

Please ask for: Mrs. W. Rowe

Extension No: 4584

E-Mail: wendyrowe@cannockchasedc.gov.uk

7 May, 2019

Dear Councillor,

**PLANNING CONTROL COMMITTEE
3:00PM, WEDNESDAY 15 MAY, 2019
COUNCIL CHAMBER, CIVIC CENTRE, CANNOCK**

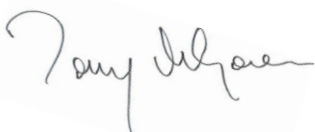
You are invited to attend this meeting for consideration of the matters itemised in the following Agenda.

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

<u>Application Number</u>	<u>Application Description</u>	<u>Start Time</u>
CH/19/076	<i>Dental Practice, 18 Burntwood Road, Norton Canes, WS11 9RE – Retention of roller shutter to secure shopfront</i>	2:00pm
CH/17/073	<p>Enforcement Case - 64 New Penkridge Road, Cannock, WS11 1 HW</p> <p><i>(Please note: In order to comply with Minute no. 15 of the Planning Control Committee held on 20 June 2018 the Committee will visit both 64 and 66 New Penkridge Road. This will enable Members to view the recently constructed property from both the complainant's property and the application site).</i></p>	2:30pm

Members wishing to attend the site visits are requested to meet at: 18 Burntwood Road, Norton Canes, WS11 9RE at 2:00pm as indicated on the enclosed plan.

Yours sincerely,



**T. McGovern
Managing Director**

To Councillors:

Cartwright, Mrs. S.M. (Chairman)

Allen, F.W.C. (Vice-Chairman)

Dudson, A.

Stretton, Mrs. P.Z.

Fisher, P.A.

Sutherland, M.

Pearson, A.

Todd, Mrs. D.M.

Smith, C.D.

Woodhead, P.E.

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 24 April, 2019 (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

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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.

SITE VISIT APPLICATIONS

<u>Application Number</u>	<u>Application Location and Description</u>	<u>Item Number</u>
1. CH/17/073	Enforcement Investigation – <i>64 New Penkridge Road, Cannock, WS11 1HW</i>	6.1– 6.73
2. CH/19/076	<i>Dental Practice, 18 Burntwood Road, Norton Canes, WS11 9RE – Retention of roller shutter to secure shopfront</i>	6.74 – 6.84

OTHER APPLICATIONS

3. CH/18/403	<i>31 Market Square, Rugeley, WS15 2FA – Change of use of first and second floors from A2 (Bank) to Large-Scale HMO (Suit Generis)</i>	6.85 – 6.107
4. CH/18/405	<i>31 Market Square, Rugeley, WS15 2FA – Listed Building Consent – Works to facilitate the conversion of first and second floors to HMO comprising predominantly stud walling</i>	6.108 – 6.113
5.	Joint Report of the Development Control Manager and the Interim Head of Law and Administration - Proposed amendment to the Protocol for Officers to request site visits on Planning Applications, Tree Preservation Orders and Enforcement Cases	6.114 – 6.116

144. Minutes

Prior to the approval of the minutes the Development Control Manager referred to Minute No. 138 and asked the Committee to note that in respect of the site visit in relation to Application CH/19/015, 71 Old Penkrigde Road, Cannock Members also viewed the application site from Nos. 67 and 73 Old Penkrigde Road, Cannock.

RESOLVED:

That the Minutes of the meeting held on 10 April, 2019 be approved subject to the above being noted.

145. Members' Requests for Site Visits

None.

146. Application CH/18/363 – Land adjacent to 6 Stonehouse Road, Rugeley, WS15 2LL: Erection of Two-Storey House

Following the site visit consideration was given to the report of the Development Control Manager (Item 6.1 – 6.19 of the Official Minutes of the Council).

