 - The appeal was against the failure of the Council to issue a notice of their decision within the prescribed period on an application for a certificate of lawful use for the use of the land and buildings as a single dwellinghouse.
-

Decision

1. The application for an award of costs is refused.

Reasons

2. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The PPG states that in any appeal against non-determination, the local planning authority should explain their reasons for not reaching a decision within the relevant time limit, and why permission [a lawful development certificate (LDC)] would not have been granted had the application been determined within the relevant period.
4. The Council's statements explain that unprecedented high workloads led to delays or failures to respond to regular chasing enquiries by the applicant, and ultimately led to a failure to determine the application prior to notification of the appeal. In the context of competing casework priorities across the board, the Council acknowledge that this dictated that some communications were delayed or were not responded to.
5. Whilst it is incumbent on the local planning authority to seek to issue timely decisions, there is little to demonstrate that the delay in this particular case was any different to other casework being considered at that time. Despite the extent of delay, I am unable therefore to conclude that it was tantamount to unreasonable behaviour.
6. Although the level of communication from the Council in response to enquiries made by the applicant was indeed intermittent and limited, it nevertheless sought to canvass further evidence and clarification on submissions in the spirit of co-operation. Requests were made on 1 July 2022 and 19 August 2022 seeking clarification and substantiation of claims made by the applicant.

7. As I have found, the sum of the information submitted and in response to those requests did not clearly address the concerns raised. The further claims made in response by the applicant were similarly not backed by substantive evidence. The applicant's focus on the balance of evidence between the main parties was subsequently misplaced. It did not absolve the onus and requirement on the applicant to provide precise and unambiguous evidence to demonstrate on the balance of probability that the change of use occurred on or before the relevant date.
8. As part of the tests set out in the PPG and *Gabbitas*¹, and respectively raised by the main parties during the period of consideration of the application, I cannot find that there was unreasonable behaviour in the Councils approach or its putative reason for refusal. Contrary to the applicant's position, it was not for the Council to deal with discrepancies in the applicant's evidence.
9. The applicant asserts that the Council's failure to extract their own evidence by reference to the relevant Council Tax department was tendentious. However, despite clear evidence of frustrated attempts to do so, for the purposes of demonstrating the commencement of use of commercial floorspace for residential purposes, that information was of limited relevance. Moreover, I find the claim of a wilful failure to disclose information that may have assisted the applicant has not been demonstrated. Given the burden of proof, this cannot be tantamount to unreasonable behaviour on the part of the Council.
10. The correspondence of 19 August 2022, from the Council to the applicant's agent, raised the concern that the Council considered that the information provided was insufficient to issue an LDC. It highlighted a shortfall in the evidence that was not subsequently directly addressed. In effect, it was confirming that the Council was not in a position to support the application. Accordingly, having regard to that and the Council's position in the appeal, it seems to me that had the Council issued a decision an appeal was inevitable.
11. For the above reasons, I find that the applicant's concerns that the Council failed to engage, failed to provide any evidence to counter the claims made by the applicant, and failed to issue a timely decision did not amount to unreasonable behaviour resulting in unnecessary or wasted expense. An award of costs is not therefore warranted.

R Hitchcock

INSPECTOR

¹ *Gabbitas v SSE & Newham LBC* [1985] JPL630



Appeal Decision

Site visit made on 19 December 2023

by L C Hughes BA (Hons) MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 January 2024

Appeal Ref: APP/Y3425/D/23/3328610

Holmlea, Marston Lane, Marston, Stafford, Staffordshire ST18 9SY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr C Foster against the decision of Stafford Borough Council.
 - The application Ref 23/37530/HOU, dated 16 May 2023, was refused by notice dated 10 August 2023.
 - The development proposed is approval for change of design and window placement from planning approval 20/33423/HOU granted in March 2021 and permission for additional storey to original property.
-

Decision

1. The appeal is allowed and planning permission is granted for approval for change of design and window placement from planning approval 20/33423/HOU granted in March 2021 and permission for additional storey to original property at Holmlea, Marston Lane, Marston, Stafford, Staffordshire ST18 9SY in accordance with the terms of the application, Ref 23/37530/HOU, dated 16 May 2023, and the following plans submitted with it:

SF673202 Dated 08.08.2023 Sheet 23-0498 D14 REV 2; SF673202 Dated 08.08.2023 Sheet 23-0498 D13 Rev 2; SF673202 Dated 08.08.2023 Sheet 23/0498 D12 Rev 2; SF673202 Dated 08.08.2023 Sheet 23-0498 D11 Rev 2; SF673202 Dated 08.08.2023 Sheet 23-0498 D10 Rev 2; SF673202 Dated 08.08.2023 Sheet 230498 D09 Rev 2; SF673202 Dated 08.08.2023 Sheet 23-0498 D08 Rev 2; SF673202 Dated 08.08.2023 Sheet 23-0498 D07 Rev 2; SF673202 Dated 08.08.2023 Sheet 23-0498 D06 Rev 2; SF673202 Dated 08.08.2023 Sheet 23-0498 D05 Rev 2; SF673202 Dated 08.08.2023 Sheet 23-0498 D04 Rev 2; SF673202 Dated 08.08.2023 Sheet 23-0498 D03 Rev 2; SF673202 Dated 08.08.2023 Sheet 23-0498 D02 Rev 2; SF673202 Dated 08.08.2023 Sheet 23-0498 D01 Rev 2; Parking Plan.

