Please ask for: Mrs. W. Rowe

Extension No: 4584

E-Mail: wendyrowe@cannockchasedc.gov.uk

3 July, 2018

Dear Councillor,

PLANNING CONTROL COMMITTEE
3:00PM, WEDNESDAY 11 JULY, 2018
COUNCIL CHAMBER, CIVIC CENTRE, CANNOCK

You are invited to attend this meeting for consideration of the matters itemised in the following Agenda.

The meeting will commence at 3.00pm or at the conclusion of the site visit, whichever is the later. Members are requested to note that the following site visit has been arranged:-

Application Number	Application Description	Start Time
Enforcement Investigation – *64 New Penkridge Road, Cannock. WS11 1HW (* Planning application CH/17/073) Erection of a five bedroom house		2.150pm

Yours sincerely,

T. McGovern
Managing Director

To Councillors:

Cartwright, Mrs. S.M. (Chairman)
Allen, F.W.C. (Vice-Chairman)

Cooper, Miss J.	Snape, P.A.
Dudson, A.	Stretton, Mrs. P.Z.
Fisher, P.A.	Sutherland, M.
Hoare, M.W.A.	Tait, Ms. L.
Lea, C.I.	Todd, Mrs. D.M.
Pearson, A.R.	Woodhead, P.E.
Smith, C.D.	

A G E N D A

PART 1

1. **Apologies**

2. **Declarations of Interests of Members in Contracts and Other Matters and Restriction on Voting by Members**

   To declare any personal, pecuniary or disclosable pecuniary interests in accordance with the Code of Conduct and any possible contraventions under Section 106 of the Local Government Finance Act 1992.

3. **Disclosure of details of lobbying of Members**

4. **Minutes**

   To approve the Minutes of the meeting held on 20 June, 2018 (enclosed).

5. **Members' Requests for Site Visits**

6. **Report of the Development Control Manager**

   Members wishing to obtain information on applications for planning approval prior to the commencement of the meeting are asked to contact the Development Control Manager.

   Finding information about an application from the website

   - On the home page click on planning applications, listed under the 'Planning & Building' tab.
   - This takes you to a page headed "view planning applications and make comments". Towards the bottom of this page click on the text View planning applications. By clicking on the link I agree to the terms, disclaimer and important notice above.
   - The next page is headed "Web APAS Land & Property". Click on 'search for a planning application'.
   - On the following page insert the reference number of the application you're interested in e.g. CH/11/0001 and then click search in the bottom left hand corner.
   - This takes you to a screen with a basic description - click on the reference number.
   - Halfway down the next page there are six text boxes - click on the third one - view documents.
   - This takes you to a list of all documents associated with the application - click on the ones you wish to read and they will be displayed.

Application Number	Application Description	Item Number

SITE VISIT APPLICATION

1.		Enforcement Investigation – Planning Application CH/17/073, *64 New Penkridge Road, Cannock. WS11 1HW*: Residential development, erection of five bedroom detached house	6.1 – 6.62

PLANNING APPLICATIONS

2.	CH/18/106	*Land adjacent to Rugeley Cricket Club, Chaseley Road, Rugeley, WS15 2LQ,* Change of use from agricultural land to cricket playing field	6.63 – 6.78
3.	CH/18/141	*Land off Pye Green Road, Hednesford. WS11 5RZ:* Application to vary condition 5 of planning permission CH/17/037 to allow a for a minor material amendment comprising a reduction in size to a 1FE School	6.79 – 6.88

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CANNOCK CHASE COUNCIL

MINUTES OF THE MEETING OF THE

PLANNING CONTROL COMMITTEE

WEDNESDAY 20 JUNE 2018 AT 3:00 P.M.

IN THE CIVIC CENTRE, BEECROFT ROAD, CANNOCK

PART 1

PRESENT: Cartwright, Mrs. S.M. (Chairman)
Councillors Allen, F.W.C. (Vice-Chairman)

Cooper, Miss J.	Snape, P.A.
Fisher, P.A.	Stretton, Mrs. P.Z.
Hoare, M.W.A.	Sutherland, M.
Lea, C.I.	Tait, Ms. L.
Pearson, A.R.	Todd, Mrs. D.M.
Smith, C.D.	Woodhead, P.E.

11. Apologies

No apologies for absence were received.

12. Declarations of Interests of Members in Contracts and Other Matters and Restriction on Voting by Members

There were no declarations of interests submitted.

13. Disclosure of lobbying of Members

All Members present declared they had been lobbied by the complainant via email/letter in respect of the Enforcement Investigation relating to 64 New Penkridge Road, Cannock (Application CH/17/073). Councillor P. Snape confirmed that both the complainant and the applicants' representative had lobbied him.

Councillor A. Pearson declared that the press had been in contact with him regarding Application CH/18/154, Hednesford Park Pavilion, Rugeley Road, Hednesford – Proposed facilities building to include toilet provision and changing room. He had commented but made no indication of how he would be voting.

14. Minutes

RESOLVED:

That the Minutes of the meeting held on 30 May, 2018 be approved as a correct record.

15. Members' Requests for Site Visits

Item No. 3 on the agenda – Application CH/17/073, Enforcement Investigation relating to 64 New Penkridge Road, Cannock, erection of a five bedroom house

Councillor Mrs. P.Z. Stretton referred to Item No. 3 on the agenda in respect of the Enforcement Investigation relating to 64 New Penkridge Road, Cannock (Application CH/17/073) and requested that a site visit be undertaken.

The reason given for the site visit was that, as Members had received additional information from the complainant, along with a number of photographs, a site visit would enable Members to view the newly built property from both the complainant's property and the application site so that a more informed judgement could be made.

The Development Control Manager advised that he had additional information regarding this application and he provided the following update:-

"Officers confirm that they have received a request from the complainant asking for a deferral of the application as the complainant, and or his agent, is unable to attend the meeting.

Officers would point out that the complainant was given advance notice of the meeting as early as 22 May, 2018 by email. Officers can confirm that the complainant's wife rang on Friday 15 June to confirm that their agent was speaking and then rang back and confirmed that Mr Suman (the complainant) would speak.

Officers can therefore confirm that the complainant has been given adequate notice of the meeting to make appropriate arrangements for representations to be made at the meeting of Planning Control Committee.

Officers can also confirm that they have emailed the complainant and suggested that he submit a statement that could be read out in the eventuality that members decide to consider the case.

It is a matter for members to determine whether they wish to defer consideration of the item or not".

The Officer then clarified that the complainant and his representatives were actually in attendance at the meeting but noted that a site visit had been requested.

RESOLVED:

That a site visit be undertaken by the Committee in respect of the Enforcement Investigation relating to 64 New Penkridge Road, Cannock (Application CH/17/073): Residential development, erection of a five bedroom detached house.

Reason:- To enable the Committee to view the newly built property from both the complainants property and the application site so that a more informed judgement could be made.

16. Application CH/17/323, Demolition of existing factory and offices and erection of up to 180 dwellings and up to 30,000 square foot of employment floor space (B1(c) and B8 Use Class), access and associated works (outline application with all matters reserved except for access) Gestamp Tallent, Wolverhampton Road, Cannock WS11 1LY

Consideration was given to the report of the Development Control Manager (Item 6.1 – 6.53 of the Official Minutes of the Council).

The Development Control Manager provided the following update in respect of the application:

"Since the publication of the agenda Officers have received a letter from a local resident (Karen Sanders) stating that she is unable to make representatives directly to Planning Committee on the day but would like the following statement to be read out:

As a local resident of Clifton Avenue I am concerned about the impact this housing development will have on the immediate area and its existing residents.

No one wants to stop housing that is needed. However, within the development it is possible to limit the impact of increased traffic levels, more pollution and access/exit to and from the existing roads.

The weight of traffic and congestion in the immediate area must be considered. The volume of traffic is already horrendous with regular traffic jams. This isn't just in the week and is often worse at weekends due to the nearby shopping area at Longford Island and not to mention the dreaded car boots sales on Wellington Drive. The Wolverhampton Road is the major route into town one way and to the M6 Junction 11/A5 major road the other way. We already struggle to turn out onto the Wolverhampton Road from the slip roads.

The extra levels of pollution the additional traffic will cause must also be a real consideration for the health and well-being of the residents of the area. I note that mention is made in the application of "AQMA", possibly indicating that the air quality in the area is already of concern. The planting of more trees/hedging on the field and verges to form a dense barrier/wooded area between the road and the existing housing would help block out the sight and sound of the traffic and it would help with increased pollution levels too.

Please also consider the access roads in and out of the estate; how many there are and where they are positioned. Directly opposite Gestamp Gate 3 on Wolverhampton Road there is an exit road from the existing estate which is much used. Leaving a road to the new houses directly opposite will cause traffic chaos. 200 new homes will very seriously affect the volume of traffic and will definitely be detrimental to what is already an extremely busy and badly traffic polluted area.

The above must be considered both whilst the site is under demolition/construction and once the houses are built. Surely the existing local residents should be afforded whatever measures can be put in place to lessen the impact of traffic congestion, increased pollution and ease of access. We will all have to coexist in the future, so surely it is best to put the measures and improvements in place now

for the future benefit of all residents of the area".

He advised that Officers can confirm that the substantive issues raised in the letter are dealt within the officer report and where appropriate addressed by conditions. He asked Members to note that any landscaping issues would be dealt with at a later date as this application was an outline application.

In addition Members were advised that Bruton Knowles (the Council's Valuer) has made additional comments in respect of viability.

Finally, he advised that recommendation (v) would be amended as follows should the application be approved:-

(v) And further a separate Section 106 Obligation requiring the payment of a SAC contribution be completed to secure compliance with the Conservation of Habitats and Species Regulations 2017 to mitigate the impact of the proposed development on the Cannock Chase SAC in the event that the development is not liable to pay CIL.

Prior to the determination of the application representations were made by Will Brearley and Ian Middleton from Gestamp, speaking in support of the application.

RESOLVED:

(A) That the applicant be requested to enter into an agreement under Section 106 of the Town and Country Planning Act 1990 to secure:-

(i) Provision of 5% social rented 2 bed houses as on-site affordable housing contribution;

(ii) Review of viability and claw back provision at the completion of the 80th dwelling and clauses for the provision of affordable housing on site or, if money is less than the cost of one unit, the provision of a commuted sum for provision of affordable housing off-site, with clauses for the transfer of units to a registered provider;

(iii) Future management and maintenance of the Public Open Space including a Neighbourhood Equipped Area of Play and communal landscaped areas (either by transfer of land together with any monies or by management company);

(iv) Implementation of the Travel Plan and monitoring fee;

(v) And further a separate Section 106 Obligation requiring the payment of a SAC contribution be completed to secure compliance with the Conservation of Habitats and Species Regulations 2017 to mitigate the impact of the proposed development on the Cannock Chase SAC in the event that the development is not liable to pay CIL.

(B) On completion of the agreement the application be approved subject to the conditions attached to the officer update report for the reasons stated therein (with the exception of the reference to the MUGA in condition 18 which shall

be deleted) which was presented to Planning Control Committee on 30 May 2018.

17. Application CH/18/154, Proposed facilities building to include toilet provision and changing room, Hednesford Park Pavilion, Rugeley Road, Hednesford, Cannock WS12 1QR.

Consideration was given to the report of the Development Control Manager (Item 6.54 – 6.63 of the Official Minutes of the Council).

RESOLVED:

That the application be approved subject to the conditions contained in the report for the reasons stated therein.

18. Application CH/17/073 – Enforcement Investigation, 64 New Penkridge Road, Cannock, erection of a five bedroom house

This item was dealt with above under Minute No. 15.

19. Planning Enforcement Protocol

Consideration was given to the report of the Development Control Manager (Item 6.100 - 6.114 of the Official Minutes of the Council).

Ian Collingham, Planning Enforcement Officer, was present for this item.

RESOLVED:

That Council be recommended to agree to adopt and publish the Cannock Chase Council Planning Enforcement Protocol.

20. Additional issues

Parish Council objections to Planning Applications

Councillor A. Pearson referred to the Local Planning Protocol (paragraph 7.4 (g)) and considered that it should be amended so that when a Parish Council raised an objection to a planning application the District Council's Planning Control Committee should undertake a site visit.

The Council's Solicitor commented that the Parish Council was just one of a number of consultees and they should be in no more of a priviledged position than the other consultees. There was provision for the Planning Control Committee to request site visits on applications.

Members debated the suggestion and did not consider that the Local Planning Protocol should not be amended.

(The Development Control Manager advised that he had noted the comments made and would continue to highlight in his reports where it would be beneficial for a site visit to be undertaken).

Augean, Walkmill Lane, Bridgtown, Cannock

Councillor P. Snape asked if there was an update on the current position with regards to this site. The Development Control Manager advised that discussions were still ongoing and to contact the Managing Director for the latest position.

MUGAs

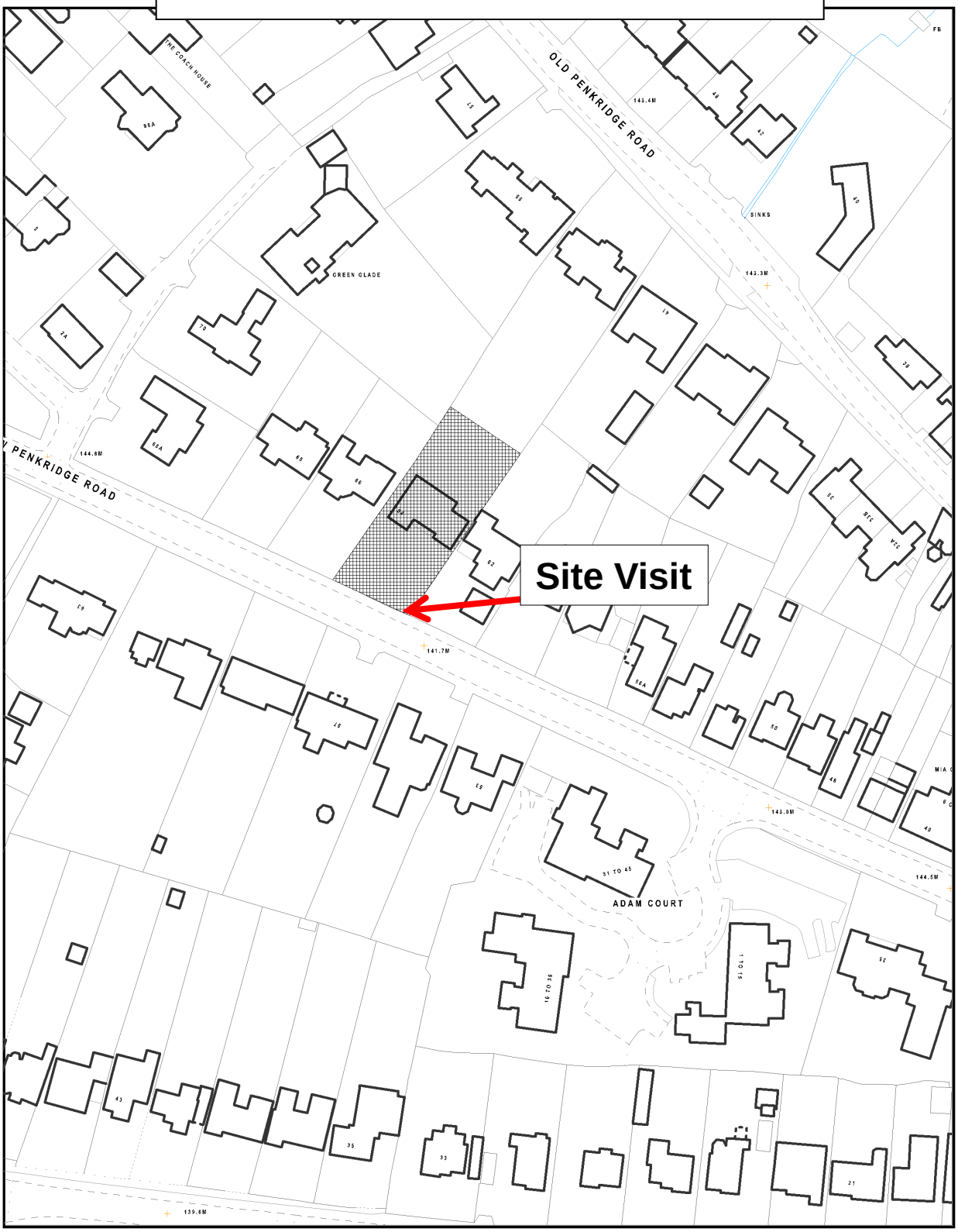
The Development Control Manager referred to the Gestamp application (CH/17/323) where Members had not been in favour of the installation of a MUGA. Officers within Parks and Open Spaces had suggested to take Planning Control Committee Members on a visit to a number of MUGAs situated within the District at the end of the next Planning Control Committee meeting. Members were in favour of this suggestion.

The meeting closed at 3.50pm.

_____

CHAIRMAN

ENFORCEMENT MATTER
CH/17/073 & CH/15/0295
64, New Penkridge Road, Cannock, WS111HW
Residential development: Erection of a five bedroom detached house



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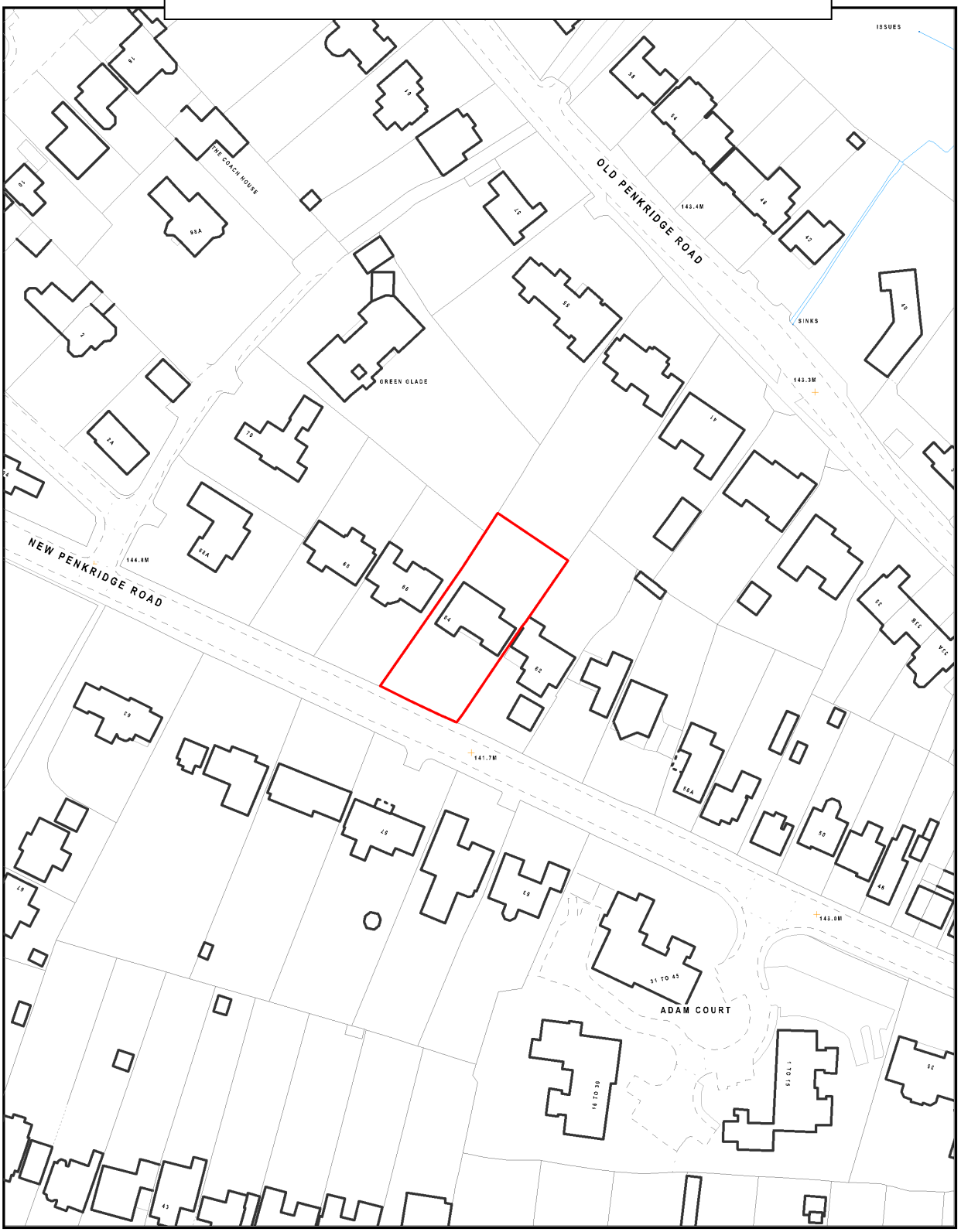
ENFORCEMENT MATTER
CH/17/073 & CH/15/0295
64, New Penkridge Road, Cannock, WS111HW
Residential development: Erection of a five bedroom detached house