The Principal Solicitor explained that the Monitoring Officer had accepted that Councillor Sutherland was unable to take part in the meeting due to having a personal and pecuniary interest in the application as he lived next door to the application site. A substitute Member was therefore in attendance. Councillor Sutherland had requested to speak as a member of the public at the last meeting (when the application was deferred). Councillor Sutherland did not appear on the list of speakers as this request had not been carried over to today's meeting. However, the Chairman had agreed that she would allow Councillor Sutherland to speak and, as he was raising significantly different points to the other objector listed to speak, she would allow them both 10 minutes each. Councillor Sutherland would address the Committee and then leave the meeting in view of his personal and pecuniary interest.

Prior to the determination of the application representations were made by Councillor Sutherland, acting as a member of the public, speaking against the application. Further representations were made by Karen Bradbury who was also speaking against the application. Representations were then made by Mansel Thomas, the applicant's agent, speaking in favour of the application.

RESOLVED:

That the application which was recommended for approval, be refused for the following reasons:

1. The proposed dwelling by virtue of its size and scale, particularly when viewed in the context of the plot to dwelling ratio would result in a building that would be too large for its plot to the detriment of the character of the streetscene. The proposal would therefore fail to be well-related to the existing buildings

and their surroundings in terms of layout, density and scale contrary to Policy CP3 of the Cannock Chase Local Plan (Part 1) and paragraph 127(b and c) of the National Planning Policy Framework.

2. The proposed dwelling by virtue of its size, scale and juxtaposition with the existing dwelling at No 6 Stonehouse Road would form an overbearing structure when viewed from the rear patio area of No 6 and would result in a loss of light to the outside amenity area. As such, the proposal would fail to attain a high standard of residential amenity to the occupiers of No 6 Stonehouse Road contrary to Policy CP3 of the Cannock Chase Local Plan and paragraph 127(f) of the National Planning Policy Framework.
3. The entrance to the proposed drive would be located on the left hand side of the site's frontage where it would disrupt the established pattern of the streetscene in which drives are located on the right hand side to the detriment of the character of the streetscene contrary to Policy CP3 of the Cannock Chase Local Plan (Part 1) and paragraph 127(b and c) of the National Planning Policy Framework.

147. Application CH/19/046 – Unit 9b, Millpark Industrial Estate, Mill Park, Cannock, WS11 7XT: Removal of Embankment to Form Yard Area with Retaining Wall, Followed By Reinstatement of Embankment and Retention of Roller-Shutter to Rear (Resubmission-CH/18/175)

Following a site visit consideration was given to the report of the Development Control Manager (Item 6.20 – 6.33 of the Official Minutes of the Council).

RESOLVED:

That the application be approved subject to the conditions contained within the report for the reasons stated therein and subject to an additional condition for a revised landscape drawing to include more standard trees to compensate for the loss of mature trees.

148. Application CH/18/176 – Land at Walsall Road, Norton Canes, Cannock, WS11 9PX: Full Planning Application for Residential Development on Land Comprising 67 Dwellings with Car Parking, New Estate Roads, Public Open Space and Associated Infrastructure

Consideration was given to the report of the Development Control Manager (Item 6.34 – 6.50 of the Official Minutes of the Council).

The Development Control Manager provided an update to the Committee on the background to the application.

RESOLVED:

That the resolution of the Planning Control Committee held on 16 January 2019, as referenced in Minute No. 106, be amended to remove subsection A(v) 'to agree a lettings plan with the Council.'

149. Application CH/18/392 – Land at 71 Burntwood Road, Norton Canes, WS11 9RG: Erection of 70 Dwellings, Access and Open Space, Landscaping, Drainage and Associated Works

Consideration was given to the report of the Development Control Manager (Item 6.51 – 6.80 of the Official Minutes of the Council).

The Development Control Manager provided an update to the Committee on the background to the application.

RESOLVED:

That the application be approved subject to the conditions contained within the report for the reasons stated therein, and the completion of a Section 106 agreement to secure:

- (i) Provision and transfer to a Registered Provider of 20% on-site affordable housing.
- (ii) Provision for the adoption and management of:
 - (a) Public open space;
 - (b) SuDS;
 - (c) Footpath / Access Corridor / Streamby a management company, and
- (d) The transfer of the Reptile Protection Area to the Council along with a contribution of £16,448.22.
- (iii) An education contribution of £154,434.00.
- (iv) Contribution for footpath link of £4,400.00

150. Application CH/19/035 – The Academy Early Years Childcare, Main Road, Brereton, Rugeley, WS15 1EE: Variation of Condition 24 (Approved Plans CH/18/261) to Extend the Existing Basement

Consideration was given to the report of the Development Control Manager (Item 6.81 – 6.143 of the Official Minutes of the Council).