Preliminary Matters

2. On the 19 December 2023 the Government published a revised National Planning Policy Framework (the Framework), later updated on 20 December 2023, together with a written ministerial statement (WMS). The revised Framework is a material consideration which should be taken into account from the day of publication. I have familiarised myself with the content of the revised Framework and the accompanying WMS. Having considered the parties' cases and the nature of the revisions, in light of the principles of natural justice, I have not considered it necessary to invite any submissions from the parties on the revised Framework.
3. At the request of the Council, the appellant agreed to amend the original description of the development from the application form. I have not included

the full description from the agreed amendment, as it makes reference to the proposal being retrospective and that is not in itself development. I was able to see on my site visit that the development has taken place and therefore I have determined this appeal on that basis.

Main Issue

4. The main issue is the effect of the proposal on the character and appearance of the host dwelling and the surrounding countryside.

Reasons

5. The appeal site is located in Marston, which falls outside of any settlement referenced under the Sustainable Settlement Hierarchy as defined within Policy SP3 of the Plan for Stafford Borough 2011-2031 (2014) (PSB). In policy terms, it is therefore located in the open countryside. A farmhouse built of traditional brick and tile is situated to the south west of the appeal site, but other than this property, which is well screened, the surrounding area is largely characterised by open agricultural land and rural lanes.
6. Policy C5 of the PSB indicates that in areas outside of the Sustainable Settlement Hierarchy the extension of an existing building should not result in additions of more than 70% of the dwelling as originally built, unless at provision (Cii) the design and appearance of the proposed extension is proportionate to the type and character of the existing dwelling and surrounding area.
7. A previous permission (20/33423/HOU) which was permitted in 2021 (the 2021 scheme) allowed for an extension which resulted in an additional 88m², which was an increase of over 70%. This was thought appropriate as the design of the proposed extension was considered to accord with criteria Cii of Policy C5.
8. The proposed two storey side extension has not been implemented in accordance with the approved plans relating to 20/33423/HOU. The window size and design and placement differ from that what was originally approved. However, the Council consider that this element of the scheme is not considered so detrimental as to warrant the refusal of the application alone. I see no reason to disagree.
9. Whilst the footprint of the proposed development is almost identical to that previously approved, the proposed two storey side extension is over 1.1m higher than that approved. The 2021 scheme was considered to have a subordinate appearance to the existing dwelling, partly due to the lower ridge line and set back of the front elevation which were features of the design. The Council consider that the changes to the design along with additional height and a further storey now mean that the proposed development can no longer be considered proportionate to the type and character of the existing dwelling and surrounding area and therefore would no longer accord with Policy C5.
10. The original dwelling, however, had little architectural merit and no distinct character of note. It was a twentieth century brick built detached property, with two extensions that have been removed as a result of the proposal. I do not consider that the original dwelling was markedly sympathetic or in keeping with the rural surroundings, or contributed particularly to the character of the area.

11. The proposed extension is mostly rendered and has the appearance of a more modern individually designed property than the original dwelling. However, the 2021 scheme, to which I have had regard, is a material consideration in my decision. The officer's report regarding the 2021 scheme considered that it was appropriate to render the property, as it would visually integrate the existing dwelling and the extension into a single dwelling. The approved 2021 scheme would therefore also have seen the transformation of the original dwelling into a more modern looking property, changing its appearance and character. Whilst the original dwelling has been altered by the proposal, the approved permission had authorised a large extension, the scale and design of which would have also seen the original dwelling's character and type fundamentally transformed in a similar fashion to that proposed.
12. Although the height of the dwelling is taller than that approved, with additional roof features to accommodate the extra storey, I consider that this increase in height is not so obtrusive within its surroundings sufficient to warrant dismissing the appeal. The proposal is well screened from Arden House Farm by mature landscaping. The proposal, like the original dwelling, results in a detached dwelling on a large plot within the countryside, and continues to stand comfortably and confidently within the plot with the new built form in place.
13. The immediate vicinity of the appeal site is largely open countryside. The Officer's report for the 2021 scheme stated that there was 'no defining character of the surrounding area'. I saw from my site visit that within Marston there are houses of varied sizes and designs, including a modern housing estate, and that there is only one well screened property particularly close to the appeal site, Arden House Farm. As a result, there is no prevailing character, local vernacular or pattern of development against which the proposed development could be compared. There is a lack of consistency in house type, size, materials, external finishes and design in the area, and an absence of any visible contextual buildings in the immediate vicinity that would constrain the proposal's design and scale. In my view, therefore, a modern looking dwelling of the scale and massing of the proposed development, including the proposed blue rendered higher roof, does not in this instance result in a visual intrusion or unacceptably harm the character of the countryside.
14. I have considered the Council's argument that the grant of planning permission would set a precedent for other similar developments. However, no directly comparable sites to which this might apply were put forward and a generalised concern of this nature does not justify withholding permission in this case. In any case, each application and appeal must be determined on its individual merits. Furthermore, I have given weight to the previous 2021 approval as a material consideration in this individual instance.
15. I conclude that the proposed development does not harm the character and appearance of the host dwelling and the surrounding countryside. Consequently, the proposal accords with Policies N1 and C5 of the PSB which seek to ensure that developments have regard to local context and preserve and enhance the character of the area, and that the design and appearance of extensions are proportionate to the type and character of the existing dwelling and the surrounding area. It also complies with the Framework, which

highlights that development should be sympathetic to local character, including the surrounding built environment and landscape setting.

Conditions

16. As the development has already been implemented, I have attached no conditions, but my formal decision refers to the appeal plans for clarity and compliance.

Conclusion

17. For the reasons given above, I conclude that the development would comply with the development plan as a whole and there are no other material considerations to lead me to find otherwise than in accordance with it. As a result, the appeal is allowed.

L C Hughes

INSPECTOR