ITEM NO. 6.1



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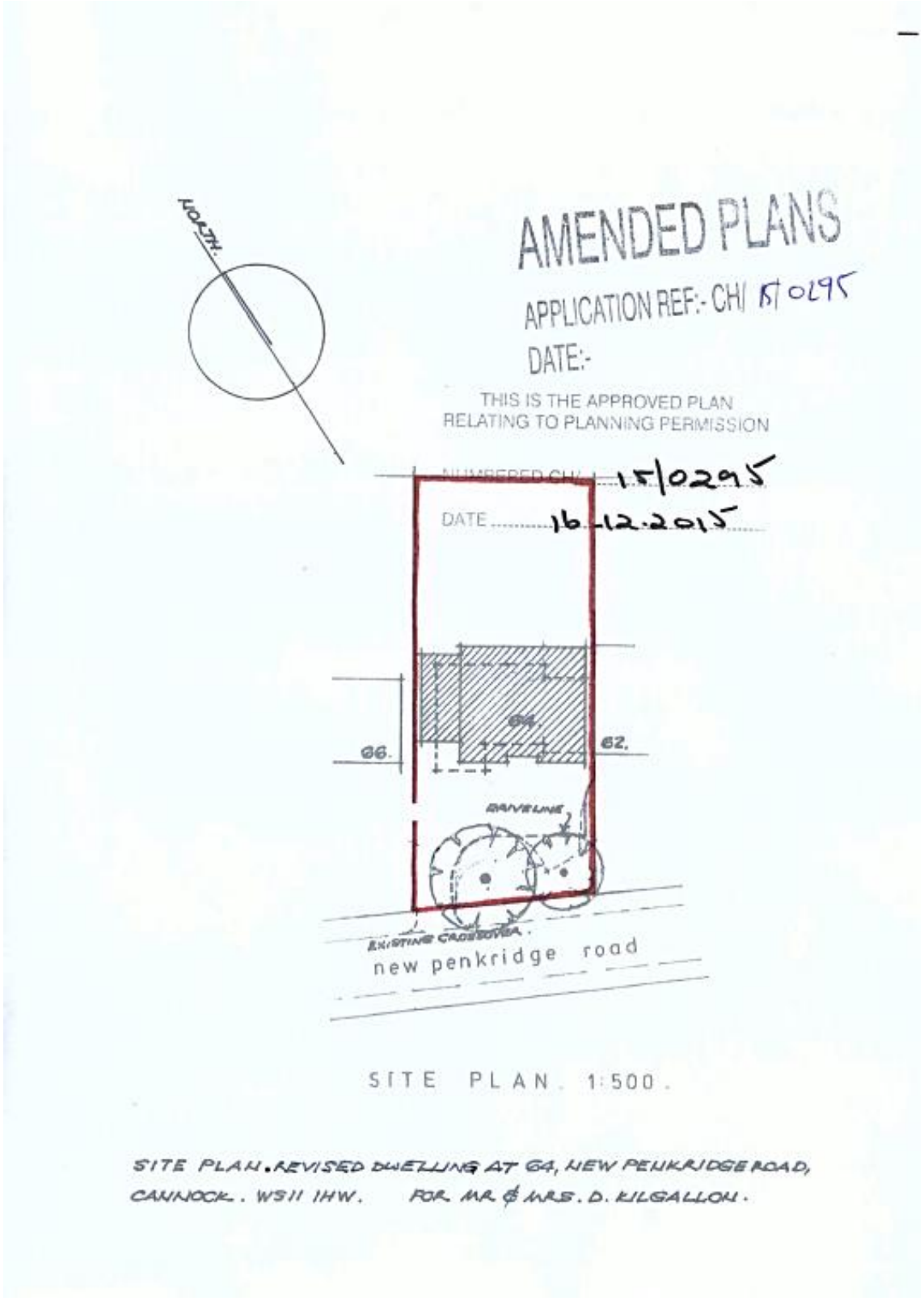
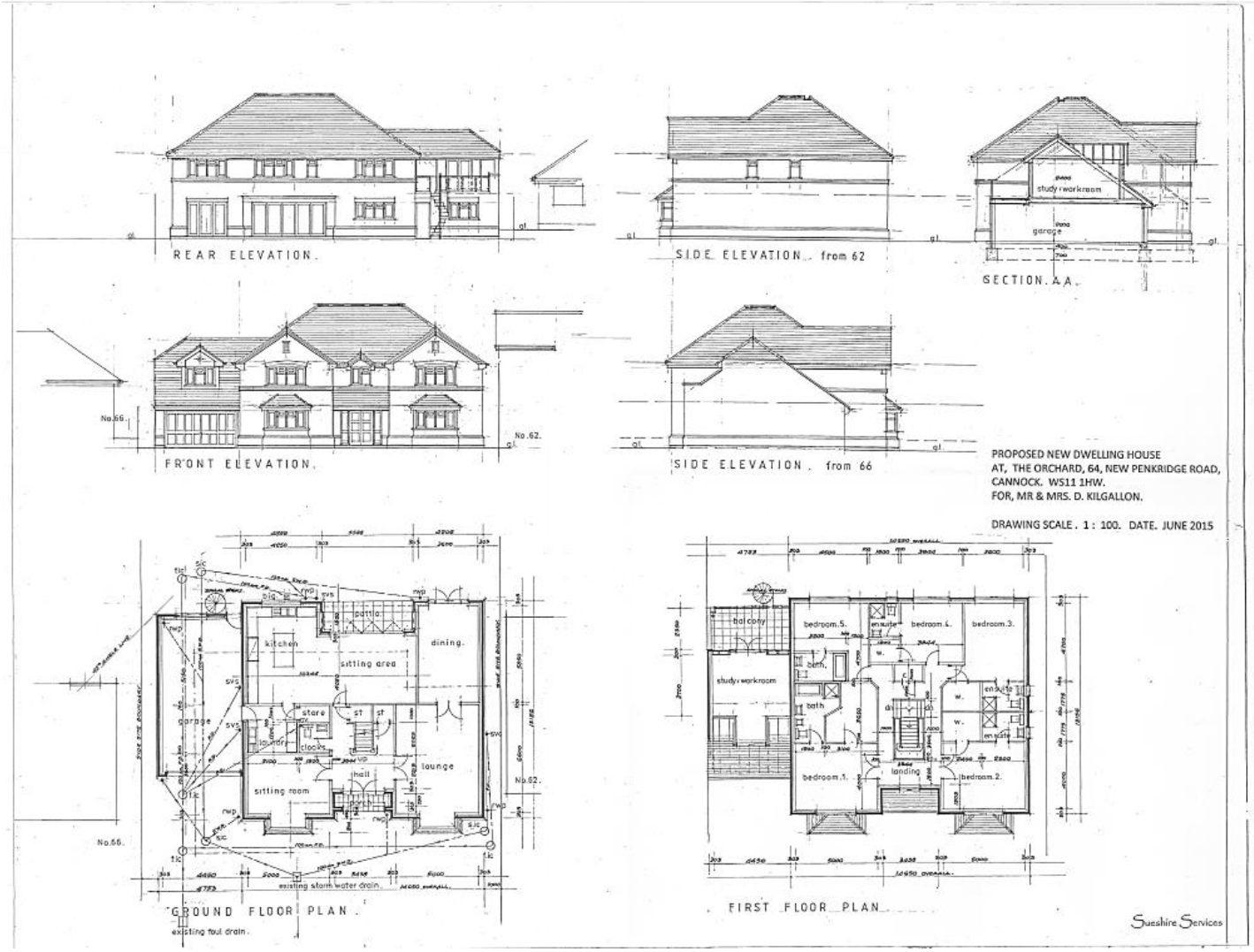
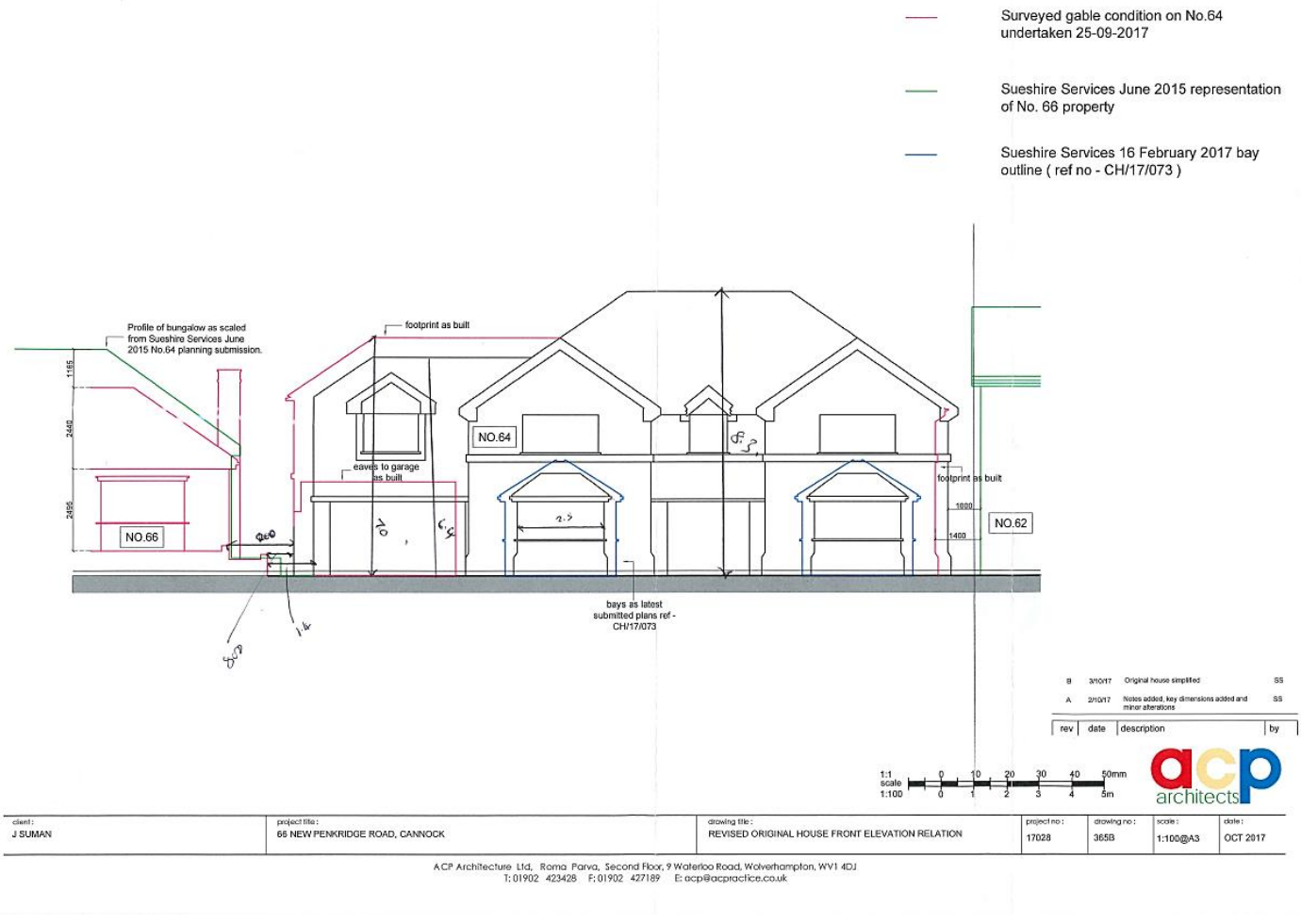
Site Plan As Approved Under Planning Permission CH/15/0295



Layout and Elevation Plan As Approved Under Planning Permission CH/15/0295



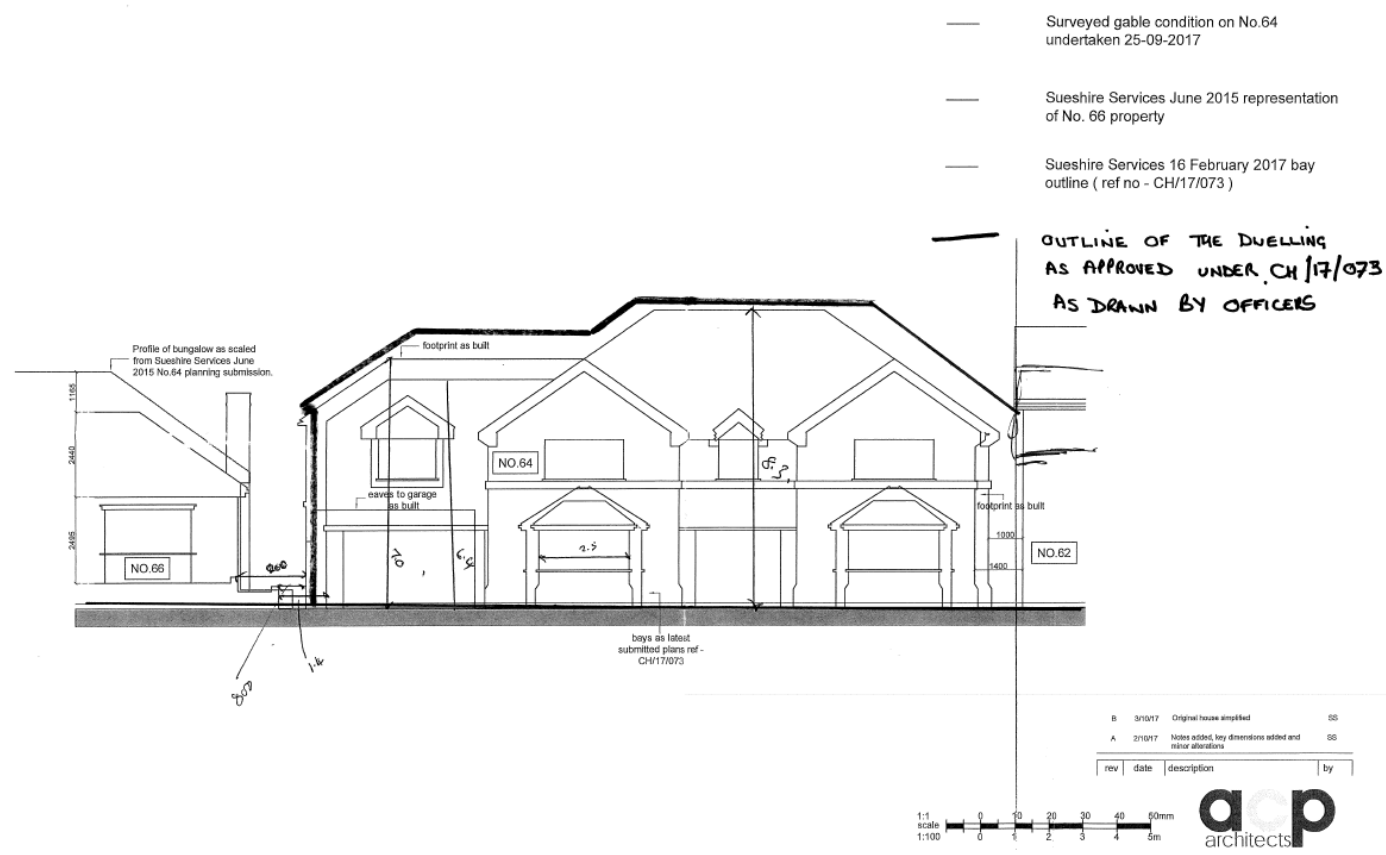
Appendix 6:
Drawing Prepared on Behalf of the Complainant Purporting to Show the Difference Between the Dwelling As-Approved and As-Built



ACP Architecture Ltd, Roma Parva, Second Floor, 9 Waterloo Road, Wolverhampton, WV1 4DJ
T: 01902 423428 F: 01902 427189 E: acp@acpractice.co.uk

Appendix 7:

Drawing Showing the Outline of the Dwelling Approved as Per Planning Permission CH/17/073 Superimposed By Officers on the Drawing Supplied by the Complainant



REPORT OF THE DEVELOPMENT CONTROL MANAGER

ENFORCEMENT INVESTIGATION

SITE: 64 New Penkridge Road

This application was on the agenda for the meeting of Planning Committee held on 20th June 2018, when it was resolved to defer consideration of the report pending a site visit. This report has been updated to take into account the submission made by the complainant to members and a subsequent submission made on behalf of the owner of the site. These are given in full in Appendices 8 and 9.

1.0 PURPOSE OF REPORT

1.1 In light of allegations of breaches of planning control in relation to the above site, to:

a) Investigate and set out the details of such alleged breaches of planning control and enquiries;

b) Advise on whether or not any of the alleged breaches of planning control are enforceable, and;

c) Recommend what if any further action is necessary, and:

c) Consider other matters raised by the complainant.

2.0 SITE AND SURROUNDINGS

2.1 The site is known as 64 New Penkridge Road and comprises a detached dwelling and associated curtilage, which has been recently constructed to replace a former brick built detached dormer bungalow which stood on the site.

2.2 The dwellings on either side comprise No. 66 which is a dormer bungalow and 62, which is a two storey dwelling. There is a dwelling to the rear, called "Whitemead", which is a considerable distance from the application because of the extensive rear garden of the application and to Whitemead.

3.0 POLICY IMPLICATIONS

3.1 National Planning Policy Framework (NPPF)

3.2 The NPPF sets out the Government's position on the role of the planning system in both plan-making and decision-taking. It states that the purpose of the planning system is to contribute to the achievement of sustainable development, in economic, social and environmental terms, and it introduced a "presumption in favour of sustainable development".

3.3 On the matter of enforcement Paragraph 207 of the NPPF states:

> "Effective enforcement is important as a means of maintaining public confidence in the planning system. Enforcement action is discretionary, and local planning authorities should act proportionately in responding to suspected breaches of planning control. Local planning authorities should consider publishing a local enforcement plan to manage enforcement proactively in a way that is appropriate to their area. This should set out how they will monitor the implementation of planning permissions, investigate alleged cases of unauthorised development and take action where it is appropriate to do so."

3.4 Planning Practice Guidance (PPG)

3.5 The Planning Practice Guidance was issued on the 14th March 2014 and is regularly updated. As the title suggests this provides practical guidance to support the NPPF. It contains a section on enforcement entitled 'Ensuring Effective Enforcement'. This provides an overview of enforcement, enforcement advice and enforcement remedies available to Local Planning Authorities.

3.6 Extracts that are of particular relevance are set out below:

> Who can take enforcement action?
>
> Local planning authorities have responsibility for taking whatever enforcement action may be necessary, in the public interest, in their administrative areas.
>
> Paragraph: 002 Reference ID: 17b-002-20140306
>
> Revision date: 06 03 2014
>
> When should enforcement action be taken?
>
> There is a range of ways of tackling alleged breaches of planning control, and local planning authorities should act in a proportionate way.
>
> Local planning authorities have discretion to take enforcement action, when they regard it as expedient to do so having regard to the development plan and any other material considerations. This includes a local enforcement plan, where it is not part of the development plan.
>
> In considering any enforcement action, the local planning authority should have regard to the National Planning Policy Framework, in particular paragraph 207:

Can breaches of planning control be addressed without formal enforcement action, such as an enforcement notice?

Addressing breaches of planning control without formal enforcement action can often be the quickest and most cost effective way of achieving a satisfactory and lasting remedy. For example, a breach of control may be the result of a genuine mistake where, once the breach is identified, the owner or occupier takes immediate action to remedy it. Furthermore in some instances formal enforcement action may not be appropriate.

It is advisable for the local planning authority to keep a record of any informal action taken, including a decision not to take further action

Paragraph: 010 Reference ID: 17b-010-20140306

Revision date: 06 03 2014

When might formal enforcement action not be appropriate?

Nothing in this guidance should be taken as condoning a willful breach of planning law. Enforcement action should, however, be proportionate to the breach of planning control to which it relates and taken when it is expedient to do so. Where the balance of public interest lies will vary from case to case.

In deciding, in each case, what is the most appropriate way forward, local planning authorities should usually avoid taking formal enforcement action where:

- there is a trivial or technical breach of control which causes no material harm or adverse impact on the amenity of the site or the surrounding area;

- development is acceptable on its planning merits and formal enforcement action would solely be to regularise the development;

- in their assessment, the local planning authority consider that an application is the appropriate way forward to regularise the situation, for example, where planning conditions may need to be imposed.

Paragraph: 011 Reference ID: 17b-011-20140306

Revision date: 06 03 2014

4.0 BACKGROUND AND REPORT DETAIL

4.1 The Council is in receipt of a series of complaints alleging breaches of planning control at the above address and other matters. Whilst officers have investigated these complaints; the complainants remain dissatisfied with the Council's responses and lack of action. To this end, the purpose of this report is to investigate and set out the details and context of the alleged breaches of planning control and recommend whether or not to pursue enforcement action in respect of these. The report also advises on other matters raised by the complainant.

4.2 In summary, the complaint and alleged breaches of planning control relate to: -

(a) The reasoning behind the decision granting approval of the proposal was unlawful.
(b) That the development, as built, does not conform to the approved plans and that it causes additional harm over and above that of the approved plans and of the original situation.

4.3 Other matters raised by the complainant include:

1. The developer has not acted in a positive and proactive manner.
2. The developer has damaged property in the ownership of the complainant, moved the boundary line to the property, not served a party wall notice, trespassed on the complainant's property, set fire trees on the complainant's property and not answered the complainant's telephone calls.
3. The developer has lit fires in the garden of the application property.
4. The applicant had not put all dimensions on the drawing leaving the matter open to assumption and open for the applicant to build as he goes along.
5. The complainant considers that the property is not built in the correct position and is in closer proximity to his property. There is a clear and distinct difference between the original and new plans and the applicant would have been aware of this at the early stages of the build yet the applicant continued to build.
6. The new building blocks natural light to the complainant's property because of its closeness and mass. The complainant's architect has explained that the new build has in excess 4 reception rooms to the complainant's 1 lounge. Mr Aqbal (the previous case officer) stated that when a room has front and rear facing windows the Council does not consider this [reduction in light] to be an issue.
7. The complainant questions whether the applicant needs a balcony and that the balcony could have been built in the centre of the property to avoid overlooking of the complainant's garden.
8. External lights placed on the new structure result in glare and dis-amenity to the complainant.
9. Not all the land shown in the red line boundary on the approved plans is in the ownership of the applicant.
10. The applicant indicated on the application form that no trees or hedges were to be removed but the hedge on the side boundary was removed.

4.4 **Planning History**

4.4.1 On 18th June 2015 an application (ref CH/15/0295) was received for the "Proposed Demolition of Existing A Two Storey Dwelling To Construct New 5 Bedroom Dwelling House" at The orchard, 64 New Penkridge Road, Cannock. The plans were accompanied by a Tree Survey Report, dated 12th August 2015. The application was advertised by neighbor letter and site notice. Following comments received form the Landscape and Tree Officer an Arboricultural Impact Assessment, dated 16th October 2015, and amended plans were received. The Landscape and Tree Officer recommended approval subject to a suite of conditions.

4.4.2 No representations were received from third parties and the application was approved under delegated powers subject to conditions, which included the following condition: -

3. "No trees or hedges shall be cut down, topped, lopped, uprooted or removed without the prior written permission of the Local planning Authority nor shall they be willfully damaged or destroyed.

   Any trees or hedges which, within a period of 5 years from completion of the development are cut down, topped, lopped or uprooted without permission of the Local planning Authority or become seriously damaged or diseased or die shall be replaced in the next planting season with similar size and spaces unless the Local Planning Authority gives written permission.

   Reason
   The existing vegetation makes an important contribution to the visual amenity of the area. In accordance with Local plan Policies CP3, CP14, CP12 and the NPPF.

4. No part of the development hereby approved shall commence or any actions likely to interfere with the biological function of the retained trees and hedge shall take place, until details for tree and hedge protection have ben submitted to and approved by the Local Planning Authority. Details shall include the position and construction of all fencing and the care and maintenance of the trees and hedges within.

   Reason
   The existing vegetation makes an important contribution to the visual amenity of the area. In accordance with Local Plan Policies CP3, CP14, CP12 and the NPPF.

5. Prior to the commencement of any construction or site preparation works including any actions likely to interfere with the biological function of the retained trees and hedges, approved protective fencing shall be erected in the positions shown on the approved Tree and Hedge Protection Layout Drawing pursuant to condition 4 above shall be erected to the approved layout).

   Within the enclosed area known as the Tree protection Zone, no work will be

permitted without written consent of the Local Planning authority. No storage of material, equipment or vehicles will be permitted within this zone. Service routes will not be permitted to cross the tree Protection Zone unless written consent of the Local Planning Authority is obtained.