RESOLVED:

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

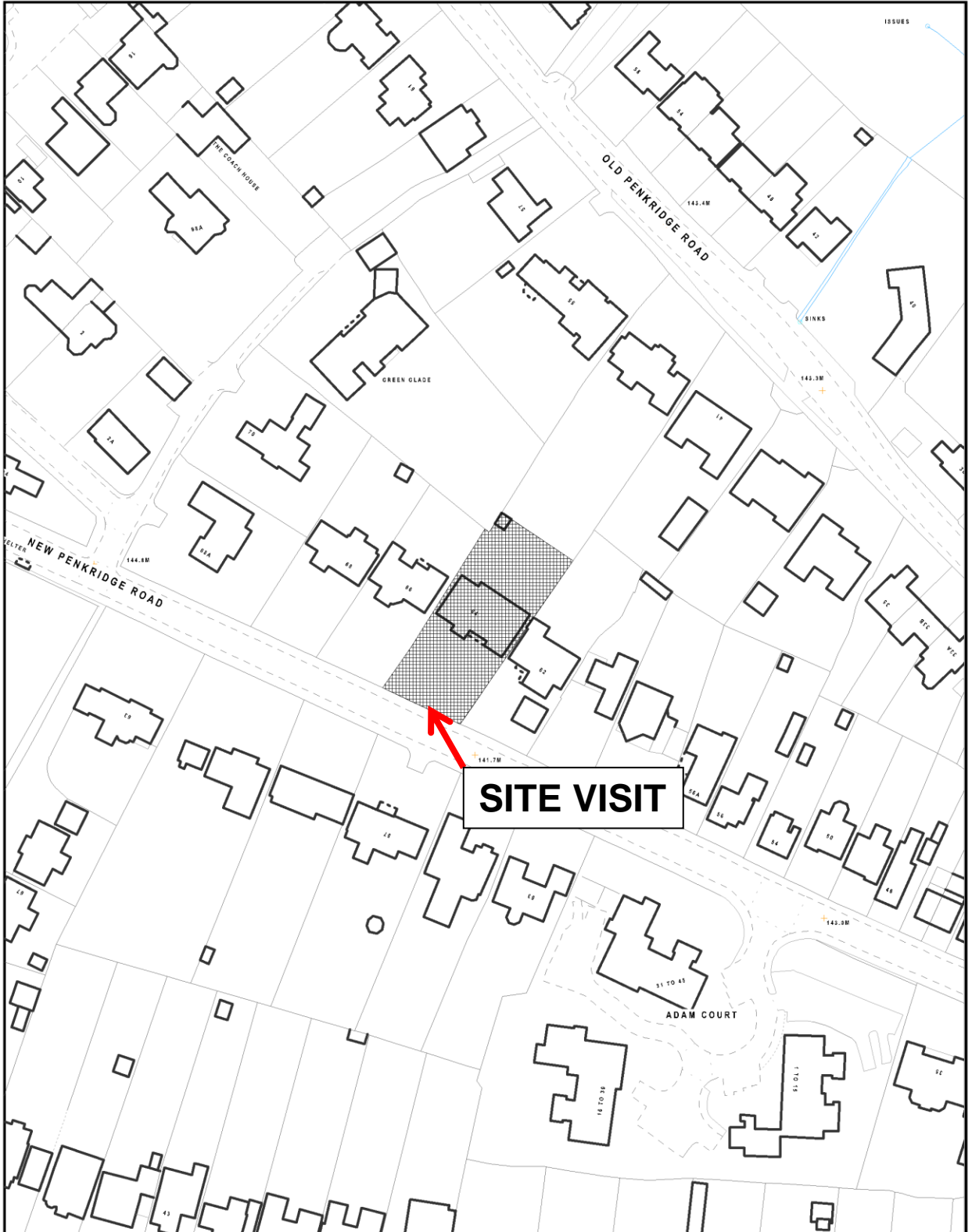
The meeting closed at 4.05pm

CHAIRMAN



Enforcement Case

Location: 64, New Penkrige Road, Cannock, WS111HW

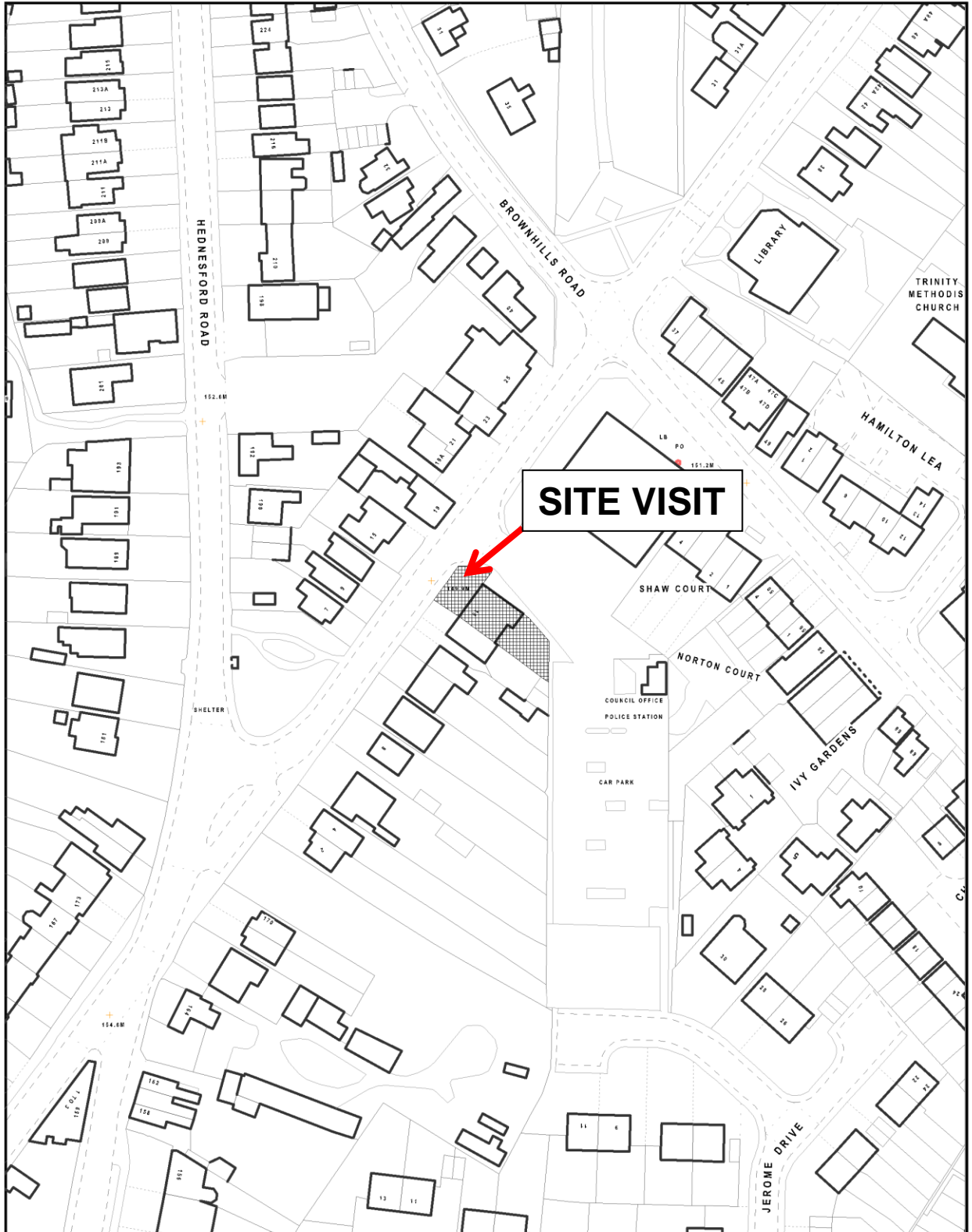




Application No: CH/19/076

Location: Dental Practice, 18, Burntwood Road, Norton Canes, Cannock, WS11 9RE

Proposal: Retention of roller shutter to secure shopfront



Planning Control Committee

15th May 2019

REPORT OF THE DEVELOPMENT CONTROL MANAGER

ENFORCEMENT INVESTIGATION

SITE: 64 New Penkrige Road

This application was on the agenda for the meeting of Planning Committee held on 11th July 2018, when it was resolved to defer consideration of the report so that