Reason
The existing vegetation makes an important contribution to the visual amenity of the area. In accordance with Local Plan Policies CP3, CP14, CP12 and the NPPF.

4.4.3 The approved plans associated with application CH/15/0295 are shown at Appendix 1.

4.4.4 Subsequent to the granting of the planning permission and commencement of construction works a complaint was received from the owner of the adjacent property at No.66 New Penkridge Road which raised several matters, some detailing that the development was not in accordance with the approved plans and some relating to the planning merits of the case. That email from the complainant and the subsequent email from Mr Aqbal are provided within Appendix 2. Mr Aqbal informed the complainant that having reviewed the 'as-built' development in the light of the approved planning permission he was of the opinion that the applicant had not properly implemented his planning permission and therefore the development was unauthorized. As such Mr Aqbal went on to state that he would be requesting that the applicant submit a new application and that should a new application be submitted that the complainant would be consulted.

4.4.5 Mr Aqbal wrote to the applicant on 3 February 2017 informing him that the development was unauthorized and that a new application to seek to regularize the situation would be required.

4.4.6 A second application (reference CH/17/073) for a "Residential Development: Erection of a five bedroom detached house" was received on 16 February 2017. The application was advertised by neighbour letter and site notice.

4.4.7 A letter of objection was received from the complainant, dated 27th March 2017. This is shown in Appendix 3.

4.4.8 The application was approved under delegated powers subject to conditions and the decision notice was issued on 13 April 2017. The approved drawings are shown in Appendix 4.

4.4.9 Subsequently correspondence has been received from the complainant that the development is not in accordance with the approved plans, reiteration of some of the issues raised in the letter of representation and raising several new issues and raising a complaint into how the two applications were processed and determined.

5.0 **Matters for Consideration**

5.1 The substantive issue in respect to the above is whether the dwelling has been constructed in accordance with the plans approved under planning permission

CH/17/073, and if so, whether any harm has arisen over and above that of the consented scheme.

5.2 In order to obtain an understanding of how the dwelling 'as-built' relates to the approved drawing Members attention is drawn to the proposal as approved under planning permission CH/17/073 (see Appendix 3.1) and the photographs showing the dwelling as built in Appendices 5.10, 5.11, 5.12, 5.13 and 5.14.

5.3 However, members' attention is also drawn to the issue that on the approved drawings the representations of the adjacent dwellings, particularly No66 do not appear to be accurate. The complainant has submitted a drawing (see Appendix 6) which purports to give a comparison between those schemes as drawn by the applicant's agent and the dwelling as built. Officers have, in Appendix 7, superimposed the approved plans (in planning permission CH/17/073) onto the drawing supplied by the complainant.

5.4 One of the problems that becomes apparent is that there is conflicting information from the two parties involved and the accuracy of the two sets of plans is questionable. This is not just the case in respect to the dwelling itself but also of representations of the dwellings abutting the application site (e.g. Nos 62 and 66).

5.5 Notwithstanding the above what is clear from an examination of the approved drawing (appendix 3.1) and the photograph in 5.3 and 5.6 is the dwelling 'as-built' has several rows of bricks between the top of the garage doors and eaves above, whereas in the approved drawing the garage door is almost levels with the eaves. It is also noted that the bay windows to the front elevation are also larger 'as-built' than that shown on the approved plans and that a small first floor central dormer has been formed.

5.6 As such it is clear that the dwelling 'as-built' is different from that shown on the approved plans. This being the case the next issue to resolve is whether any material harm has resulted from the breach of planning controls. The potential for harm could arise if the dwelling 'as-built' would result in unacceptable harm over and above that of the consented scheme, either to the character and visual amenity of the area or to the residential amenity of the occupiers of the adjacent dwellings by virtue of loss of light, outlook or by being overbearing.

5.7 Looking at the issue of impact on the character of the area it is noted that Policy CP3 of the Cannock Chase Local Plan states that, amongst other things, developments should be: -

(i) well-related to existing buildings and their surroundings in terms of layout, density, access, scale appearance, landscaping and materials; and

(ii) successfully integrate with existing trees; hedges and landscape features of amenity value and employ measures to enhance biodiversity and green the built environment with new planting designed to reinforce local distinctiveness.

5.8 In this respect it is noted that New Penkridge Road is characterized by a range of house types, of varying materials, sizes, scales and architectural detailing, with modern sitting adjacent to traditional and modest dwellings sat adjacent to quite large detached dwellings. In this context it is considered that the dwelling as-built falls within the parameters of the streetscene and sits comfortably within it context. As such it is concluded that the dwelling 'as-built' is well-related to existing buildings and their surroundings in terms of layout, density, scale appearance, and materials and in this respect would not be contrary to Policy CP3 of the Local Plan and the design section of the NPPF.

5.9 Turning to the issue of the impact on residential amenity it is noted that there are two windows in the side elevation of No66 which serve a habitable room which is also served by a bay window (see Appendices 5.7 and 5.9). The two windows in the side elevation look towards the application site. The original relationship between these windows and the original dwelling at the application site is shown in Appendix 5.1which shows that the outlook from the side windows was already restricted by the original dwelling and that this was exacerbated by what appears to be a conifer hedge which was approximately as high as the top of the windows.

5.10 Having considered the approved drawing and the photographs of the dwelling 'as-built' it is noted that the height of the building as built and its distance from the side elevation of No66 is at worse slight. As such it is considered that any additional degree of overshadowing or loss of outlook resulting from the breach of planning control would be so small as to be negligible. As such it is concluded that no material harm to the amenity of the occupiers of No66 has occurred due to the difference between the building 'as approved' and that 'as-built'.

5.11 With the above in mind it is noted that Paragraph 011 of the Planning Practice Guidance states

> "Enforcement action should, however, be proportionate to the breach of planning control to which it relates and taken when it is expedient to do so. Where the balance of public interest lies will vary from case to case. In deciding, in each case, what is the most appropriate way forward, local planning authorities should usually avoid taking formal enforcement action where:
>
> > there is a trivial or technical breach of control which causes no material harm or adverse impact on the amenity of the site or the surrounding area;
> >
> > development is acceptable on its planning merits and formal enforcement action would solely be to regularise the development;
> >
> > in their assessment, the local planning authority consider that an application is the appropriate way forward to regularise the situation, for example, where planning conditions may need to be imposed."

5.12 It is considered that the breach of planning control is trivial, has not caused any material harm or adverse impact on the amenity of the site and, or, neighbouring properties and that the dwelling 'as-built' is acceptable on its planning merits. As

such it is concluded that it would not be expedient to take formal enforcement action.

6.1 **Other Issues Raised by the Complainant**

6.1 In the course of dealing with this breach of planning control, the complainant has forwarded a large amount of correspondence, some of which relates to the breach of planning control, some reiterating comments made during the application stage and some relating to complaints as to how the application was determined. These issues will now be set out together with the response from officers.

6.2 The developer has not acted in a positive and proactive manner.

6.2.1 Officers would comment that the duty to act in a positive and proactive manner relates to how the local planning authority should act in the determination of a planning application. It does not apply to the conduct of a developer and therefore has no bearing on this case.

6.2.2 The developer has damaged property in the ownership of the complainant, moved the boundary line to the property, not served a party wall notice, trespassed on the Complainant's property, set fire trees on the complainant's property and not answered the complainant's telephone calls.

6.2.3 Officers would comments that the above matters are private and civil in nature. Furthermore the granting of planning permission does not confer any right of access onto third party property or to damage or destroy property held by a third party. These issues therefore have no material bearing on this case.

6.2.4 The developer has lit fires in the garden of the application property.

6.2.5 Should fires cause nuisance there is potential for redress under the Environmental Health legislation and controls should it be expedient to do so.

6.2.6 The complainant questions whether the applicant needs a balcony and that the balcony could have been built in the centre of the property to avoid overlooking of the complainant's garden.

6.2.7 Officers would comments that the issue of the balcony was looked at when the application was determined. It is not for the local planning authority to question why an applicant requires a balcony but it does need to address whether any particular proposal would cause significant harm. In this case officers noted that the balcony was provided with a screen wall along that side of the balcony facing No66 and considered that this was sufficient to protect the amenity of the occupiers. However, it is recognized that what may acceptable in planning terms and what a private individual may found objectionable can be quite different.

6.2.8 External lights placed on the new structure result in glare and dis-amenity to the complainant.

6.2.9 Officers would refer members to the photograph in Appendices 5.5, 5.8 and 5.9 showing the lamp in situ and the glare resulting to No66. This could readily be dealt

with by blackening out the panel facing the window ay No66. The owner of No64 has been requested to do this.

6.2.10 Not all the land shown in the red line boundary on the approved plans is in the ownership of the applicant.

6.2.11 Officers would comment that the applicant has signed Certificate A stating that he owns all the land shown in red. In addition it is not for the local planning authority to adjudicate in matters of land ownership.

6.2.12 The applicant indicated on the application form that no trees or hedges were to be removed but the hedge on the side boundary was removed, despite the applicant stating on the application form that there were no trees or hedges that would be removed and contrary to the conditions attached to the original consent (CH/15/0295).

6.2.13 Officers can confirm that the applicant did not state on the application form whether that there were trees or hedges on or adjacent to the development site. However, officers can confirm that the issue of trees and hedges was looked at during the determination of the application with the Tree and Landscape Officer being consulted, an arboricultural impact assessment being submitted and conditions in respect to the protection of the hedgerow being attached to planning permission CH/15/0295. However, it would appear that the hedgerow was taken out before the development had lawfully commenced.

6.2.14 As such at the time of the second application (CH/17/073) the hedgerow was no longer in existence and hence there was no longer a need to attach a condition for its protection during the construction period. If, indeed the hedgerow belongs to the complainant then he could seek redress through the courts for damage to his property.

6.2.15 The applicant has made reference to a case in another authority. Care must be exercised in considering other cases, especially in other authorities where the full matters of the case are not available. In the case referenced by the complainant although the local authority resolved to take enforcement action the case as yet has not gone to appeal. As such the outcome of the local authority's decision has not been tested and it is therefore difficult to draw any firm conclusions from this case.

6.2.16 In relation to the issues of overlooking, overshadowing, over-massing raised by the complainant these relate to the planning issues that were taken into consideration when the application was determined. They have little or no bearing on whether enforcement action should be pursued as this is issues relates to whether there has been a breach of planning control and if so whether material harm has been caused over and above that of the permitted scheme.

7.0 CONCLUSION

7.1 The substantive issue in this case is whether the building 'as-built' differs from that as approved under planning permission CH/17/073. It is clear from an examination of the approved plans and photographs of the dwelling 'as-built' that there are differences.

7.2 However, given that the distances are slight, it is concluded that the breach of

planning control is trivial, has not caused any material harm or adverse impact on the amenity of the site and, or, neighbouring properties over and above that of the approved scheme and that the dwelling 'as-built' is acceptable on its planning merits. As such it is concluded that it would not be expedient to take formal enforcement action.

7.4 The other issues raised by the complainant do not alter the above conclusion.

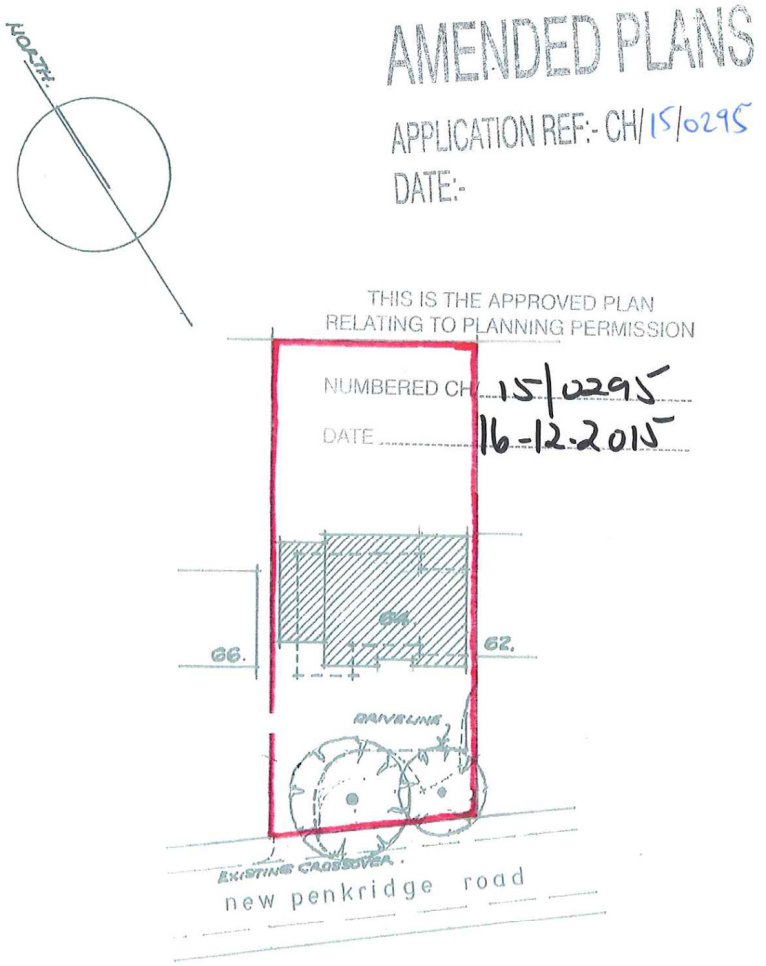
8.0 LEGAL IMPLICATIONS

8.1 As set out in this report.

9.0 RECOMMENDATION

9.1 It is recommended that no action is taken.

APPENDIX 1.1:
Site Plan As Approved Under Planning Permission CH/15/095

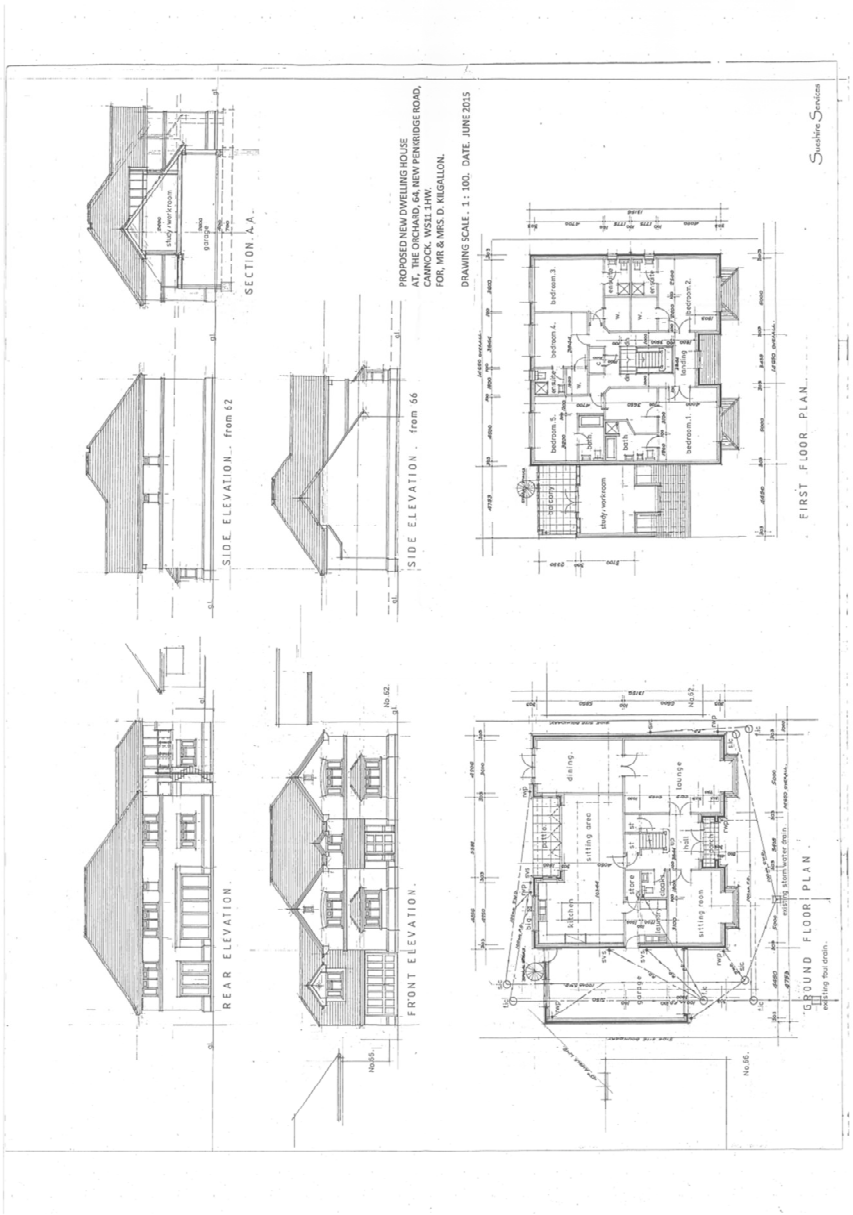


SITE PLAN. 1:500.

SITE PLAN. REVISED DWELLING AT 64, NEW PENKRIDGE ROAD, CANNOCK. WS11 1HW. FOR MR & MRS. D. KILGALLON.

Appendix 1.2:

Layout and Elevation Plan As Approved Under Planning Permission CH/15/095



Appendix 2.

Email from the Complainant and Reply from Mazer Aqbal in Respect to Planning Permission CH/15/095

Mazer Aqbal

From:	Mazer Aqbal
Sent:	01 February 2017 13:19
To:	'Jag Suman'
Subject:	RE: Proposed New Dwelling at 64 New Penkridge Road, Cannock. CH/15/0295.
Importance:	High

Dear Mr Suman,

I visited the site yesterday and my response to the matters you have raised in your e-mail dated 31st January, previous e-mail dated 30th January and prior discussions are set out below.

1. I was aware you were on site with two other gentleman, yesterday. However, as I was there to investigate matters you had raised; to retain your anonymity, I considered it best not to engage with you.

You have set out a number of matters, which relate to how your neighbour has undertaken this particular project. i.e. failing to discuss the project with you as the owner of your property; failure in discharging relevant requirements under the Party Wall Act, changes to the boundary and parking on your drive without your consent. Previously, you have also mentioned scaffolding being erected on your land. Please note that the planning system has no control over these issues as they are civil in nature. I would suggest therefore that you discuss these with your neighbour or seek appropriate legal advice on these matters.

3. Safety concerns over the scaffolding and the competency of the persons undertaking the works are also matters outside of the control of the planning system and I advise that you seek advice on these from the relevant Building Control Inspector.

4. With regards to the 'approved' design and impact on your property. As discussed previously, side windows in your property were noted. However, impact on side facing windows is given limited weight particularly if the neighbouring dwelling has front and rear facing windows to principal rooms.

5. You have expressed concerns over the proposed balcony. Balconies do allow for views over neighbours gardens. However, in urban areas it is not uncommon to be able to view adjacent gardens from first floor level as such in this instance it would be no more invasive than first floor windows.

6. You have also made references to the size of the dwelling and that some elements go beyond what is essential for a new dwelling. The wider area comprises large detached dwellings of various designs. I am satisfied that the size, scale and overall design of the 'approved' dwelling is in keeping with the wider area. As to the applicant making choices on how the dwelling is designed, this is a matter of personal taste. Overall, I am satisfied that the 'approved' dwelling was considered acceptable in light of the wider area and neighbours amenity; having regard to the Council's Development Plan, planning guidance and any other material considerations.

7. In terms of your recent discussion with the me expressing your concerns over the proximity of the development in relation to your property, removal of a hedge and location of new boundary wall. I have looked into these matters and can advise as follows:

a. The distance of the new build relative to the shared boundary on the approved drawing is about 0.9m. On site the measurement is 0.8m. However, to the centre of the new wall, assuming that this is the centre of the shared boundary then the distance would be 0.9m. I have also observed that the proposed garage, as built, is larger than that shown on the approved drawing. There are other discrepancies in dimensions between the 'approved' plan and the 'as built' footprint.

b. I have also noted the boundary wall, which is under construction. The final height of this would dictate whether this would require planning permission or not, which I have yet to ascertain. As to its location

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along the boundary, this is a civil matter on which you should seek appropriate legal advice.

c. I also asked the owner of the property regarding removal of hedges. He advised that these had been removed a while back. Notwithstanding, under the particular circumstances I have no control over this through the planning system.

Having reviewed the 'as built' development in light of the 'approved' planning permission; I am of the opinion that the applicant has not properly implemented his planning permission and therefore the development is unauthorised. To this end, I will be requesting that he submits a further planning application. If a new planning permission is submitted then you will be consulted. My initial opinion is that the changes to the footprint are likely to be acceptable having regard to the 'approved' scheme, planning policy and other material considerations, on the basis of the information before me at present.

8. In your previous e-mail you requested details of the building control inspector. I have been advised that the inspections are being undertaken via – Building Consents, Castle Park House, Castle Park, Frodsham WA6 6SB. 01928 734469.

9. You also made reference to not being informed of the proposal through the planning process. As discussed at our meeting the Local Planning Authority undertook the necessary consultations, which included a neighbour notification letter to your property and a site notice near the development site. As such, I can confirm that the planning application was advertised over and above the statutory requirements for this type of planning application.

I hope this addresses the matters you have raised and should you wish to discuss these any further please do not hesitate to contact me.

Regards

Mazer Aqbal
Development Control Manager
Planning Services
Cannock Chase District Council

From: Jag Suman [mailto:[redacted]
Sent: 31 January 2017 16:36
To: Mazer Aqbal
Subject: New Penkridge Road/ Design/ Breaches..

Hi Mr Aqbal

Unfortunately I was unable to speak with you today.

Even though we did not arrange to meet today at the new build construction site, I felt that it would have been a good opportunity to briefly discuss some of the matters.

As I mentioned to you, I am not happy with planned construction as I have had no input in this matter from the beginning. My neighbour was fully aware my property was rented but made no attempt to make contact with me through the relevant people.

My tenant is disabled and has suffered from a brain injury and was not in a position to discuss any building matters (not that he did). I feel that this matter has definitely taken advantage of.

Reasons for this include, my neighbour has breached the party wall act, excavated up to and less than 1 metre from my property without authorisation, shifted the boundary line and also created a shift in the earth beside my

property. No procedure in this construction has been followed apart from the authorisation of this new build. The retaining wall is constructed in an unprofessional manner and is not fit for purpose which has resulted in a shift of land.

Today I attended my property with a surveyor without notifying my neighbour and to my surprise the neighbour had 3 off his commercial vehicles parked on my driveway without authorisation. His excuse is that the main road was very busy so he thought he would park his vehicles on my land. The neighbour across the road has photographic evidence of vehicles manouevering in and out and being parked on my driveway on a daily basis. Clearly this is not acceptable.

With refrerence to the design of the new build, especially with the balcony overlooking my garden and one of my side windows now being blocked by a study/ balcony, this is something I would have clearly objected to. The original building was a general like for like building to mine and there was sufficient space between the two buildings but the new build is a completely different specification. Alternative options could have easily been offered for the study room and balcony within the building for example the study could have been put into the loft making the garage a single. A balcony is a luxury item and has no bearing on the way my neighbour dwells but why should he have that luxury facility at cost to my privacy. If he wants a balcony then he should recess it in the centre of his property. Its all very simple design alterations.

, far as I am concerned my neighbour has taken full advantage of his design giving him the added extras that the majority of houses do not have and are generally not a necessity (the fact the balcony overlooks my garden is a design flaw not taking me into any consideration. His architect is also very vague with his drawings especially to the boundary on my side.

In a nutshell and on balance, also taking on board your decision that you don't really look at side windows, please note the new build has approx 4/5 lounge/ sitting rooms as opposed to my 1 lounge/ reception room (I do not have any other rooms). My 1 lounge now has an imbalance of light, as the feature wall in my lounge contains 2 side windows beside the fireplace. One window is now blocked due to a double storey garage. If I had another 4 reception rooms, it would not be such an issue but as I only have 1 it does affect me. My point is there should have been some compromise taking into consideration the size of the new build in comparison to mine. A professional opinion from my architect has also confirmed that we would have put this in the letter of objection to the council.

All in all I have been purposely been kept away from this planning matter. The photographic evidence shows that all procedures have been carried out without negotiating with me and more importantly putting my property at risk knowing I am not there to monitor or oppose. The scaffold is deemed a danger the way it is resting on my land but for some reason the building inspector is turning a blind eye. Another neighbour tells me that my neighbour is nducting the work himself and excavation. Is my neighbour a certified builder, does he have the knowledge of structures?.. clearly not as he hasn't even issued party wall notices.

All my neighbour is concerned about is about the value of his property once completed. To me, value is not monetary but consists of honesty and respect.

I would appreciate if my voice is heard at this stage regarding this matter from a planning perspective as you can see that my neighbour has intentionally carried out all of his actions knowing very well that they are incorrect. The property is not yet complete and I feel that the neighbour can still make alterations. If my neighbour is considerate and understands the reasons of the design objection, he will take this on board and make the changes as I can see how critical he is on his own design.

One thing out of my control is the damage already done. This will obviously need to be addressed accordingly and in accordance to correct building procedures.

I genuinely feel this is a genuine case and the fact it has i been done intentionally, I feel it should require redress.

A report will be presented to my neighbour by my solicitor and any relevant action will be taken thereafter.

Kind regards

Tony McGovern | Managing Director
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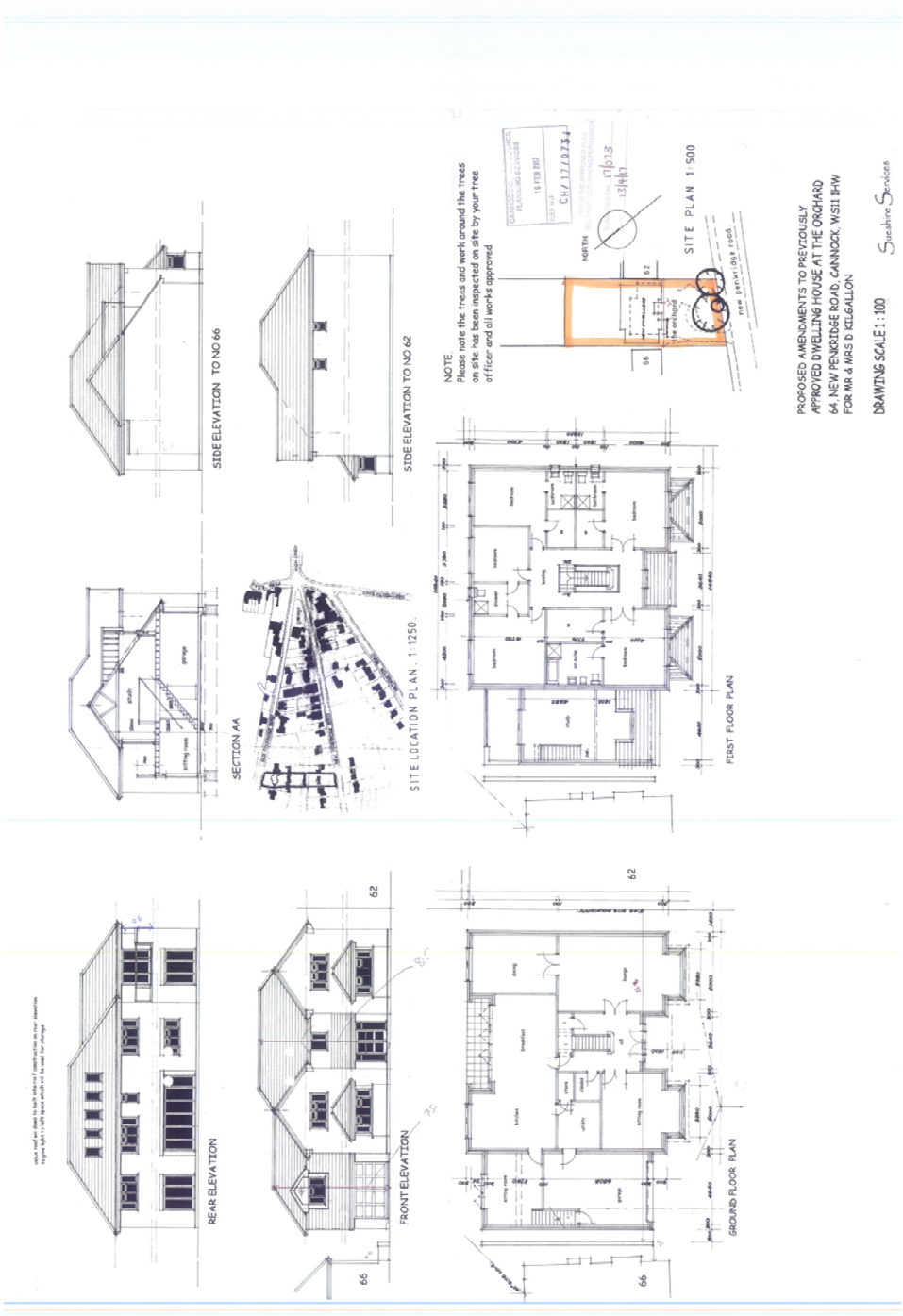
APPENDIX 3.1:

Site Plan Layout and Elevations As Approved Under Planning Permission CH/17/073



Appendix 3:
Letter of Representation on Behalf of the complainant Received in respect of Planning Application CH/17/073

MA
Ack. 30/3/17
Objection
Cannock Chase COUNCIL

Roma Parva, Level Two, 9 Waterloo Road, Wolverhampton, West Mids, WV1 4DJ

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Shifnal
T 01952 460679

FAO Mr Mazer Aqbal,
Cannock Chase District Council,
Civic Centre,
Becroft Road,
Cannock
STAFFS WS11 1BG

27th March 2017

Dear Sir

NEW BUILD HOUSE - No.64 NEW PENKRIDGE ROAD, CANNOCK, WS11 1HW.
APPICATION REF: CH/17/073.

Please accept this letter, written on behalf of our client Mr Jag Suman of No.66 New Penkridge Road, Cannock, as an objection to the current plans as submitted by Mr Kilgallon within the above application made to the council.

To provide background information regarding the site at No.64 New Penkridge Road, originally a Full Planning Application for a new build house was submitted, and subsequently approved in December 2015. At that time, and during the planning process, our client's property at No.66 New Penkridge Road was subject to a tenancy agreement. As we have been informed the tenant was an elderly person who suffered with a mental health condition. As a consequence any correspondence sent from the council to the property regarding the proposed development was not answered, and ultimately our client was unaware of the situation next door until the tenant vacated the property and works had commenced on site. Had Mr Suman been aware of the scheme submitted at this time he would have raised objection on a number of grounds which still remain present within the latest scheme as submitted on the 12th February 2017.

As you are obviously fully aware a re-submission for the new property at No.64 was made to the council following a site inspection undertaken in January 2017 which highlighted a number of variations and discrepancies between the building being constructed on site and the actual council approved plans.

Having now had the opportunity of reviewing the revised scheme our client would wish to formally express his concerns, and raise objection, over the latest proposals with three major concerns as scheduled ;-

1) Boundary offset dimensions.

The exact location of the boundary line between No.64 and No.66 is currently subject to clarification as it would certainly appear that the line has been moved closer to our client's property robbing valuable side access land. Although an overall dimensioning of the site width has been supplied this cannot be accepted as it is presently in dispute. .

On the previous approved drawing plans an offset dimension of 1000mm was clearly noted to the boundary with No.62 New Penkridge Road, with NO corresponding offset dimension provided to the boundary line with No.66. Upon looking at the drawn relationship between the proposed new house at No.64 and the side gable of No.66 ample side access width has been clearly demonstrated to both properties. When viewed on site it is clear to see that a width of such magnitude is not possible.

Directors:
RICHARD TAYLOR BA (Hons), B.Arch(Manc), APMP, RMaPS, MAPM, RIBA.
JOHN REEVES MCIAT.
STEPHEN SYMONDS B.A (Hons), Dip Arch, RIBA.

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Within the latest scheme proposals submitted, an offset dimension of 1400mm has now been stated to the boundary with No.62, thus positioning the new house some 400mm closer to our client's bungalow at No.66. The corresponding boundary offset dimension to No.66 has been stated as 800mm, with the width of access to the side of our client's property shown much narrower than that appearing on previous plans.

Mr Suman has in his possession past photographic evidence which indicates that a substantial screen hedge, as well as ample pathway, previously existed to the side of his property boundary with No.64. This has obviously been encroached upon as an independent Surveyors Report currently being prepared should indicate. With a retaining wall now already constructed between the two properties, whilst access remains possible to the rear of the new house under construction on both sides, access for wheelie bins, garden waste, etc is no longer possible between front and rear to our client's property.

In conclusion on this point it is considered that the overall mass and length of the new building from boundary to boundary is too large and dominant in scale overshadowing our client's bungalow substantially. To reduce the massing at the position of the boundary with No.66 it is suggested that the proposed first floor balcony, and study be omitted from the final design and the garage width reduced to enable a clearly defined gap to be retained between the corresponding two storey and single storey structures.

2) Inclusion of Balcony to Rear Elevation.

The original plans prepared in 2015 showed a balcony, with external stair access, located directly adjacent to the right hand gable of our client's property for which Mr Suman would have raised objection at that time had he been aware of this.

Whilst within the newly submitted plans a wall of greater height has been indicated to the left hand rear end gable which then wraps around the balcony at lower level, and the external spiral access stair has been omitted, it is clear that the balcony position close to the boundary with No.66 remains greatly overlooking our client's rear garden area. A point of significance is that within the new plans prepared opening glazed doors indicated on the rear elevation to the balcony have not been shown on plan, terrace slab hatching has been removed, and the word balcony omitted. It is felt that these measures have been taken to avoid drawing attention to the balcony's continued presence.

When previously questioned on the potential disturbance, and loss of effective privacy, it had been stated that persons standing or sitting on the balcony would create no more of an impact than being in the garden. I find this hard to justify as within the rear garden area activities are, on the whole, screened by way of hedges and fencing

Our client is asking that the balcony be removed from the position as shown, and if still deemed as necessary to the overall build, located centrally within the rear façade thus distancing itself as far as possible from each of the boundaries at the rear.

3) Loss of light to existing lounge.

As a result of constructing the left hand gable of the proposed new house extremely close to the gable of No.66 this has lead to a large overshadowing, and reduction in natural daylighting, to the existing lounge on our client's property, thus creating a somewhat gloomy appearance within what exists as a fairly deep room plan. On the latest scheme submission drawings the depth of the garage has actually been increased to allow for the inclusion of an additional sitting room to the rear. As a consequence where originally only one of the two side windows to the room would result in looking straight onto dark facing brickwork, this will now be worsened through the latest proposals which would ultimately impose the same situation upon both windows, thus darkening the room internally to a far greater degree.

Of particular relevance is that the two existing side windows to the lounge were designed as an important feature within the design of the original bungalow, with decorative arch heads, and a former outlook onto greenery. As a result of the closeness of the new build property, in relation to the original bungalow which occupied the site, this will now become a detrimental loss to our client's property. Furthermore, whilst the new house being constructed at No.64 New Penkridge Road will ultimately possess a total of 4 no. lounges, No.66 has only a single lounge which is clearly being compromised.

Prior to the re-submission for No.64 New Penkridge Road, Mr Suman did contact the Planning Department regarding the loss of light to the lounge on his own property. At that time our client was informed that, as the room also had a bay window to the principle elevation, that side windows would have no bearing. If this is to be the case then on the latest submitted elevations for the new house proposed at No.64 there would seem little to no justification for the inclusion of 5 no. relatively large velux rooflights stated as required to provide natural light for what is labelled as attic storage space. I would most certainly speculate that the roofilights have been added to enable additional habitable rooms to be added at a later date. This would only require simple addition to the present staircase arrangement to enable full access from the first floor accommodation, enlarging the property yet further without application for planning.

Whilst the three major issues explained above compel our client to raise a formal objection to the latest re-submitted scheme, which can be likened to the previously approved scheme upon which Mr Suman was unable to comment, the latest proposals push the boundaries yet further with an increased overall footprint for the proposed house at No.64. As touched on earlier in this letter the latest changes include enlarged front bay windows and additional accommodation now introduced at ground floor, and possibly second floor.

It must be said that the overall scale of the latest building, rather than reducing impact on our client's dormer bungalow at No.66 New Penkridge Road, will ultimately dominate further. As a result it is considered that should Mr Suman wish to extend his own property at a latter date he could find himself denied permission on the grounds of over-development within the overall street scene due to the unnecessary ' maxing out ' of his neighbour's plot.

On a final note, which we also consider to be relevant, and demonstrating Mr Kilgallon's general disregard to both planning and building matters we would advise that the build was commenced without the issue of a formal Party Wall Notice although the building has been constructed within 3m of our client's property. In addition we understand none of the conditions set within the original permission granted have been adhered to, or formally discharged in writing by the council. Such items include the removal of almost all of the screen planting which existed to the boundary between No.64 and No.66, and the construction of a brick retaining wall between the two properties, both of which were subject to details being submitted and approved by Cannock Chase District Council prior to the actual build works commencing on site. Furthermore, although not directly a planning matter, we have been informed by our client, with photographic evidence also available, showing the burning of builders materials on site. This has occurred on several occasions, in one instance requiring the fire brigade to be called out and trees in Mr Suman's rear garden being partially burned.

Yours sincerely
For and on behalf of ACP Architects

Stephen G Symonds RIBA

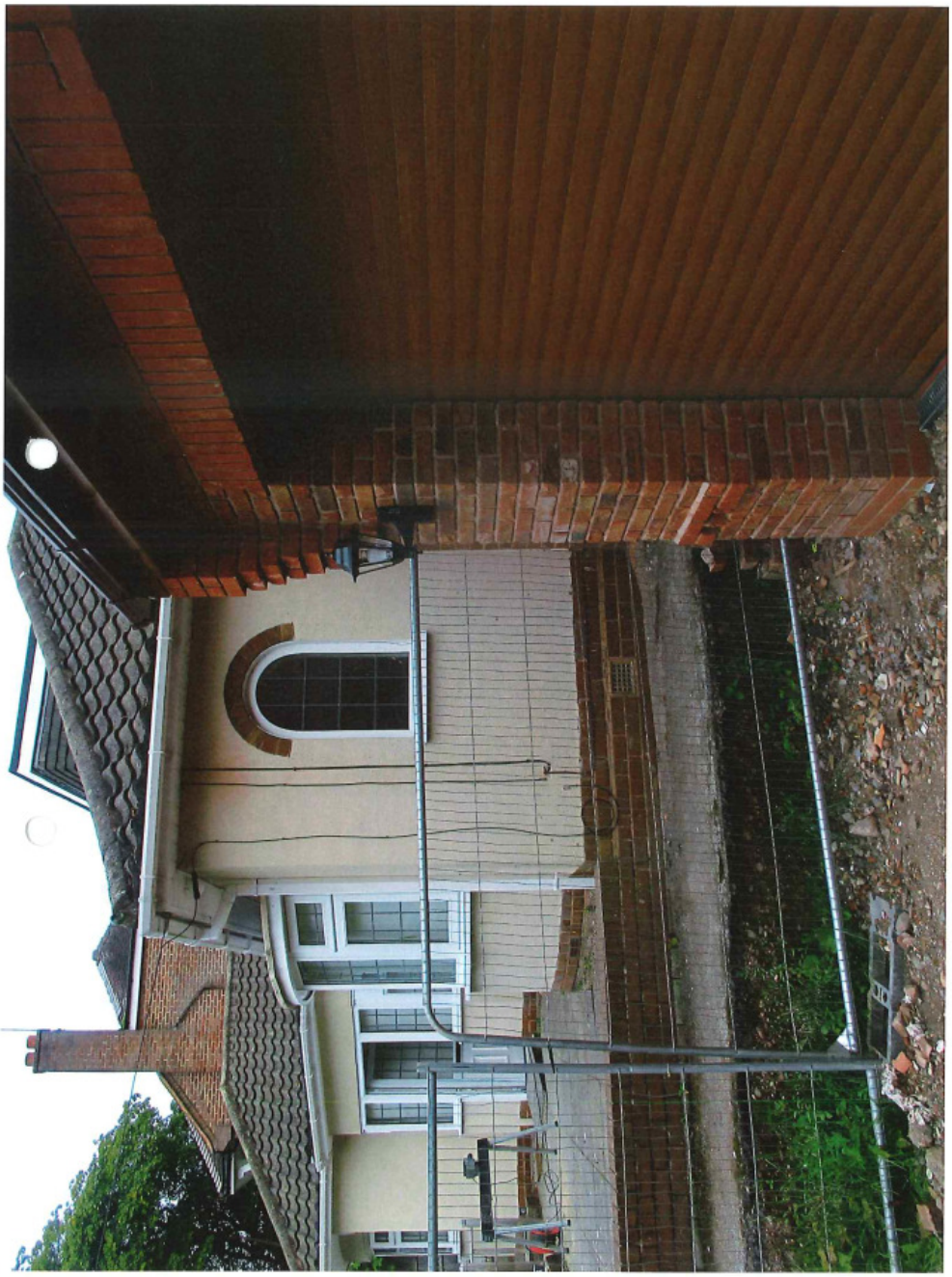
Appendix 5.1:
Photograph of the Application site Showing the site As it Existed Before Development Commenced

Appendix 5.2:
Photograph of the Application site Showing the site As it Existed Before Development Commenced

Appendix 5.3:
Photograph of the Application site Showing the Relationship Between the New Build and the Dwelling at No66 New Penkridge Road

Appendix 5.4:
Photograph of the Application site Showing the Relationship Between the New Build and the Dwelling at No66 New Penkridge Road

Appendix 5.5:
Photograph of the Application site Showing the Relationship Between the New Build and the Dwelling at No66 New Penkridge Road (NB the window in the side elevation of No 66 New Penkridge Road)



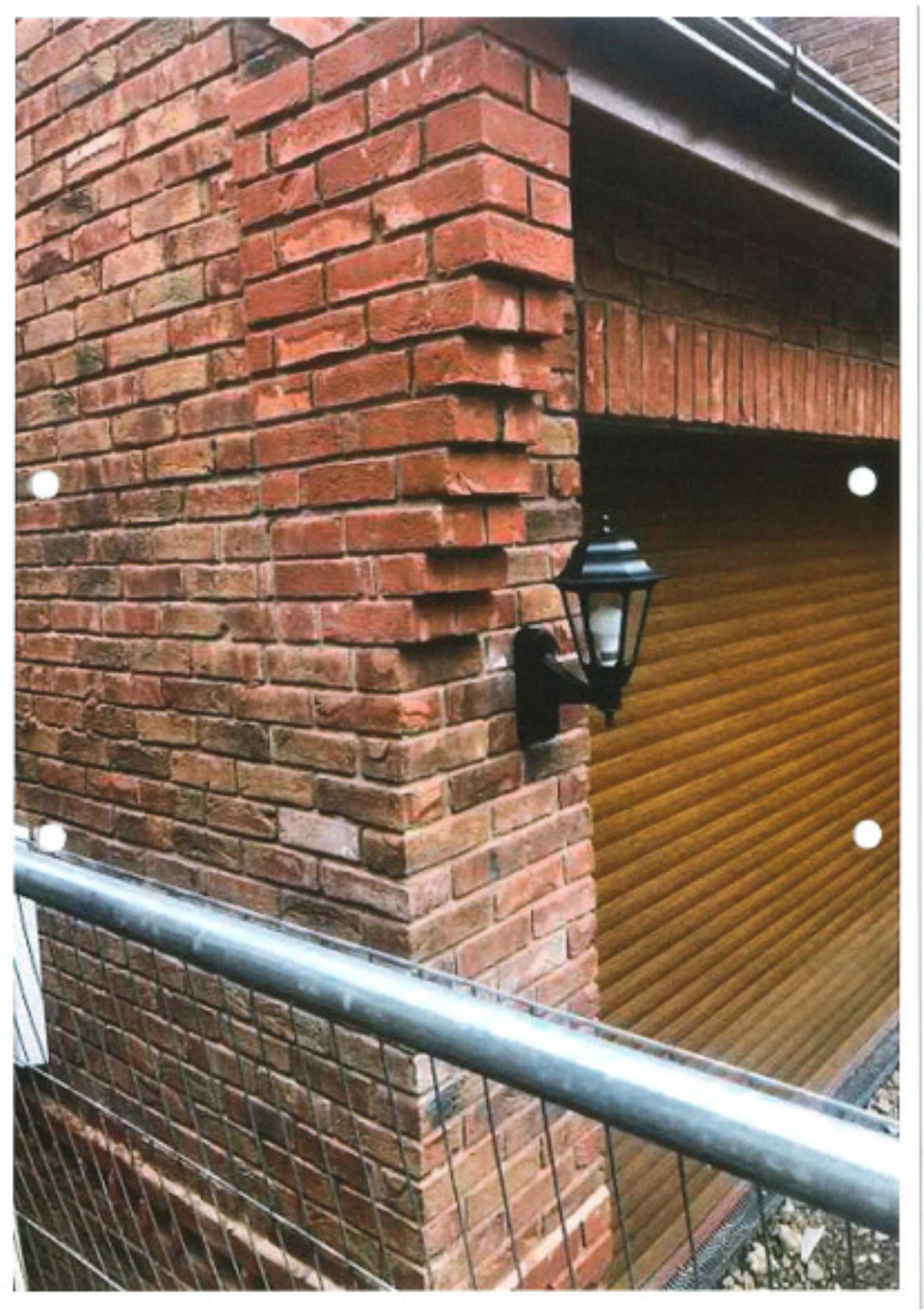
Appendix 5.6:
Photograph of the Application site Showing the Relationship Between the New Build and the Dwelling at No66 New Penkridge Road