- (A) A further site visit be undertaken by the Committee in respect of the Enforcement Investigation related to 64 New Penkrige Road, Cannock (Application CH/17/073): Residential development, erection of a five bedroom detached house. The site visit to be undertaken prior to the meeting of the Committee scheduled for 12 September, 2018.

Reason:

To fully comply with the resolution of the Committee made on 20 June, 2018, concerning this matter (Minute no. 15 refers).

- (B) An independent person be appointed by the Council to undertake new measurements of the application site for consideration by the Committee.

Reason:

To provide the Committee with measurements of the application site produced independently of any previous measurements undertaken by the complainant or applicant.

Members are advised that although it was initially intended to bring the application back to Planning Committee at its meeting on 12 September 2018 it has taken longer to do so than initially envisaged.

Members are also advised that an independent survey and drawing has been compiled by Neil Bowen Architects of Wakefield, West Yorkshire. The drawings prepared by Neil Bowen Architects of the dwelling 'as- approved' and 'as-built' are shown in Appendices 1 and 2. In Appendix 2(a) the respective drawings in Appendices 1 and 2 have been overlaid in order to demonstrate the differences between the two sets of drawings.

Both the complainant (Mr Suman) and the owner of the property at No64 (Mr Kilgallon) were sent a letter, dated 15th November 2018 accompanied by the drawings prepared by Neil Bowen and asked to provide comments within 21 days of the date of the letter.

The response from the representatives of Mr Kilgallon are provided in Appendix 3(a). Representations from Mr Suman are provided in Appendix 3(b).

The drawings have subsequently been amended in order to address points made by Mr Kilgallon's representative.

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:
- 1.2 Other matters have been raised by the complainant. These matters do not directly relate to the above determinative issues.

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.
- 2.3 The property is located within the mature suburb of New Penkridge Road which is characterised by generally large dwelling set in extensive plots and typically set well back from the highway and benefiting from varying degrees of screening by trees and shrubs in the front gardens. In addition to the above there is a great variety of house types in the immediate streetscene, including bungalows and two storey dwellings of various heights, facing materials and architectural detailing, such that it appears that no two dwellings are exactly the same.

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 58 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 58:

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 addresses 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 a planning 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 neighbour letter and site notice. Following comments received from 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 been 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 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. 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.

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

4.4.5A 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.

4.4.6A letter of objection was received from the complainant, dated 27th March 2017.

4.4.7 The application was approved under delegated powers subject to conditions and the decision notice was issued on 13 April 2017. This permission was subject to the conditions set out below: -

- (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.
- (2) No materials shall be used for the external surfaces of the development other than those specified on the application, except with the written approval of the Local Planning Authority.

(3) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Amendment) Order 1995 (or any Order revoking and re-enacting that Order with or without modification), no development within Part 1 of Schedule 2 to the Order shall be carried out without an express grant of planning permission, from the Local Planning Authority, namely:

- The enlargement, improvement or other alteration of the dwellinghouse;
- The enlargement of the dwellinghouse consisting of an addition or alteration to its roof;
- Any other alteration to the roof of the dwellinghouse;
- The erection or construction of a porch outside any external door of the dwelling;
- The provision within the curtilage of the dwellinghouse of any building or enclosure, swimming or other pool required for a purpose incidental to the enjoyment of the dwellinghouse as such, or the maintenance, improvement or other alteration of such a building or enclosure;
- The provision within the curtilage of the dwellinghouse of a hard surface for any purpose incidental to the enjoyment of the dwellinghouse as such;
- The erection or provision within the curtilage of the dwellinghouse of a container for the storage of oil for domestic heating; or
- The installation, alteration or replacement of a satellite antenna on the dwellinghouse or within the curtilage of the dwellinghouse.