Appendix 5.7:

Photograph Taken from Inside of No.66 showing the Impact of the New Build on the Standard of Amenity to the Occupiers of No.66 New Penkridge Road

Appendix 5.8:

Photograph of the External Light Stated to Cause Glare to the Occupiers of No.66 New Penkridge Road



Appendix 5.9:

Photograph of the External Light Stated to Cause Glare to the Occupiers of No.66 New Penkridge Road

Appendix 5.10

Front Elevation Showing the General Façade of the Front Elevation As Built

Appendix 5.11

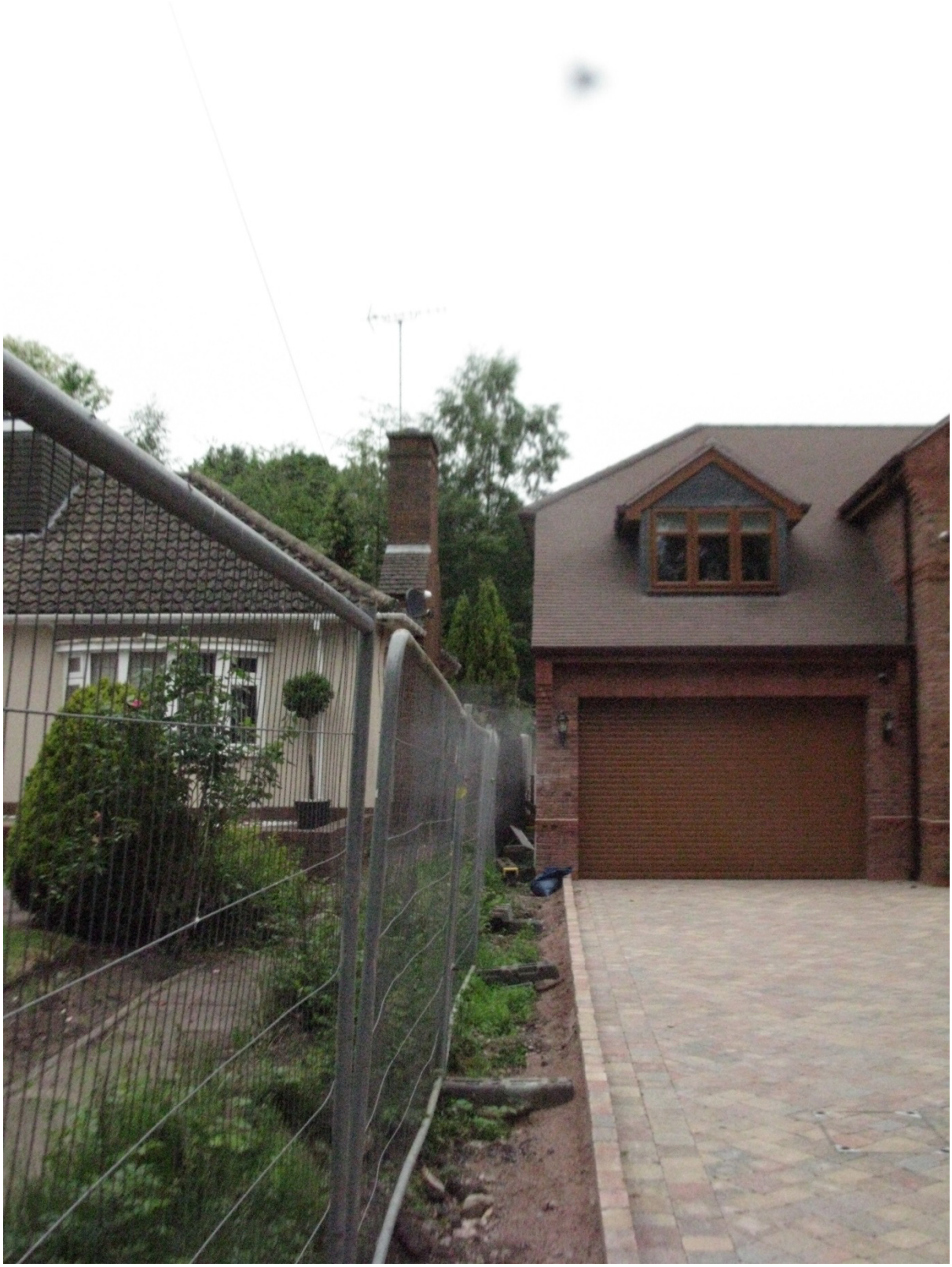
Photograph showing the Relationship Between the Dwelling as Built and the Neighbouring Property at No66 New Penkridge Road

Appendix 5.12

Photograph showing the Relationship between the Dwelling As-Built and the Nieghbour at No 62c New Penkridge Road

Appendix 5.13

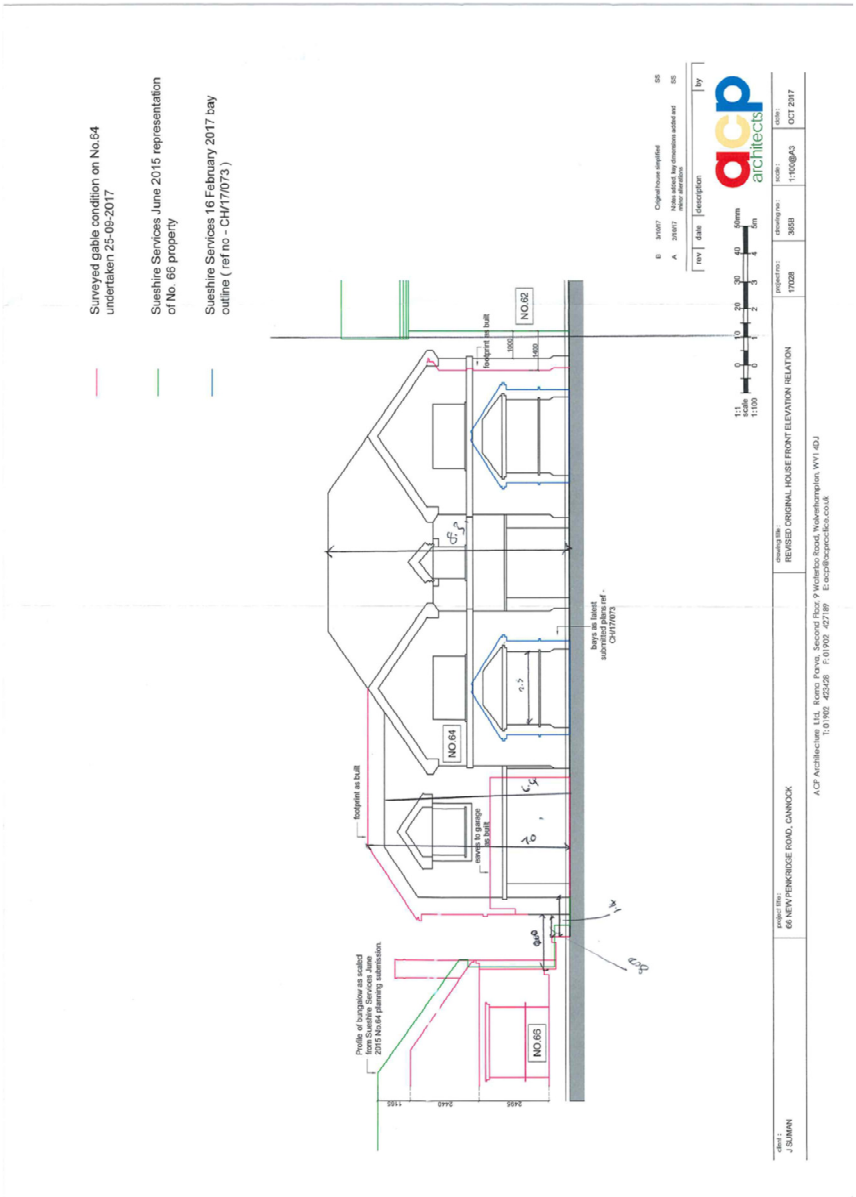
Photograph Showing the Dwelling As-Built and the Neighbouring Property at No66 New Penkridge Road



Appendix 5.14

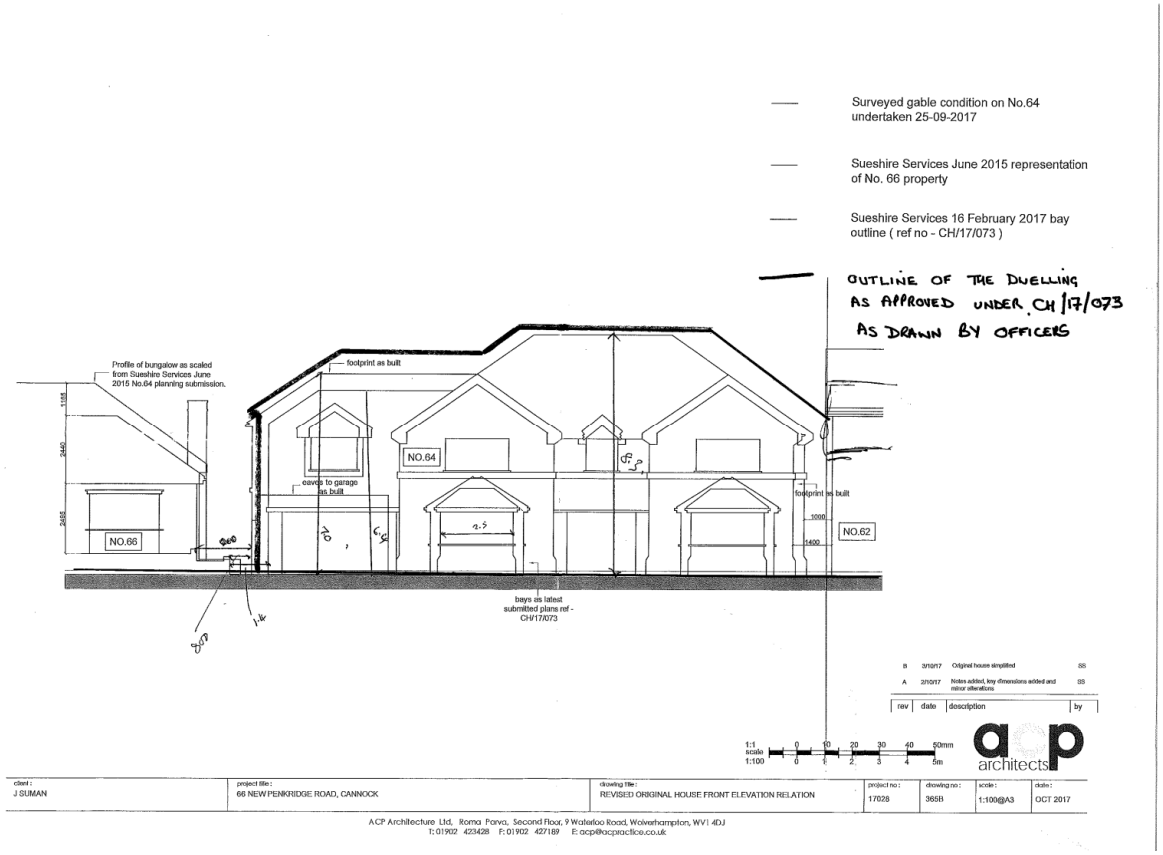
Photograph Showing the Relationship Between the Sider Elevations of the Dwellng AS-Built and No66 New Penkridge Road

Appendix 6:
Drawing Prepared on Behalf of the Complainant Purporting to Show the Difference Between the Dwelling As-Approved and As-Built



Appendix 7:

Drawing Showing the Outline of the Dwelling Approved as Per Planning Permission CH/17/073 Superimposed By Officers on the Drawing Supplied by the Complainant



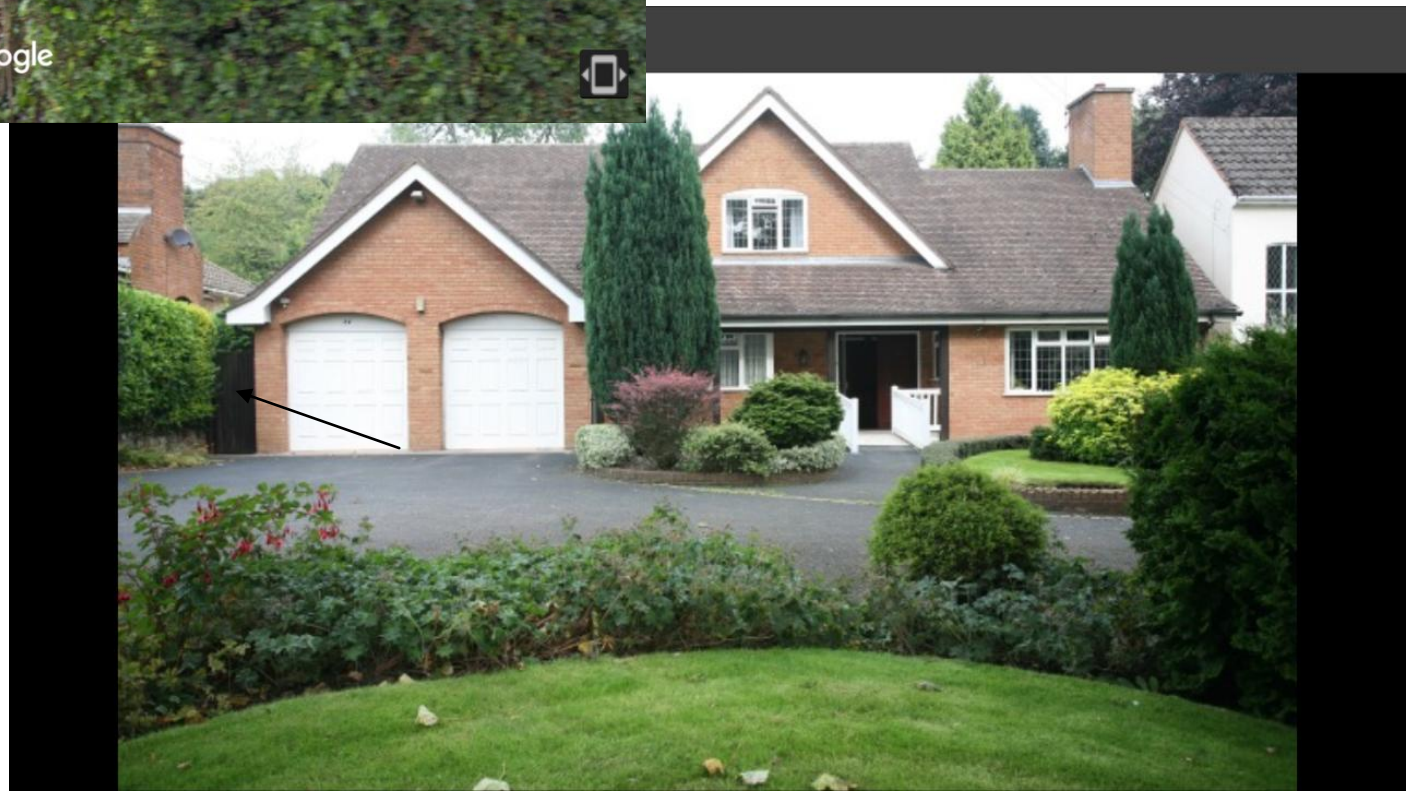
SITE COMPARISONS

Image (Left) shows the boundary treatment between No.64 and No.66 when planning was approved by Cannock Council.

This is contrary to what has been published in the report (Image below) therefore does not give a true representation of the facts.

It does not also support the comments made by the planning officer with regards to the existing boundary treatment in his officer's report.

ACTUAL BOUNDARY TREATMENTS



SITE COMPARISONS

LOSS OF PRIVACY & OVERLOOKING

Image showing approved balcony (Left) which can stand approx 15 people.

The balcony has views over the entire garden, rear façade and first floor bedroom of No.66.

The officer's report states that this balcony is the same as a first floor window.

This is a loss of privacy and is contrary to the Council Policy.

Cont…..

SITE COMPARISONS

The balcony projects out at the boundary and is more or less at the boundary position.

The great wall effect is over bearing and gives the impression of a prison wall.

The footprint of the property is maxed out from left to right, which means that the new dwelling does not sit comfortably.

The planning officer advises that the new dwelling has been edged and just about sits comfortably which is again contrary to what is stated in the report.

Site plans produced by a qualified architect shows how the footprint of the new dwelling has grown 3 times since the construction commenced – larger than the actual plot width.

SITE COMPARISONS

Image shows the overbearing effect of the new dwelling when standing beside it or enjoying garden amenity.

This balcony is also a source of noise pollution.

The planning officer stated in his original report that the new dwelling may be **a breach of Human Rights** however since the size of it has now increased further (by approx 20-30% are we right to suggest that it is now an actual breach of Human Rights.

OVERBEARING/ OVERMASSING – (PRISON WALL EFFECT)

LOSS OF LIGHT

SITE COMPARISONS

OVERSHADOWING - FRONT

Image shows overshadowing to the front elevation of No.66 created by excessive roof heights of the new dwelling and false manipulation of drawings.

SITE COMPARISONS

Image showing overshadowing at rear elevation which virtually covers the entire garden and rear façade.

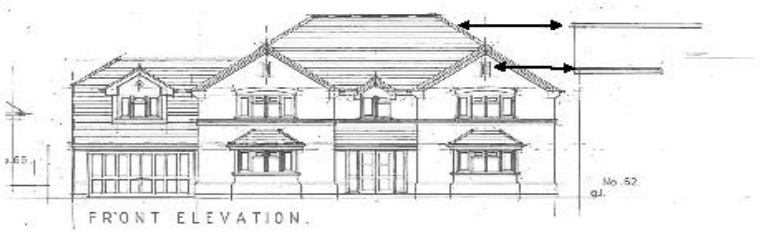
OVERSHADOWING - REAR

SITE COMPARISONS

THE HUGE FOOTPRINT OF THE NEW DWELLING DOES NOT SIT COMFORTABLY AND OVERPOWERS ADJACENT DWELLING.

Before (Left) and after (Right) images showing the maxing out/ overbearing impact of new dwelling Prior to the construction of the new dwelling, it can be seen that in excess of 1 van can fit through the gap between the perspective dwellings. As it currently stands, only 2 people can fit through.

SITE COMPARISONS



As per the approved drawings for the new dwelling, please note the difference in heights as shown in the images above/ below between No64 and No.62.

There seems to be a substantial difference in what was planned and what was actually built.

FALSE MANIPULATION OF DRAWINGS

Adjacent dwellings shown to be 1.3m taller.

The consequence and subsequent material impacts of the new dwelling would not have been as apparent until the new dwelling was substantially built.

Though not entirely a planning matter, in order to obtain a new dwelling that satisfies personal desire, a scaffold was mounted onto the adjacent property without authorisation and the entire side of the adjacent dwelling was damaged in order to shift the boundary in favour of the new dwelling.

The adjacent dwelling was at the time let to a young gentleman whom was not in a fit state to discuss any planning matters.

Unecessary damage due to the new dwelling having been edged – as described by the Planning Officer.

Main reason for complaint

1) Retrospective plans were approved through delegated powers even though it was requested for the matter to be referred to committee. Based on the officer's report, there are **numerous incorrect statements** which do not give a true representation of the new dwelling

2) The planning officer took **3 months to do a site visit**. Council Policy states that officers will visit within 3-5 working days.

3) The newly appointed Development Control Manager advised after the retrospective plans were approved that he was too busy with other projects. The additional time taken to **investigate the approved plans were approximately 6 weeks after the date of approval.**

4) The **approved plans are contrary to Council policy** with regards to the material impacts and removal of trees and hedges. In this instance, 200sqm of hedges and trees were removed.

5) The **level of enforcement for breaching virtually every aspect of the planning system was more or less zero**.

6) **The costs** for a surveyor, structural engineer, architect, legal advice (conveyance) were paid by the owner of No.66 even though it was the duty of the developer to ensure that the works were legally conducted in line with what had been approved.

7) The Planning Officer advised that a new planning application would be made by the developer however after further investigation it was noted that a very brief revision was submitted.

Previous Cases

Prior to the approval of the plans for the new dwelling, in 2008 similar plans were approved for a building of similar size on New Penkridge Road.

The planning officer approved the scheme in 2008 however the same material impacts were highlighted in an objection letter received from 2 objectors. These included loss of light, overshadowing and loss of privacy.

The planning officer conducted the 45 degree rule tests and advised that there would be no impact therefore still in favour of the new scheme.

The case was referred to a planning control meeting.

Based on the material impacts a unanimous decision was made objecting the new scheme based on it overmassing/ footprint.

Given the nature of the new dwelling at No.64 New Penkridge Road and the manner in which case law is used to determine cases, it is felt that no aspect of the case from 2008 was adopted in this instance, yet there are numerous similarities and virtually like for like comments made in the supporting reports.

It is noted that, the planning officer used the same method of dealing with overlooking, by dealing with any issue of overlooking by comparing the material impact to the view from a first floor window.

Based on the views of numerous independent architects, it is very difficult to understand how the approved balcony on the new dwelling can be described as a first floor window and approved on this basis regardless of one’s subjective opinion.

Each case should be approved on its own merits and not by the same standard template approach as we have now seen by the planning officer.

Latest Case

In the neighbouring city of Stoke, the Council have taken enforcement action against a new dwelling which has been built 30 inches larger than the approved plans.

The proposed action is the demolition of the property or works to alter the new dwelling so that it is in line with the approved plans.

The point in this matter is, the new dwelling constructed at No.64 New Penkridge Road has an increased roof height of approximately 1.3m which is 47 inches. There is also an increase in the width of 1.8m.

Why is the approach towards Mr Hussein and his family any different to Mr Kilgallon and family.

Both are examples of disregard to the planning system and co-operation with the Local Authority. There is **a clear undermining of planning rules/ regulations** and allowing such discrepancies through retrospective planning will only set precedent.

If a planning officer takes 3 months to do a site visit as in this instance, how can it be guaranteed that the correct surveillance can be offered from the Local Authority in the future which will in return allow developers to take full advantage of this loop hole.

In an area of outstanding natural beauty we do not wish to tolerate this attitude towards individuals that decide to breach planning conditions and then profit from their actions. This is no different to committing a crime and benefiting from it.

Concealed Development

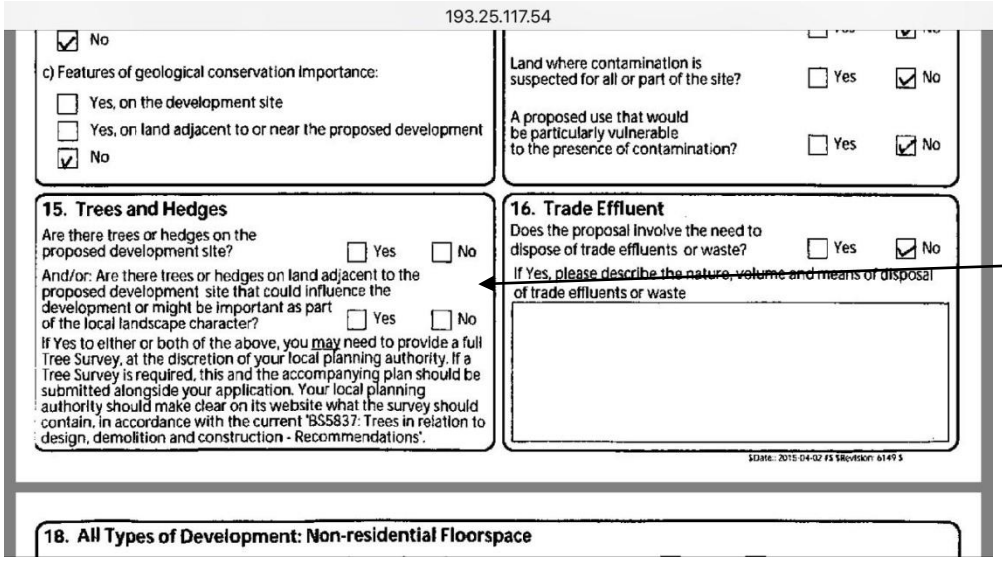
The developer of No.64 New Penkridge Road has with intent built a new dwelling that was never part of the original scheme. It is more than likely based on the level of deception and falsely manipulated plans that two sets of drawings were created.

This manner in which the new dwelling was concealed resembles the case of the gentleman that built his property behind a barn.

The similarities are that in the case of No.64 New Penkridge Road are:

- the Local Authority were not even aware that the development had commenced
- all the hedges/ trees were removed through excavation and burning
- paperwork was completed to suit personal desire of the developer
- adjacent owners were duped and not notified of the dwelling
- approved drawings were falsely manipulated

The new dwelling has been created for personal desire. As per council policy it does not take into consideration the amenity of adjacent dwellings which is demonstrated through the images provided.



NON DISCLOSURE OF CRITICAL INFORMATION RELATING TO THE NEW DWELLING

Why have the Local Authority arranged for this meeting when the decision to take no enforcement action has already strongly been recommended?

A substantial size report has been compiled by the Development Control Officer. This report does not contain the full facts of the case and therefore does not allow for proper evaluation and consideration for members. For example, one of the major concerns is the luxury balcony feature to the rear elevation of the new dwelling. Though reference has been made to it, no images have been provided even though numerous images of this feature have been sent.

An email has also been sent to the Local Authority questioning the credibility of the report published for the Planning Control Meeting however no response has been received.

An adjournment was also requested but this option was declined by the Local Authority.

We are yet to understand why Cannock Council are not employing the same enforcement as Stoke and whether this case will now set precedent for other developers.

We are also yet to understand how this case has been described as trivial.

The term ‘regularise’ has been used in the report. If the Local Authority wish to regularise the new dwelling, then it is suggested:

- All the excavated and bunt down trees and hedges are re-planted in the same location as which they were removed.
- Site plans are produced which show how the new dwelling has grown and its size in comparison to the actual plot.
- Remove the balcony/ decrease the roof heights so that it is in line with local and national planning.

CANNOCK CHASE
2018 DM
DISTRICT POST ROOM

REPRESENTATIONS ON BEHALF OF MR AND MRS KILGALLON RE. ALLEGED ENFORCEMENT ISSUES RELATING TO 64 NEW PENKRIDGE ROAD CANNOCK

I have been requested by Mr and Mrs Kilgallon to make representations on their behalf in relation to the report to the Planning Control Committee. In summary, we agree with the officer's conclusion that no enforcement action is justified in relation to minor differences between the dimensions of the as built dwelling and the dimensions shown on the approved plans in relation to planning permission CH/17/073.

Just to make absolutely clear, the only purpose of the report is to consider whether the extent of the differences in dimensions of the as built property compared with the approved plans justifies any remedial action by the Council. This is not an opportunity for the objector to revisit the arguments he put forward for objecting to the development at the time the application was being processed. These issues were considered at that time and were determined by planning officers not to amount to reasons why permission should not be granted. This means that virtually all of the 14 page report produced by the objector's architect, which was circulated to all Members of the Planning Control Committee and subsequently supplied to my client by the planning officer Mr. Sunter is **irrelevant to the matter under consideration and should be disregarded by Members.**

All appropriate planning policies and standards were met by the development which was approved on 13/04/2017. The approved plan is titled " Proposed amendments to previously approved dwelling house at The Orchard 64 New Penkridge Road Cannock" and condition 5 of planning permission CH/17/073 requires the development to be carried out in accordance with the details shown on that plan.

All dimensions of the outer walls of the as built property have been measured together with the height of the garage roof, the height of the front gables and the distance of the building from the boundaries with no. 66 and 62. These have then been compared with the dimensions shown on the approved plan. The comparison between measurements is set out below –

Dimensions on approved drawing		**As built dimensions**	
Overall width of house	19.780 metres	Overall width of house	19.570 metres
Overall length of main part of house excluding ground floor bays	13.200 metres	Overall length of main part of house excluding ground floor bays	13.260 metres
Length of garage	11.265 metres	Length of garage	11.360 metres
Width of garage	4.940 metres	Width of garage	4.940 metres
Width of ground floor bays	3.380 metres	Width of ground floor bays	3.380 metres
Height of front gables	7.700 metres	Height of front gables	7.700 metres
Height of side boundary wall to both 66 and 62	5.400 metres	Height of side boundary wall to both 66 and 62	5.400 metres

Ridge height of hipped roof of study above garage 7.700 metres	Ridge height of hipped roof of study above garage 7.700 metres
Distance between side wall and retaining wall to boundary with 66 0.800 metres	Distance between side wall and retaining wall to boundary with 66 0.800 metres
Distance between side wall and gable wall of 62 1.330 metres	Distance between side wall and gable wall of 62 1.330 metres

In summary the actual width of the house is 0.210 metres shorter than shown on the approved drawing, the actual length or depth of the main house is 0.060 metres larger and the actual length of the garage is 0.100 metres larger. In percentage terms these figures amount to a decrease of 1% and increases of 0.45% and 0.8% respectively. All other relevant as built dimensions are correct. None of these differences result in any adverse impact on the amenities of the adjoining property no.66.

Three other minor differences between the as built house and the approved plans are as follows –

- There are 3 courses of brickwork above the garage door which increases the height of the front eaves from 2.600 metres to 3.200 metres but the eaves are still below those of no. 66 because the floor level of that property is around 1 metre higher than the floor level of no. 64.
- A small gable roof has been inserted above the front landing window but this is recessed between the two main gables and is not visible from no. 66 or no. 62.
- The roofs to the two matching front ground floor bay windows are not as high as shown on the approved drawing. They don't finish at a point just below the first floor windows but with a horizontal top edge 5 courses of brickwork below the first floor sills. The overall width and depth of the bays is noted above as 3.380 metres (consistent between drawing and as built) and the as built depth of 1.14 metres is also consistent with the approved plans.

For the reasons explained in the second paragraph above, my clients do not need to respond to the continued objections raised by the owner of no.66 set out in the ten points in the report to the meeting of the Planning Control Committee on 20th June and in the 14 page document circulated to Members. Many of the matters raised are criticisms of the processes followed by the Council which are matters for Council officers and Members to deal with. However where planning matters have been raised we have decided to respond for the sake of completeness.

In relation to the 10 specific points raised by the complainant which are set out in the 20th June Committee Report we comment on the 7 points which have some relevance to planning as follows –

- 4. The approved plans are to a recognized metric scale of 1:100 and show all major dimensions in written form, some of which I've already referred to.

- 5. Specifically the approved plan shows the building 0.800 metres from the boundary retaining wall with no. 66 which is the as built dimension.
- 6. The nearest room at the front of no. 66 is mainly lit by a large bay window at the front of the property which is not affected by the development. In relation to the two small side facing windows in this room, the situation is now better than it was with the previous building at 64 which extended in front of both of them, whereas the garage on the current property is set behind the window which is nearest to the front wall of no. 66. In addition, although the former bungalow was further from the boundary than the current house, the maximum height of the gable wall of the bungalow adjoining no.66 was 7.3 metres compared with the maximum height of the new side walls of 5.4 metres.
- 7. The need for the balcony is not in question – it is shown on the approved plans and in any event is screened from the rear of no. 66 by a brick wall 1.8 metres above the floor of the balcony.
- 8. Mr and Mrs Kilgallon have agreed to screen the external coach light attached to the front wall of the garage.
- 9. Mr and Mrs Kilgallon confirm that they own all of the land shown edged red on the application drawings,
- 10. The hedge between no. 64 and 66 was removed in January/February 2015, well before the application CH/17/073 was summitted.

In relation to the 14 page report circulated to Members our comments are again confined to planning matters as follows –

- Page 1 – we have already confirmed the date the boundary hedge was removed, well before planning application CH/17/073 was submitted. There is no condition imposed on the grant of the permission requiring a new hedge to be planted.
- Page 2 – there is no loss of privacy over and above the normal views down neighbouring gardens which applies in virtually all situations where there are neighbouring properties on similar building lines. Specifically any side view from the balcony is prevented by the existence of a 1.8 metre high brick wall.
- Pages 3 and 4 – the Council's policy that there should be no obstruction to daylight from the centre of the sill of a principal window on an adjoining property within a 90 degree angle rising at 25 degrees above the horizontal excluding the 45 degrees on either side of the wall containing the window is complied with. This standard is based on advice from the Building Research Establishment and no further assessment of impact is required.
- Pages 5 and 6 – the rear gardens of properties on the north-east side of New Penkridge Road face north east, so they receive early morning and evening sun and are overshadowed during part of the day mainly by the shadow of their own properties. No further assessment is required.
- Page 7 – the new dwelling does not overpower the adjoining bungalow as it is sited at a lower level. The height of the existing property at 68 New Penkridge Road has a much greater impact.

- Page 8 – the height of no. 62 New Penkridge Road was inadvertently shown incorrectly on an earlier planning application but not on the drawings which accompanied application CH/17/073.
- Page 12 – the limited information about a case in Stoke-on-Trent adds nothing whatsoever of relevance to this case. In relation to the dimensions quoted in the third sentence on this page, the figures are completely wrong. The dwelling as built is slightly narrower than the approved plans and is at the correct height as shown in the table above.
- Page 13 – the boxes on the application form relating to trees and hedges were not ticked, but the Council nevertheless validated the application without requesting this information and did not impose a condition on the grant of permission CH/17/073 requiring any additional hedge or tree planting to be carried out on the development site.
- Page 14 – The reason the matter is being considered by the Planning Control Committee is not because there are serious enforcement matters to consider, but because complainants/objectors are entitled by adopted Council procedures to have their concerns considered by Committee, where they have been dissatisfied by answers provided by officers.

In conclusion as advised in national planning guidance, trivial or technical breaches of planning control which cause no material harm and where the development is acceptable on its planning merits should not be the subject of formal enforcement action. It is self-evidently the case here that the issues do constitute trivial/technical matters which result in no material harm. The officer's conclusion that no action is required is therefore correct and we request that the Committee confirms this outcome.

John Hemmings
OBE BA(Hons) MRTPI
2/7/18

ITEM NO. 6.60

FRONT ELEVATION

AS BUILT CHANGES LILAC

① ADDITIONAL BRICK COURSES ABOVE GARAGE DOOR

② ALTERED SHAPE OF ROOFS TO BAY WINDOWS

③ GABLE ROOF ABOVE LANDING WINDOW

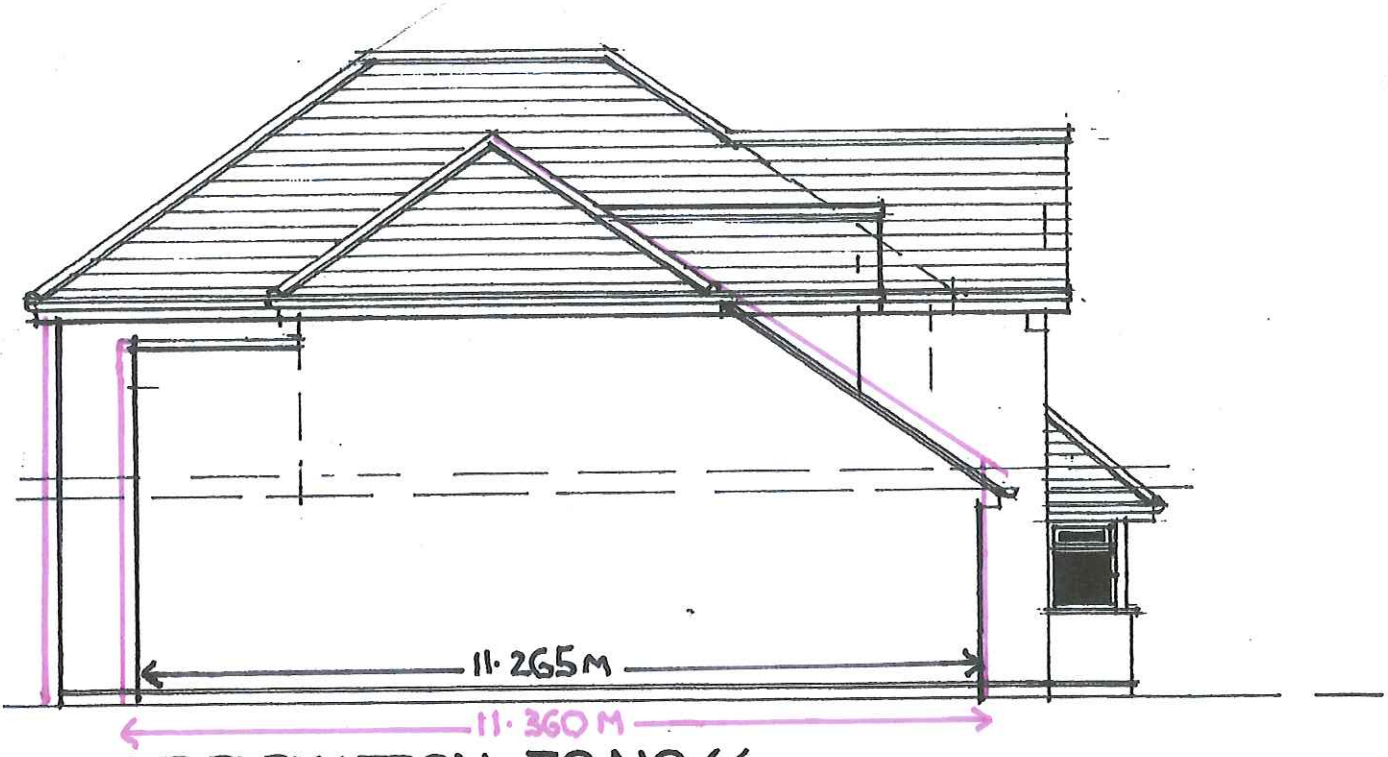
ITEM NO. 6.61

velux roof windows to built into roof construction on rear elevation
to give light to loft space which will be used for storage