(4) Before the development hereby approved is brought into use, a bat roost shall be provided in accordance with the details and specifications set out in the Bat and Bird Survey dated 20th July 2015.

(5) The development hereby permitted shall be carried out in accordance with the following approved plans and documents:

Drawing Titled - Proposed Amendments to Previously Approved Dwelling House at the Orchard (Location Plan, Site Plan, Elevations and Floor Plans)

Bat and Bird Survey dated 20 July 2015

4.4.8 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 issues in respect to the determination as to whether it is expedient to take enforcement action are: -

- (i) whether there are discrepancies between the drawing of the dwelling as shown in the plans approved under planning permission CH/17/073 and the drawing of the dwelling as-built, and if so,
- (ii) if there are any differences the extent of those, whether they are material and whether they cause material harm or adverse impacts on amenity when compared with what was approved, and
- (iii) whether the conditions attached to planning approval CH/17/073 would equally apply to the dwelling as-built.
- (iv) How the situation can be remedied.

5.2 Whether there are Discrepancies Between the Drawing of the Dwelling as Shown on the Plans Approved Under Planning Permission CH/17/073 and the Drawings of the Dwelling as-built

5.2.1 In order to obtain an understanding of how the dwelling 'as-built' relates to the approved drawing Members' attention is drawn to the plans in Appendices 1, 2 and 2(a) which show the dwelling as-approved compared to the drawing as-built, which have been prepared by Neil Bowen Architects.

5.2.2 Mr Bowen has stated

"Due to the complex shape of the roof i.e being hipped and therefore not so easy to determine the height accurately via tape measure, we opted to appoint an independent surveying company;

Stamford Geomatics Ltd is based just outside Wakefield West Yorkshire to undertake the actual on site survey, which they did on the 5th August 2018.

I have worked with Stamford Geomatics Ltd for many years on both large and small projects and they utilise laser technology for accuracy"

5.2.3 On comparing the digital image prepared by Neil Bowen Architects with a print of the original drawing prepared by Sueshire Services a number of differences can be seen, including: -

1. The main roof ridge on the "as-built" drawings is approximately 400mm higher at the front than that shown on the "as approved drawing".
2. The first floor windows on the "as built" drawings are approximately 100mm taller than those shown on the "as approved" drawings.
3. The eaves are around 250mm higher on the "as Built" drawings than indicated on the "as-approved" drawings.
4. There is a course of bricks above the first floor windows below the eaves, whereas on the "as-built" drawings the eaves line through the top of the windows.

5. The roof lights are at a higher level 'as-built' than those on the approved drawings and there is one less and they are smaller.
6. The width of the roof of the main part of the building "as-built" is 200mm less than that shown on the as-approved drawing.
7. The windows on the rear elevations, in particular the two middle windows at first floor level, though broadly the same size as the "as approved" drawings are in slightly different locations on the "as-built" plans.
8. The central first floor window above the main entrance has its own pitched roof which is not indicated on the "as approved" drawing.
9. The width of the top of the roofs over the two front bay windows is considerably wider but not as high in the "as-built" drawing compared to those indicated on the "as approved" drawing.
10. There are pronounced brick arches/ window heads over the first floor windows on the "as Built" drawing which are not indicated on the "as approved" drawings.
11. Cosmetic differences in brickwork detailing.
12. The two windows in side elevation 'C' as shown in the "as-built" drawing are approximately 200mm longer and 350mm to the left of those on the "as approved" drawing.
13. Differences in the design and position of the dormer on the side roof.