PLAN DIMENSION BLACK

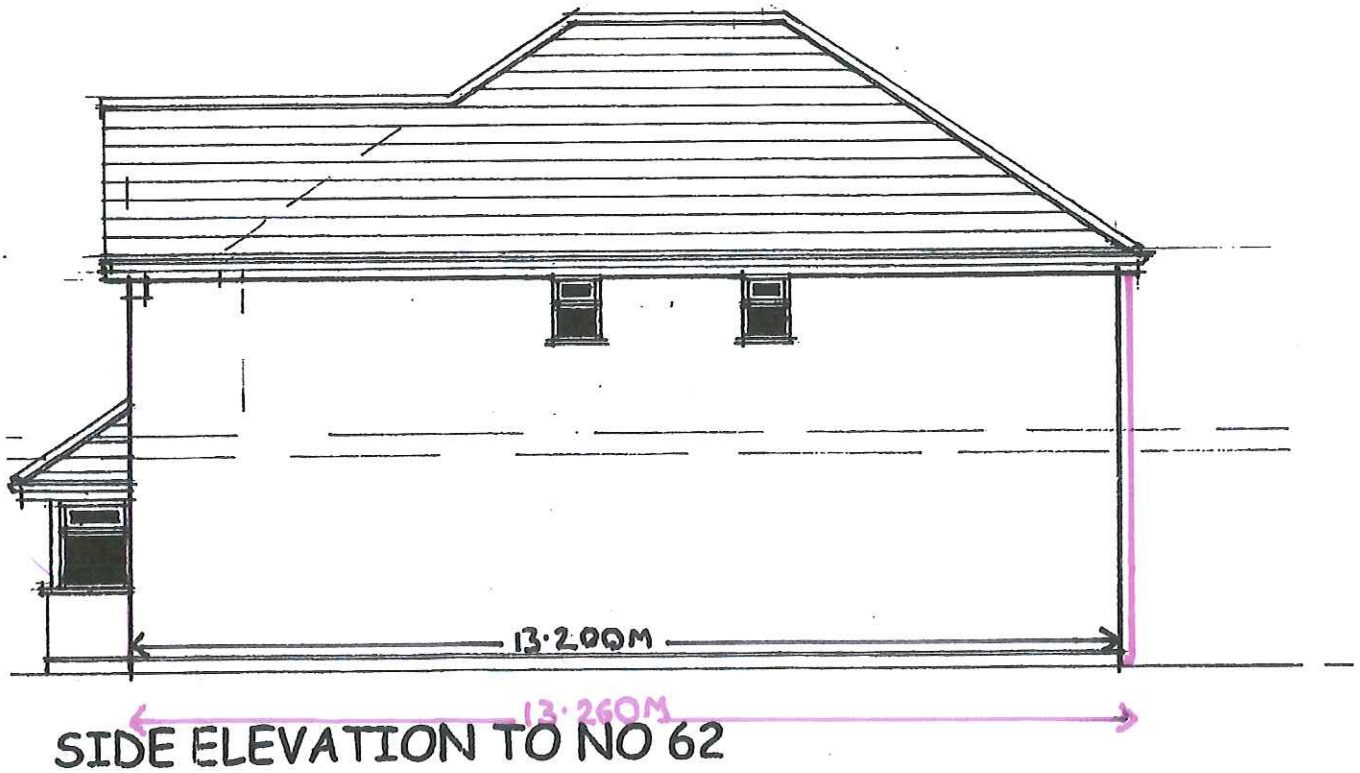
AS BUILT DIMENSION LILAC

REAR ELEVATION



SIDE ELEVATION TO NO 66

PLAN DIMENSIONS BLACK
AS BUILT DIMENSIONS LILAC



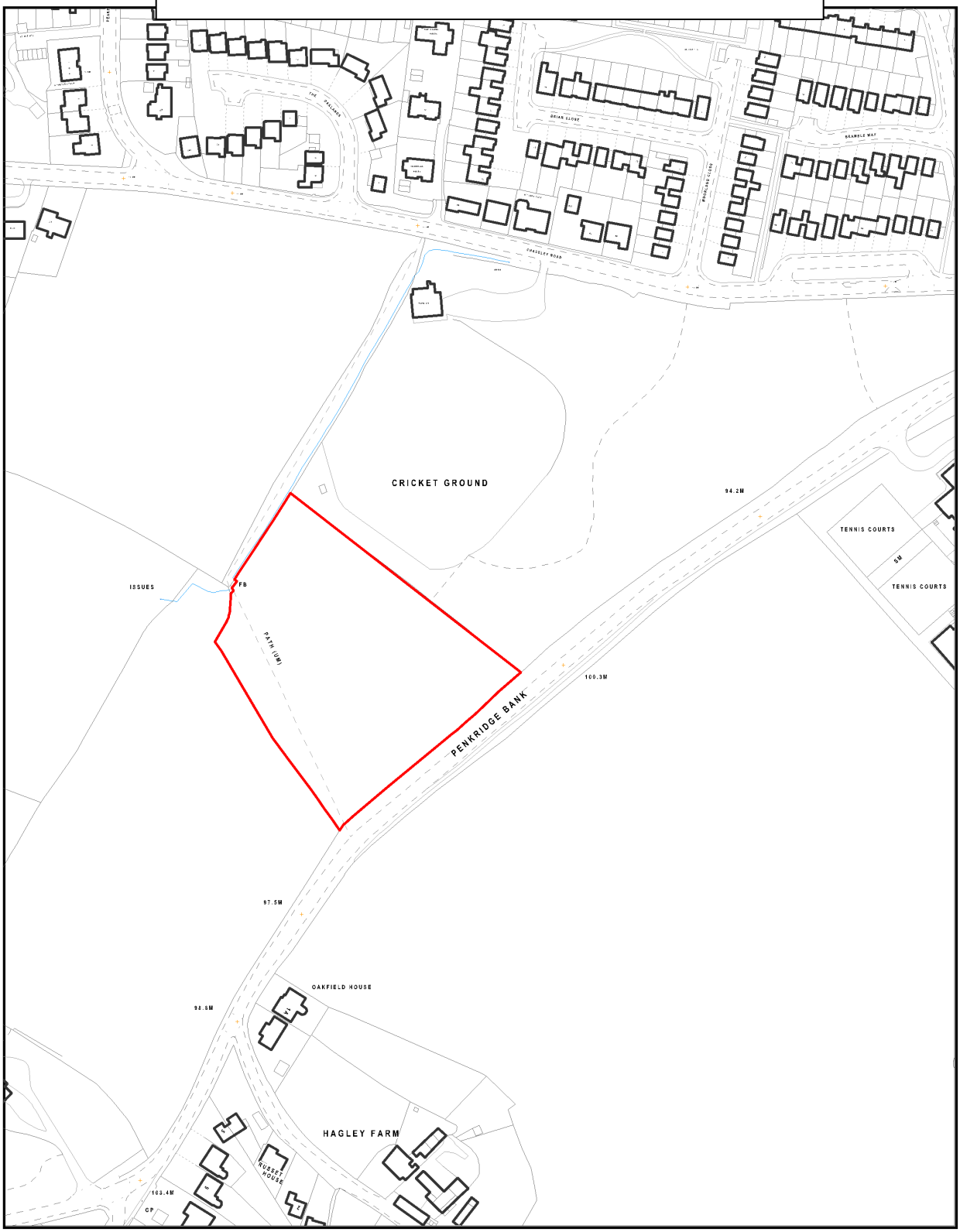
SIDE ELEVATION TO NO 62

CH/18/106

Land adjacent to Rugeley Cricket Club, Chaseley Road, Rugeley, WS152LQ

Change of use from agricultural land to cricket playing field

ITEM NO. 6.63



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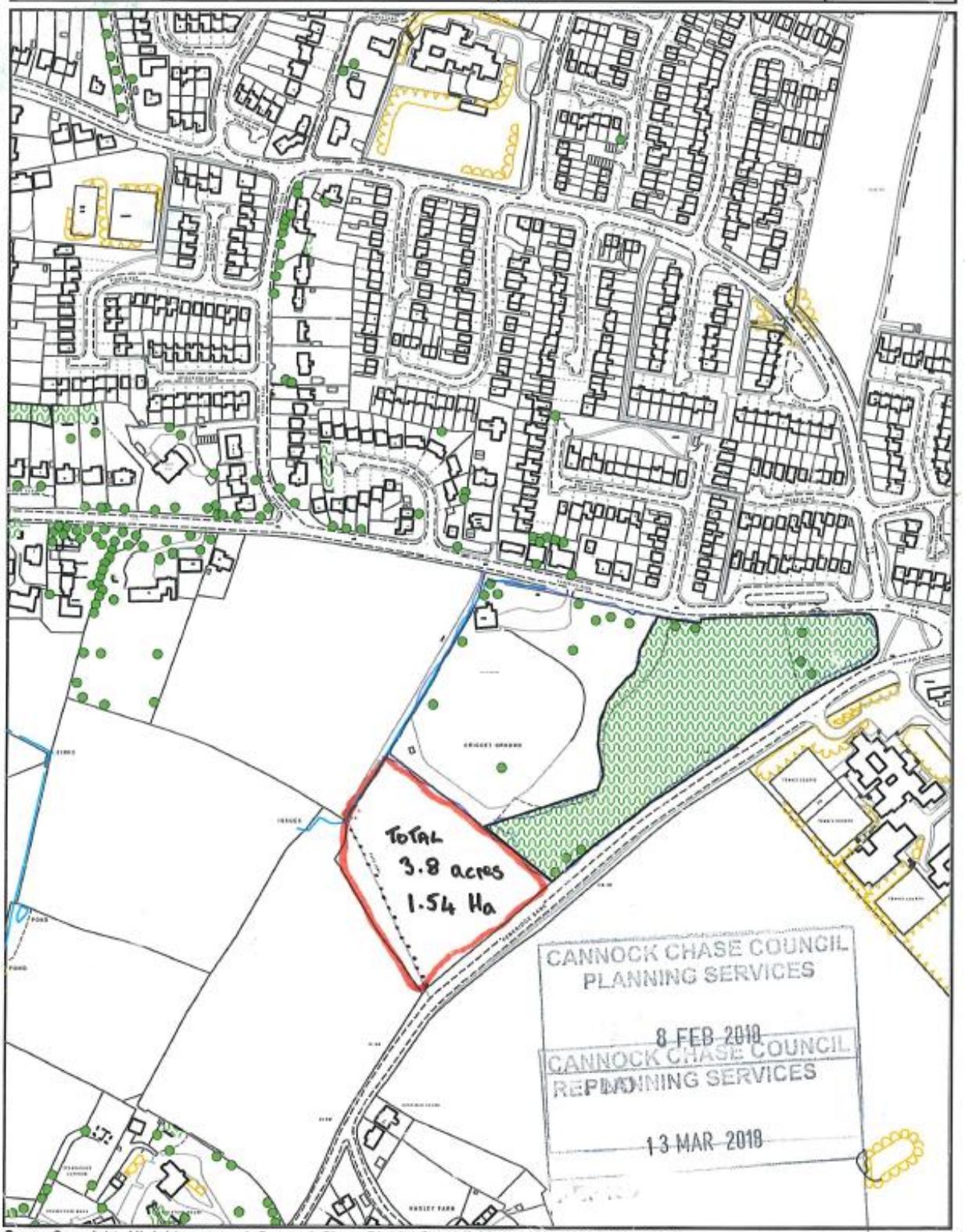
Location Plan



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DUE
16-May-2018

OFFICER REPORT
CH/18/106

LOCATION	**Land adjacent to Rugeley Cricket Club, Chaseley Road, Rugeley, WS152LQ**
DESCRIPTION	**Change of use from agricultural land to cricket playing field**
APPLICATION TYPE	**Full Planning Application**
RECOMMENDATION	

Reason for Grant of Permission
In accordance with paragraphs (186-187) of the National Planning Policy Framework the Local Planning Authority has worked with the applicant in a positive and proactive manner to approve the proposed development, which accords with the Local Plan and/ or the National Planning Policy Framework.

1. The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which this permission is granted.

   Reason
   To comply with the requirements of Section 91 of the Town & Country Planning Act 1990.

2. Prior to commencement of development full details of the parking area (minimum 40 spaces plus overspill area) shall be submitted to and approved in writing by the Local Planning Authority. The parking areas shall thereafter be provided in accordance with the approved details prior to first use of any new pitches.

   Reason:
   To comply with para.32 of the NPPF and in the interest of highway safety.

3. Prior to first use of the proposed cricket playing area the existing access drive from Chaseley Road shall be made good with a bound material for at least the distance from the edge of carriageway to the gate into the site.

   Reason:
   To comply with para.32 of the NPPF and in the interest of highway safety.

4. The development hereby permitted shall be carried out in accordance with the following approved plans:

   Location plan & information received on 8 February, 13 & 22 March 2018.

   Reason
   For the avoidance of doubt and in the interests of proper planning.

5. No external lighting whether by fixed or portable means shall be used until a scheme for the external lighting of the area has been submitted to and approved in writing by the Local Planning Authority. Any external lighting shall thereafter only be used in accordance with the approved scheme.

   Reason
   In the interest of highway safety, the protection of amenity and to protect the character of the Area of Outstanding Natural Beauty from light pollution in accordance with Policy CP3 of the Cannock Chase Local Plan and paragraph 115 of the National Planning Policy Framework.

6. Prior to the commencement of the use of the site for the playing of sports a scheme for the laying out of the pitches and the protection of users of the public right of way during times when the pitches ae in use shall be submitted to and approved in writing by the Local Planning Authority. The layout shall be retained for the lifetime of the development unless otherwise approved in writing by the Local Planning Authority.

   Reason
   In the interests of protecting users of the existing public right of way at times when the site is in active use.

EXTERNAL CONSULTATIONS

Rugeley Town Council

The proposal was discussed at Rugeley Town Council during March and they were in support of the work of the Cricket Club over the years as it as supported the social and sporting development of the young people of Rugeley.

Staffordshire County Council Highways

No objection, subject to the imposition of conditions to provide full details of parking area for a minimum of 40 cars plus overspill area and improvement to the surfacing of the existing access drive from Chaseley Road.

Footpath Officer

Unable to comment as no plan of the area for where the applicant was changing the use and which right of way may be affected. Advised to request a plan to clarify, so that comments could be made before a decision is taken.

AONB Unit

No comments received.

INTERNAL CONSULTATIONS

Policy Officer Initial Comments

The application site lies within the Cannock Chase Area of Outstanding Beauty (AONB) and Green Belt. It is currently farmland surrounded by hedges and contains no existing buildings.

The National Planning Policy Framework (NPPF 2012) states that development proposals that accord with the development plans should be approved without delay, except where specific policies in this framework indicate development should be restricted.

The NPPF and Policy CP14 in the Local Plan states that great weight should be given to conserving the landscape in the AONB.

The NPPF also states that a local planning authority should maintain the openness of the Green Belt. It states (para 87-89) that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Very special circumstances will not exist unless the potential harm to the Green Belt is outweighed by other considerations. As an exception to inappropriate development, the NPPF permits new buildings for the provision of appropriate facilities for outdoor sport that would not conflict with the purposes of including the land within the Green Belt. However this exception does not extend to a change in the use of the land for such outdoor sport facilities. Therefore the proposal is inappropriate development within the Green Belt and is by definition harmful. This harm, by reason of inappropriateness, needs to be clearly outweighed by other considerations to demonstrate very special circumstances exist to enable the proposal to be permitted. The onus is upon the applicants to put forward these very special circumstances. This may include, for example, the benefits of the provision of additional sporting provision to the wider community or the degree of impact upon the Green Belt openness.

It is noted that the Government is currently consulting upon amendments to the NPPF including one which would enable the change of use of land to be considered appropriate development in the Green Belt (so long as the proposal preserved the openness of the Green Belt and did not conflict with the purposes of including land within the Green Belt (paragraph 145e). However, these revisions are still in the early consultation stages. The adopted NPPF policy therefore carries full weight at present.

The NPPF (para 74) states that access to opportunities for sport and recreation can make an important contribution to the health and well being of communities, and that information gained from assessments of need should be used to determine what sports provision is required. The

Indoor and Outdoor Sports Facilities in Cannock Chase District (Cannock Chase council, 02.02.2010) study states that there is an adequate supply of cricket pitches in Cannock Chase District, including five privately owned clubs with good quality grounds. Using the Playing Pitch Methodology Model (as at 28.10.2009) it also estimates that there will be a surplus of pitches in 2026. It also acknowledges that local residents consider there to be a shortage of available pitches, due to access constraints and the cost of hiring existing venues for training. The Council is in the process of updating its Indoor and Outdoor Sports Facilities evidence, however this is unlikely to be available until late 2018. Policy CP5 of the Local Plan (Part 1) supports the provision of additional infrastructure and facilities to support healthy living.

Policy CP3 supports high standards of design of buildings and spaces within the District and advocates appropriate design and cohesion with adjacent uses in new development. This includes addressing key requirements of high quality design including complementing the character/ appearance of the local area and reinforcing local distinctiveness, be well related to existing buildings in terms of density and landscaping, and successfully integrate with existing landscape features. The Design SPD should be consulted for specific guidance on appropriate design. Policy CP3 also states that developments should show how they preserve the character of the AONB through careful design of new development.

The NPPF (para 75) implies that planning policies should protect and enhance public rights of way and access. It is noted that a public footpath crosses the field where the cricket pitch would be extended.

In summary, the evidence shows that there is an adequate supply of existing cricket pitches already located in the District, although further provision in appropriate locations could increase accessibility to enable more residents to participate in the sport (this evidence is in the process of being updated). As no further buildings are proposed on the field and it is largely hidden from view by existing mature hedgerows the proposal is unlikely to have a major impact on the landscape of the AONB. The new pitch will not prevent access to the field for walkers using the public footpath, although it is noted that Staffordshire County Council has requested more information on how the proposal will impact on the route of the footpath.

However the proposal is inappropriate development within the Green Belt and therefore very special circumstances need to be demonstrated in order for the proposal to be permitted. It is also worth noting that whilst under current Planning Policy the proposed new use of the field may be considered unacceptable, the Government is currently consulting on changing this part of the National Planning Policy Framework during 2018. Therefore, if the proposals are carried forward as suggested in the current Government consultation, the Planning Policy position may change.

<u>Policy Officer Updated Comments (Dated 27 June 2018)</u>

We considered the applicant's further submission and discussed this today with Mike Edmonds

As you are aware, the current evidence in relation to playing pitches is outdated - work on an updated Playing Pitch strategy is in train but is not yet complete and so this cannot be referenced

at this point. We note the comments on the loss of facilities including those following the closure of Rugeley Power Station. We can't currently comment on the other facilities as these would be picked up via the revised evidence base for which work is ongoing. The context has clearly changed since the evidence was previously published however.

It is therefore possible that a case could be made for Very Special Circumstances in relation to Green Belt matters if the case officer is satisfied that the proposal provides a fair update regarding loss of facilities and the demand for further local provision, and will not impact upon the openness of the Green Belt and is compliance with the provisions of the NPPF.

Please note that I have made these supplementary comments specifically with regard to the consideration of the evidence base update and how this relates to the potential for Very Special Circumstances. I assume that consideration will already have been given by the case officer to the other issues raised in terms of planning policy matters.

Please also note that there may be further issues which are raised by the inclusion of the reference to specific events potentially being held as a consequence of the proposed expansion of the facilities and the potential impacts of these. I assume these references will already have been considered by the case officer. Furthermore, beyond the remit of planning law other permissions may need to be sought, or matters of legal compliance addressed particularly having regard to the environmental sensitivities of the area. Should the case officer be minded to recommend approval then the applicant should be made aware of this.

Trees & Landscaping Officer

Holding objection, due to insufficient information with regards to the application site location/ ownership. Furthermore, there is a public footpath that links Chaseley Road with Penkridge Bank Road that may have impact on the proposals.

Environmental Protection:

No objection.

RESPONSE TO PUBLICITY

The application was advertised by neighbour letter and site notice. To date no letters of representation have been received.

RELEVANT PLANNING HISTORY

No recent relevant history.

1. SITE AND SURROUNDINGS

1.1 The site comprises an area of agricultural land (measuring 1.54 ha) that is located adjacent to an existing cricket club (Rugeley Cricket Club), which has been well established over the years at Chaseley Road.

1.2 The cricket ground is accessed from Chaseley Road, via a gated entrance that is situated adjacent to a mature Protected tree. There are a number of protected trees in and around the cricket ground, but there are none located within the adjacent application site boundary.

1.3 There is a public right of way that crosses the south western edge of the application site.

1.4 The boundaries of the site comprise mature evergreen hedges and trees with 1m high wooden fencing set behind the hedging.

1.5 The site is located within the designated Cannock Chase Area of Outstanding Natural Beauty (AONB) and the Green Belt.

2. PROPOSAL

2.1 The proposal is for the change of use from agricultural land to cricket playing field. There are no buildings or structures proposed as part of the change of use application. The applicant states that the area would remain as open space with the pedestrian right of way (ROW) to remain intact. During cricket matches a portable net would be used to protect walkers using the ROW.

2.2 The application is accompanied with a statement of very special circumstances that explains there is a decline in sporting facilities locally, in particular:

- Loss of the power stations sporting facilities.
- Hagley Field and The Hart Upper School set for closure along with their field.
- Longdon Cricket Club has been sold, which has left their cricket club without any playing facility. This has resulted in an agreement for 2019 for Rugeley Cricket Club to use the Rugeley Cricket Club facilities on Sundays when Rugeley Cricket Club play away. However, with the development of Rugeley Cricket Club junior section, in a few years Rugeley are hoping to field a second Sunday team that would leave Longdon Cricket Club homeless again. If the second pitch is allowed planning permission, they could use that area instead.
- The third team currently play at a combination of Longdon Cricket Club and The Hart Upper School, which means that without the second field that Rugeley Cricket Club would have to reduce their teams to two.
- Shugborough's sporting facilities have also gone, which although its outside of the Rugeley area is still considered local.

2.3 In addition, the statement explains that the club is expanding and diversifying to provide the following additional facilities:

- Annual charity cricket days for causes such as children's cancer (£3,000 in 2017) and Max's Mission to Move (£40,000 in 2018). The second field could allow the club to have a tournament to raise even more money for the chosen charities.
- Extending the training sessions to include more children, including girls. Expansion of the junior section is expected to see junior matches played on every night of the week and the second pitch would become essential to facilitate the amount of cricket expected at the club.
- This year the club is becoming the focal point for Learning Disability Cricket in Staffordshire.
- In addition, this year the club has signed up to become a ECB Women's softball Festival centre, which means that there will be a softball festival at the club and a women's team would be set up.
- For the last two years the ground has hosted the Rugeley Town Council fireworks night, giving facilities to the community free of charge. The extra ground would allow more space to accommodate the demand from the local community.
- Rugeley Runners joined the grounds in September 2017, which has fostered a mutually beneficial relationship.

2.4 The applicant has provided details of parking capacity, which comprises 40 car parking spaces (as existing), 2 additional disabled spaces.

2.5 The hours of operation would be 12:00 hrs to 23:00 hrs Monday to Thursday, 12:00 hrs to 01:00 hrs Friday to Saturdays 12:00 hrs - 23:00 hrs on Sundays and Bank Holidays.

3. PLANNING POLICY

3.1 Section 38 of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the provisions of the Development Plan, unless material considerations indicate otherwise.

3.2 The Development Plan currently comprises the Cannock Chase Local Plan (2014). Relevant policies within the Local Plan include

CP1 - Strategy – the Strategic Approach

CP3 - Chase Shaping – Design

CP5 - Social inclusion and healthy living

CP8 – Employment Land

CP9 - Balanced Economy

C14 - Landscape Character and Cannock Chase Area of Outstanding Natural Beauty (AONB).

3.3 National Planning Policy Framework

3.4 The NPPF sets out the Government's position on the role of the planning system in both plan-making and decision-taking. It states that the purpose of the planning system is to contribute to the achievement of sustainable development, in economic, social and environmental terms, and it introduced a "presumption in favour of sustainable development".

3.5 The NPPF confirms that a plan-led approach to the planning system and decisions must be made in accordance with the Development Plan unless material considerations indicate otherwise. In particular the following NPPF references are considered to be appropriate.

3.6 Relevant paragraphs within the NPPF include paragraphs: -

7, 11-14, 17, 20-21, 26-27, 32, 56, 70, 74-75, 87-89, 115, 145.

3.7 Other relevant documents include: -

Design Supplementary Planning Document, April 2016.

Cannock Chase Local Development Framework Parking Standards, Travel Plans and Developer Contributions for Sustainable Transport.

Manual for Streets.

4.0 Determining Issues

4.1 The determining issues for the proposed development include:-

i) Principle of development in the Green Belt; impact on the openness of the Green Belt.

ii) Design and impact upon the character of the area and AONB.

iii) Impact on residential amenity.

iv) Access and Parking

4.2 Principle of the Development

4.3 The site is located within the West Midlands Green Belt, wherein there is a presumption against inappropriate development, which should only be approved in 'very special circumstances'. Paragraph 79 of the NPPF states that the Government attaches great importance to Green Belts, adding that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land

permanently open. As such the essential characteristics of Green Belts are their openness and permanence.

4.4 The stages in taking decisions on applications within the Green Belt are as follows.

> In the first instance a decision has to be taken as to whether the proposal constitutes appropriate or inappropriate development.
>
> If the proposal constitutes inappropriate development then it should not be allowed unless the applicant has demonstrated that 'very special circumstances' exist which would justify approval.
>
> If the proposal is determined to constitute appropriate development then it should be approved unless it results in significant harm to acknowledged interests.

4.5 Local Plan Policy CP1 & CP3 require that development proposals at locations within the Green Belt must be considered against the NPPF and Local Plan Policy CP14. Local Plan Policy CP14 relates to landscape character and AONB rather than to whether a proposal constitutes appropriate or inappropriate development.

4.6 Whether a proposal constitutes inappropriate development is set out in Paragraphs 89 and 90 of the NPPF. Paragraph 89 relates to new buildings and therefore is not applicable in this case as no buildings are proposed.

4.7 Paragraph 90 of the NPPF deals with types of development other than buildings, stating that "certain other forms of development are also not inappropriate in Green Belt provided that they preserve the openness of the Green Belt and do not conflict with the purposes of including land in Green Belt" adding "these are" and then goes to provide a closed list of types of development which does not include "the making of material changes in the use of land.

4.8 As such the proposal constitutes inappropriate development within the Green Belt. Paragraph 87 of the NPPF makes it clear that "inappropriate development is, by definition harmful and should not be approved except in very special circumstances". In addition Paragraph 88 states

> "When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt";

adding

> "'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness and any other harm, is clearly outweighed by other considerations".

4.9 As such it is considered that in accordance with the NPPF substantial weight should be afforded to the harm to the Green Belt resulting from the inappropriate nature of the proposal and the slight harm to the openness resulting from the additional parking and paraphenalia (nets, lighting and equipment) resulting from the proposed use

4.10 The report will now go on to look at the other issues of acknowledge importance to determine whether any other harms arise from the proposal followed by weighing the cumulative harms against other considerations to determine whether very special circumstances exist

4.11 Design and Impact Upon the Character of the Area, Green Belt and AONB

4.12 There are no buildings proposed by the change of use, other than the provision of an improved access drive leading to the access gate and a more defined parking area, which would be required by condition of the approval decision, to be submitted to and approved by the Local Planning Authority, which would allow control over the appearance of the formalised parking area. Ultimately, any new parking area would be seen against within the context of the existing parking provision, the club house and the adjacent residential development across Chaseley Road and as such would have no significant impact on the character of the area.

4.13 The wider change of use would keep the site open and green and as such would not result in any significant harm, subject to strict control over external lighting. This again can be adequately controlled by condition.

4.14 It is therefore considered that the proposal, subject to the attached conditions, would have no significant impact on the character of the area, appearance of the Green Belt, or AONB. As such, the proposal would comply with the NPPF, Policies CP1, CP3, CP11 & CP14 of the Cannock Chase Local Plan.

4.15 Impact on Residential Amenity

4.16 There have been no objections received to the proposal on the grounds of adverse impact to residential amenity from surrounding residents.

4.17 The Environmental Protection Officer has no objection to the proposal.

4.18 The proposed pitch would be located 40m from the nearest residential properties and would operate within reasonable hours 12:00 hrs to 23:00 hrs Monday to Thursday & Sundays/Bank Holidays, 12:00 hrs to 01:00 hrs Friday/Saturdays.

4.19 It is therefore considered that the proposed use would not cause detriment to neighbour amenity. As such the proposal is considered acceptable in accordance with the NPPF.

4.20 Access and Parking

4.21 Paragraph 32 of the NPPF states that Plans and decisions should take account of whether; -

> "safe and suitable access to the site can be achieved for all people; and improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds, where the residual cumulative impacts of development are severe."

4.22 The County Highways have no objections to the proposal, subject to conditions to provision of an improved surface for the existing access drive leading to the access gate and improvements to the existing parking area.

4.23 The proposal would not include any alteration to the access arrangements, or the level of parking provision within the site, or increase the need for further parking to serve the site and as such would have no significant detrimental impact on highway safety.

4.24 It is therefore considered that the proposal would not be detrimental to highway safety and would accord with paragraph 32 of the NPPF.