5.2.4 In respect to comparing the details between the as-approved and as-built drawings the architect Neil Bowen has commented that this is not a very useful comparison for the following reasons:

- a) You should never scale off any submitted drawings, if in doubt ask the designer to determine it. Most architectural drawings actually advise not to scale off, though in this case this designer appears not to have done so but clearly it is very bad practice to do so and fraught with dangers.
- b) The application drawings are drawn by hand and quite poorly so. They are inherently inaccurate and inconsistent. There are very few dimensions indicated and those that do exist often do not equate to the unit that they are dimensioning, even some of the shorter dimensions appear to be up to 50mm out but to emphasize this point the longer one at the front (14.840) is actually 210mm longer than actually built.
- c) Because the application drawings are hand drawn the lines used i.e. the thickness of pencil all add to the possibility of accumulative errors being built in to the drawing so it is very dangerous scaling this type of drawing.

Coupled with the fact that the building materials used on projects like this are far from being precise and that builders will normally round up to or down to the nearest useful level i.e. say to the nearest half brick for example.

It is quite common for buildings to be out by at least 100mm in height or length just to make the building look tidy and to aid construction.

Yes it is possible to get the tolerances really tight but, on site, the easy option usually prevails.”

5.2.5 Given the above it is clear that there are several discrepancies between drawings “as approved” and those “as-built” and therefore the dwelling has not been built in accordance with the approved plans.

5.3 **Whether the Differences Are Material and Whether They Have Cause d Material Harm or Adverse Impacts on Amenity**

5.3.1 There is no statutory definition of what constitutes a change being ‘non-material’. This is because whether a change is material or non-material depends on the context of the overall scheme-an amendment that is non-material in one context may be material in another (Paragraph: 002 (Reference ID: 17a-002-20140306) of the Planning Practice Guidance.

5.3.2 The two interests that could be potentially impacted on by any difference in the dwelling ‘as-built’ as compared to ‘as-approved’ are the impact on the character of the area and the impact on residential amenity. These will be considered in turn.

Impact on the Character of the Area

5.3.3 In respect to issues in relation to design 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.

5.3.4 Relevant policies within the NPPF in respect to design and achieving well-designed places include paragraphs 124, 127, 128 and 130. Paragraph 124 makes it clear that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve.

5.3.5 Paragraph 127 of the NPPF, in so much as it relates to impacts on the character of an area goes on to state: -

Planning policies and decisions should ensure that developments:

- a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
- b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;

- c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);
- d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;

- 5.3.6 Finally Paragraph 130 states planning permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions, taking into account any local design standards or style guides in plans or supplementary planning documents. Conversely, where the design of a development accords with clear expectations in plan policies, design should not be used by the decision taker as a valid reason to object to development.
- 5.3.7 Therefore any difference between the approved plans and the dwelling, as-built, should be considered having had regard to this policy context.
- 5.3.8 In looking at the difference in dimensions between the dwelling 'as approved' and 'as built' it is noted that the increase in height ranges from between 300mm and 400mm in respect to the front elevation. For a building with an overall height of 8.450m this equates to an increase in height of between 3.55% and 4.7%.
- 5.3.9 Given that the dwelling is set back from the highway by approximately 18m and is located within a streetscene where there is a great variety of house types, of substantially differing heights it is considered that this increase in height is not be readily discernible and that the differences between the dwelling as-approved to as-built has had no material impact on the character of the street scene.
- 5.3.10 Other discrepancies identified in paragraph 5.2.3 of this report are within the magnitude of 100mm to 250mm. In order to allow these differences to visualized it should be noted that most bricks in the UK are made to a standard brick size of 215mm long, 102.5mm wide and 65mm high and laid with a nominal 10mm mortar joint. Similarly the standard dimensions of a pantile are 342mm in length, 252mm in width and 69mm in depth. As such the differences in size are of the order of magnitude of the size of a modern brick or tile. A such comparing the differences between the two sets of plans in the context of the overall height of the building and having regard to the impact of the difference within the context of the wider street scene it is considered that the differences are trivial, non material in extent or nature and therefore do not cause material harm.
- 5.3.11 In respect to the roof lights it is noted that in the 'as built' drawing they are at a higher level than those on the approved drawings, there is one less window

and they are smaller. As such they would have much less impact than those of the consented scheme and in this respect this difference would not be material in extent or nature and therefore do not cause material harm.