4.25 Other Issues Raised

4.26 The concerns raised by the Footpath Officer and Landscaping Officer claim there is no plan for the area/ insufficient information to assess the impact upon the public right of way that runs across the edge of the site. The red line boundary has been provided to indicate the application site area, which is directly adjacent to the existing Rugeley Cricket Club boundary. It is therefore considered that sufficient information has been submitted to identify the application site. The applicant has also provided additional information to confirm that pedestrians using the public right of way would be protected from cricket balls when the pitch is in use by the provision of a portable net. In addition, the applicant has confirmed that the public right of way would not be altered by the use of the second cricket pitch proposal. As such any conflict could be controlled through the use of a suitably worded condition to control the layout of the site and means of protecting users of the right of way

4.27 Determining Whether Very Special Circumstances Exist

4.28 Having regard to the above it is noted that the only harms resulting from the proposal arise from the inappropriate nature of the development in the Green Belt to which nevertheless substantial harm should be afforded. In order for very special circumstances to be demonstrated this harm must be clearly outweighed by other considerations.

4.29 Having regard to the above, the comments made by the applicant in respect to the changing demands on sport and changes in the level of availability of sports pitches in the local area are accepted. It is also noted that "The Indoor and Outdoor Sports Facilities in Cannock Chase District" (Cannock Chase council, 02.02.2010) is based on data that is nearly 9 years old and therefore unlikely to reflect the current situation. As such little weight should be afforded to the findings and recommendations of the report.

4.30 It is clear from the evidence supplied by the applicant that the availability of sports pitches has changed with recent closures at a time where traditionally male sports have become increasingly inclusive and which are now reflecting the needs and aspirations of the wider community in terms of age, gender and abilities.

4.31 In order to illustrate the assertion that there have been changes in women playing sport Sport England has stated that: -

- "The number of people playing regular sport in England rose by 245,000 in the year to September, with the number of women participating regularly up by 150,000. The top five sports in which adults take part at least once a week are: *Swimming* (2.5 million), *Athletics*(2.3 million), *Cycling* (2.0 million), *Football*(1.8 million), *Golf*(0.74 million)
- **Gender:** 8.73 million males aged 16 years or over (40.7%) played sport once a week during the period October 2014 to September 2015, an increase of 949,600 since 2005/06; 7.01 million females aged 16 years or over (31.2%) played sport once a week, an increase of 703,800 since 2005/06."

4.32 It is therefore considered that the demonstrated need and aspiration to be more inclusive should be given considerable weight in favour of the proposal. Again the lack of alternative sites together with the benefit of locating new facilities adjacent to existing facilities in respect to limiting travel, accessibility and ease of management should also be given considerable weight in favour of the proposal. In addition the role the new pitch would provide in supporting healthy communities and lifestyle and the tackling of obesity should be given some weight in favour of the proposal.

4.33 Taking all of the above into consideration it is considered that the harm to the Green Belt is clearly outweighed by other consideration such that very special circumstances have been demonstrated.

4.34 Therefore, on balance, having had regard to the development plan , the NPPF and other material considerations the proposal is considered acceptable.

5.0 HUMAN RIGHTS ACT

5.1 The proposals set out in this report are considered to be compatible with the Human Rights Act 1998. The recommendation to approve the application accords with the adopted policies in the Development Plan which aims to secure the proper planning of the area in the public interest.

6.0 EQUALITIES ACT 2010

6.1 It is acknowledged that age, disability, gender reassignment, pregnancy and maternity, religion or belief, sex and sexual orientation are protected characteristics under the Equality Act 2010.

By virtue of Section 149 of that Act in exercising its planning functions the Council must have due regard to the need to:

(a) Eliminate discrimination, harassment ,victimisation and any other conduct that is prohibited;

(b) Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;

(c) Foster good relations between persons who share a relevant protected characteristic and persons who do not share it

It is therefore acknowledged that the Council needs to have due regard to the effect of its decision on persons with protected characteristics mentioned.

Such consideration has been balanced along with other material planning considerations and it is considered that the proposal is acceptable in respect to the requirements of the Act. Having had regard to the particulars of this case officers consider that the proposal would make a positive contribution towards the aim of the Equalities Act.

7.0 CONCLUSION

7.1 Although the proposed change of use would constitute inappropriate development within the Green Belt it is considered that very special circumstances exist, such that, on balance, the proposal is considered acceptable

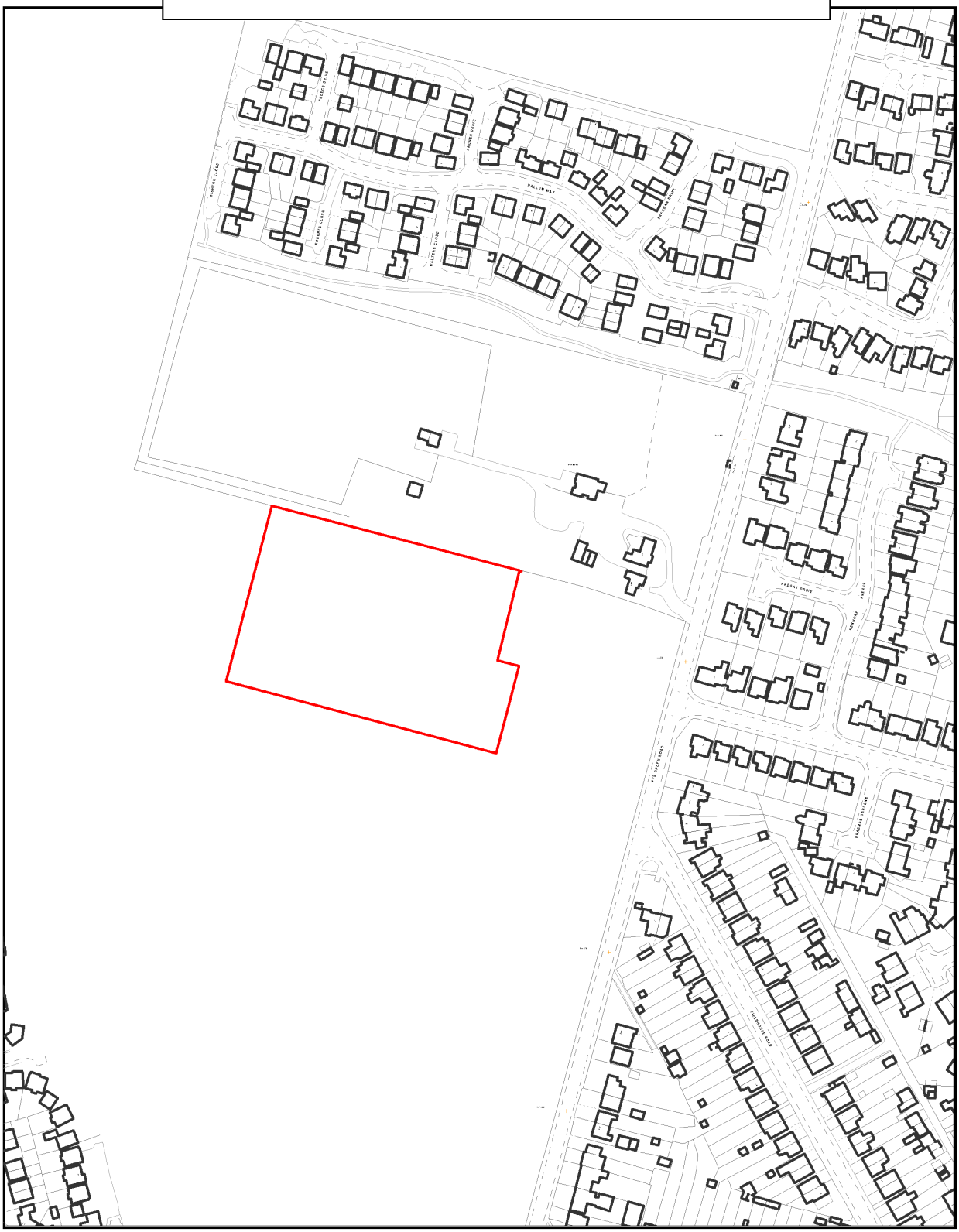
7.2 It is therefore recommended that the application be approved subject to the attached conditions.

CH/18/141

Land off Pye Green Road, Hednesford, Cannock, WS11 5RZ

Application to vary condition 5 of planning permission CH/17/037 to allow for a minor material amendment comprising a reduction in size to a 1FE school

ITEM NO. 6.79



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Site Plan

ITEM NO. 6.80

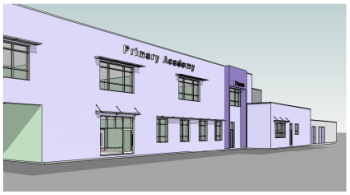
Notes:

Plans & Elevations

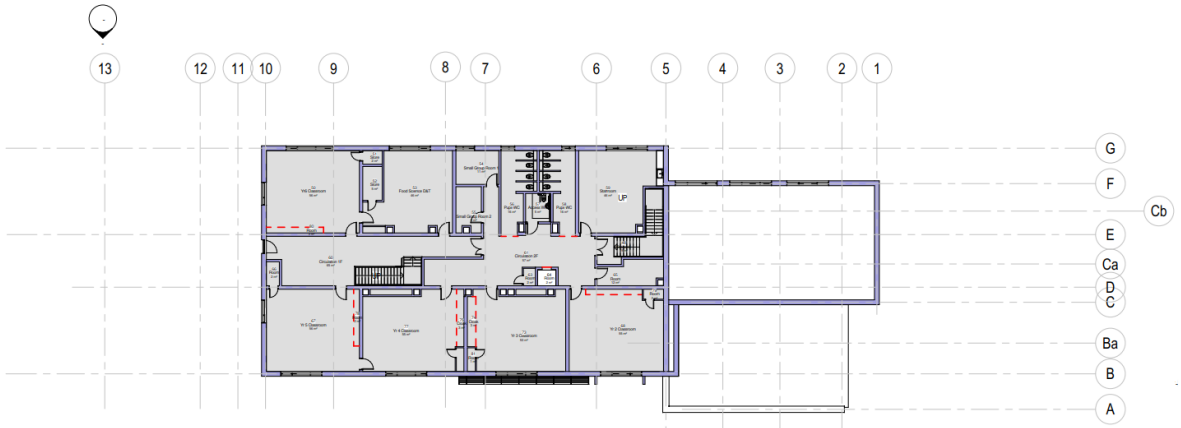
ITEM NO. 6.81

1 3D view from south east

5 3D view from north



4 3D View from south west



3 First Floor
1 : 200

2 Ground floor
1 : 200

entrust
Inspiring Futures

Address :
Entrust
Raleway Centre,
Riverway
Stafford, Staffordshire
ST16 3TH

Property Services

Checker | DJPriest, Architect

Staffs County Council
Pye Green Road Primary School
Cannock WS12 4HS

PROPOSED 1.0FE
PRIMARY SCHOOL.

1 : 200 | A1 | A05

DJPriest
19Jan2018

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Application No: CH/18/141
Received: 27/03/2018
Location: Land off Pye Green Road, Hednesford
Parish: Hednesford
Ward: Hednesford Green Heath Ward
Description: Application to vary Condition 5 of Planning Permission CH/17/037 to allow for a minor material amendment comprising a reduction in size to a 1FE School
Application Type: Reserved Matters

Recommendation: Approve

Reason for Granting Permission
In accordance with paragraphs (186-187) of the National Planning Policy Framework the Local Planning Authority has worked with the applicant in a positive and proactive manner to approve the proposed development, which accords with the Local Plan and/ or the National Planning Policy Framework.

Reason for Committee Decision:
The application has been requested to be called in by the Parish Council and objectors have requested to speak to Planning Committee.

Conditions

1. Prior to first opening of the new school full details of road markings for the roadway fronting the site, details of changes to pedestrian measures and a strategy for managing school pick up/drop offs shall be submitted to and approved in writing by the Local Planning Authority. The road markings, pedestrian measures and strategy shall thereafter be provided in accordance with the approved details prior to first opening of the new school.

   Reason
   In order to comply with Paragraph 32 of the NPPF and in the interest of Highway Safety.

2. Prior to commencement of development a Construction Vehicle Management Plan (CVMP) shall be submitted to and approved in writing by the Local Planning Authority. The approved statement shall be adhered to throughout the construction period. The statement shall include:

   - Arrangements for the parking of site operatives.
   - Loading and unloading of plant and materials.
   - Storage of plant and materials used in constructing the development
   - Construction hours
   - Delivery routeing and hours
   - Recorded daily inspections of the highway adjacent to the site access
   - Wheel washing and measures to remove mud or debris carried onto the highway

   Reason
   In order to comply with Paragraph 32 of the NPPF and in the interest of Highway Safety.

3. Prior to first opening of the new school the three vehicular access points from the access road, as indicated on submitted site plan drawing A025 Rev P1, shall be completed.

   Reason
   In order to comply with Paragraph 32 of the NPPF and in the interest of Highway Safety.

4. Prior to first opening of the new school the parking, manoeuvring and servicing areas indicated on the submitted Site Plan drawing A025 Rev. P1 shall be completed and surfaced in a bound material with the individual parking bays plus circulation routes clearly marked.

   Reason
   In order to comply with Paragraph 32 of the NPPF and in the interest of Highway Safety.

5. Development shall not commence until details of the external materials have been submitted to and approved by the Local Planning Authority. The development shall be built in accordance with the approved materials.

6. Approved Plans

Informative Notes to be included on Decision Notice

The Highway Officer has advised

(i) Condition 1 above refers to road markings necessary for the school. To be enforceable these will require a Traffic Regulation Order (TRO) which will require funding.

(ii) Condition 3 above involves off-site highway works which will require a Highway Works Agreement with Staffordshire County Council and the applicant is therefore requested to contact the Council in respect of securing the agreement. Follow the link www.staffordshire.gov.uk/developers for Highway Agreements, a flowchart to identify the relevant agreement, information packs and application forms for the Highway Works. Please complete and send to the address indicated on the application form which is Staffordshire County Council at Network Management Unit, Staffordshire Place 1 c/o 2 Staffordshire Place, Tipping Street, Stafford, ST16 2DH or email nmu@staffordshire.gov.uk

(iii) Any soakaway should be located a minimum of 4.5m rear of the highway boundary

Informative
Comments from Staffordshire Police

EXTERNAL CONSULTATIONS

Hednesford Parish Council

There seems little point in making observations on this application as the County Council will approve the plans regardless of any protestations from the District or town Councils. the Town Council's views remain the same and in view of the lack of on-site parking provision, we expect the County Council to take responsibility for resolving traffic management and parking problems in Pye Green Road that are predicted to arise once the school is operational.

County Highways
No objections.

County Land Use
No objections in respect to minerals safeguarding issues.

INTERNAL CONSULTATIONS

Policy
No comments received.

RESPONSE TO PUBLICITY

The application was advertised by neighbour letter and site notice. No letters of representation have been received.

RELEVANT PLANNING HISTORY

CH/17/037:	A reserved matters application for anew school was approved.
CH/11/0395/B:	Discharge of Condition 21: Ecology and nature conservation mitigation measures.
CH/11/0395/C:	Discharge of Conditions 2 (Site Details), 4 (Landscaping), 6 (off-site Highway Works).
CH/15/0411/A:	Discharge of conditions 3, 4, 6, 7, 8, 10, 11, 12, 14, 19 & 20 of planning permission CH/15/0411.
CH/15/0411:	Part submission of 'reserved matters' for planning permission CH/11/0395.
CH/11/0395/A:	Partial discharge of condition 11: Ground Risk.
CH/11/0395:	Mixed use development involving - erection of up to 700 dwellings; local centre consisting of retail/ commercial (A1, A2, A3, A4, A5), and use class D1; a primary school; formal and informal open space, equipped play areas and allotments; new highway infrastructure onto Pye Green Road and Limepit Lane; and associated engineering, ground modelling works and drainage infrastructure (Outline including access). Granted.

1. SITE AND SURROUNDINGS

1.1 The application site comprises part of a former wider field system located west of Pye Green Road and north of Limepit Lane, Hednesford, but which is now being built out under planning permission CH/11/0395 for a mixed use development and which has already been laid out with a road system connecting to Pye Green Road.

1.2 To the south, east and west of the site is the wider area subject to planning permission CH/1/0395. To the north is a Christian Centre, including a plant nursery "Fuchsia World" and an area for the outside storage of caravans. There is an established deciduous tree belt running along the southern side of this site.

1.3 Along Pye Green Road is an established hedge which effectively screens the application site, especially in summer when it is in full leaf.

1.4 The site is part of an area allocated as a Strategic Housing Site (CP6) in the Cannock Chase Local Plan (Part 1) and lies adjacent to the built up area of Cannock. It also has good public transport links by bus to Cannock where there are a variety of goods and services and is in walking distance to local schools, shops and businesses to serve day to day needs on Pye Green Road.

1.5 The site is located within Flood Zone 1 on the Environment Agency's flood risk maps and is subject to a Minerals Conservation Area.

2. PROPOSAL

2.1 The applicant is seeking approval for a variation of condition 5 (approved plans) to reduce the size of the school approved under planning permission CH/17/037. Planning permission CH/17/037was for the approval of the reserved matters of "appearance", "landscaping" and "layout" for a primary school in connection to outline approval CH/11/0395 for a "mixed use development".

2.2 The proposed changes relate solely to the building itself and not to the approved layout.

2.3 In support of the application the applicant has stated

> "a 1FE is a 1 Form of Entry School, ie 210 pupils, 30 children per year.
>
> A 1/2 FE (Form of Entry) is an additional 120 pupils.
> The removal of a 1/2 FE in terms of the building means the omission of 4 classrooms, circulation corridors and toilets.
>
> Current projections indicate there is a need for up to one form 210 pupils plus nursery) of entry from September 2019 to mitigate the impact of the immediate housing developments in the Pye Green area. the current trajectories for the housing indicate that accommodation fro the remaining 1/2 form of entry will not be required 7until after September 2022 and it is therefore deemed better value for money to defer any unnecessary operating

costs to the school and capital investment by the local authority until the accommodation is required."

3. PLANNING POLICY

3.1 Section 38 of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the provisions of the Development Plan, unless material considerations indicate otherwise.

3.2 The Development Plan currently comprises the Cannock Chase Local Plan (2014). Relevant policies include: -

CP1: - Strategy
CP3: - Chase Shaping
CP10: - Sustainable Transport

3.3 Other material considerations relevant to assessing current planning applications include the National Planning Policy Framework (NPPF) and Supplementary Planning Guidance/Documents.

3.4 National Planning Policy Framework

3.5 The NPPF sets out the Government's position on the role of the planning system in both plan-making and decision-taking. It states that the purpose of the planning system is to contribute to the achievement of sustainable development, in economic, social and environmental terms, and it outlines the "presumption in favour of sustainable development".

3.6 The NPPF confirms that a plan-led approach to the planning system and decisions must be made in accordance with the Development Plan. In particular the following NPPF references are considered to be appropriate.

3.7 Relevant paragraphs in the NPPF include: -

17, 29, 30, 56

3.8 Other Relevant Documents

Design Supplementary Planning Document, April 2016.

Parking Standards, Travel Plans and Developer Contributions for Sustainable Transport Supplementary Planning Document (2005).

Manual for Streets

4. DETERMINING ISSUES

4.1 The application seeks to vary condition 5 (approved plans) of planning permission CH/17/037 to allow for a minor material amendment comprising a reduction in size to

a 1FE School. In this respect regard should be had of paragraph 031 Reference ID: 21a- 031-20180615 of the Planning Practice Guidance which states: -

> "In deciding an application under section 73, the local planning authority must only consider the disputed conditions that are the subject of the application – it is not a complete re-consideration of the application.
>
> It should be noted that the original planning permission will continue to exist whatever the outcome of the application under section 73. To assist with clarity, decision notices for the grant of planning permission under section 73 should also repeat the relevant conditions from the original planning permission, unless they have already been discharged. In granting permission under section 73 the local planning authority may also impose new conditions – provided the conditions do not materially alter the development that was subject to the original permission and are conditions which could have been imposed on the earlier planning permission."

4.2 Appearance and Scale and the Impact on the Character and Form of the Area

4.3 Policy CP3 of the Local Plan requires that, amongst other things, developments should be: -

(i) well-related to existing buildings and their surroundings in terms of layout, density, access, scale appearance, landscaping and materials; and

(ii) successfully integrate with existing trees; hedges and landscape features of amenity value and employ measures to enhance biodiversity and green the built environment with new planting designed to reinforce local distinctiveness.

4.4 The proposed school building, like many such institutional buildings is of contemporary design incorporating a flat roof and modern finishes in render. As such it would be very different from the existing traditional style houses within the Pye Green area, which are typically built from a mix of brick and render under pitched tiled roofs. However, the proposed school building would be set within its own landscaped grounds and as such viewed as a set architectural piece, slightly separate from the buildings that would eventually surround it. In this respect it is noted that the NPPF makes it clear that planning decisions should not attempt to impose architectural styles or particular tastes and they should not stifle innovation, originality or initiative through unsubstantiated requirements to conform to certain development forms or styles.

4.5 As such the contrast of the proposed building with the character and form of the surrounding buildings, both existing and those which will come forward as the wider site develops, need not necessarily result in harm to the character of the area. Indeed such a contrasting building could be considered to add interest to an area of no particular local distinctiveness such as the environs of Pye Green Road which is comprised of mid to late C20th housing. Furthermore, the principle of a building of this modern design was firmly established under the previous permission.

4.6 The finishing colour for the render has not been submitted but could be controlled through condition.

4.7 It is therefore considered that having had regard to Policy CP2 and the good design section of the NPPF the appearance and scale of the proposal is acceptable.

4.8 Layout and Landscaping

4.9 The layout and landscaping of the proposed scheme remains unaltered, part from the detail of the school building itself which would be reduced to reflect the smaller number of class rooms. These were deemed acceptable at the time the previous approval and there are no material change sin circumstances or policy that would justify a different conclusion being met in the determination of this application.

4.10 It is therefore considered that the layout and landscaping proposals are acceptable and in accordance with Policy CP3 of the Local Plan and the Good Design section of the NPPF.

5.0 HUMAN RIGHTS ACT

5.1 The proposals set out in this report are considered to be compatible with the Human Rights Act 1998. The recommendation to approve the application accords with the adopted policies in the Development Plan which aims to secure the proper planning of the area in the public interest.

6.0 EQUALITIES ACT 2010

6.1 This application has been determined with regard to the Council's duties and obligations under the Equality Act 2010. However it is considered that the recommendation made in this report is proportionate taking into account the conflicting matters of the public and private interest so that there is no violation of those rights.

7.0 CONCLUSION

7.1 The principle of a school at this location was established under the previous outline and reserved matters consents as was the means of access, appearance, layout and landscaping. This application merely seeks to reduce the size of the school building, with the layout, landscaping and means of access remaining the same. It is considered that this change would not result in any significant harm over and above that of the approved scheme and it is also noted that there have been no material change in planning policy or circumstances since the granting of the previous permission.

7.2 It is therefore recommended that the application be approved subject to the attached conditions.