5.3.12 In respect to alterations to the front elevation including the pitched roof over the central first floor, the width of the top of the roofs over the two front bay windows and the brick arches/ window heads over the first floor windows it is noted that these relate to minor variations in the detail of the design and do not materially alter the overall appearance of the dwelling. It is worth noting that outside of listed buildings or conservation areas brick detailing, such as the bond (i.e. the orientation of bricks between headers or stretchers) are not normally shown on plans or controlled by condition other than to specify material type. The same point also applies to down pipes, gutters and electric boxes which are again often not shown on approved plans or controlled by condition. In addition to these points the differences between the scheme 'as -approved' to 'as-built' are not readily discernible to the ordinary man on the street and only become apparent on intense scrutiny.

5.3.13 These details would be viewed within the context of a building that is set back 18m from the public highway and situated on a long suburban road which is characterised by a wide variety of house types wherein every house has its own architectural detailing, height and materials and benefitting from varying degrees of screening by trees and shrubbery within the large front gardens.

5.3.14 Within the above context it is considered that the differences referred to in paragraph 5.2.3 would generally only be noticeable to the most discerning of observers who would be specifically looking for the details with the benefits of the two sets of plans. As such it is considered that they constitute non-material changes which are trivial in nature and extent and which do not result in material harm.

Impact on the Standard of Amenity

5.3.15 Policy CP3 of the Local Plan states that the following key requirements of quality design will need to be addressed in development proposals and goes on to include [amongst other things] the protection of the 'amenity enjoyed by existing properties'. This is supported by the guidance as outlined in Appendix B of the Design SPD which sets out guidance in respect to space about dwellings and garden sizes.

5.3.16 In addition to the above Paragraph 127(f) of the NPPF states that planning policies and decisions should ensure that developments [amongst other things] create places with a high standard of amenity for existing and future users.

5.3.17 In respect to the issue of the differences in dimensions and the resultant impact on the standard of amenity of the neighbouring properties it is noted that 300mm difference in roof height on the side roof adjacent to No66 is of the scale of brick length and that the increase in height of the main roof of 400mm would be at a distance of 10m from the shared boundary.

- 5.3.18 As such it is considered that the difference in dimensions are so slight that they would not have a discernible impact on the outlook or loss of light to the occupiers of the adjacent properties and therefore have no material impact over and above that which would occur from the consented scheme on the standard of amenity of the occupiers of the adjacent properties.
- 5.3.19 In addition it is considered that the changes to the fenestration details, by virtue of their size, scale and location would not have any material impact on the level of overlooking onto neighbouring properties over and above that of the consented scheme. In fact given that the velux windows in the roof of the dwelling 'as-built' are at a higher level than those approved they have a reduced level of overlooking.
- 5.3.20 As such it is concluded that there would be no material adverse impact on the standard of amenity of the occupiers of the neighbouring dwellings over and above that of the dwelling 'as approved'.
- 5.3.21 Having had regard to all of the above it is considered that the differences between the dwelling 'as-approved' and 'as-built' are so trivial that they do not cause any adverse impact on the amenity of the occupiers of the adjacent properties.

5.4 How the Situation can be Remedied

- 5.4.1 In *Singh v Secretary of State for Communities and Local Government* the issue of non-material amendments was dealt with. In the judgement that was handed down the judge Hickinbottom J stated: -

“on application by a person with an interest in the relevant land, section 96A of the 1990 Act (enacted in the light of the decision in *Sage*) gives a planning authority express power to change a planning permission if they are satisfied that that change is not material. Such a provision would be otiose if they could make such (immaterial) changes in any event. Whether a change is material or not is a matter of fact and degree for the authority, which must have regard to the effect of the change in making that decision. If the change is material, then it requires the consent of the planning authority following an application under section 73, which, for self-evident reasons, requires a more sophisticated procedure. However, any change — material or not — requires the consent of the planning authority under section 73 or 96A.

- 5.4.2 If members conclude that the differences are trivial so that they are non-material and have had no material adverse impact on amenity the applicant could be invited to submit an application under section 96A of the Town and Country Planning Act 1990 (as amended) for the approval of non-material changes to the planning permission. This would ensure that the conditions attached to planning permission CH/17/073 would continue to remain in force.
- 5.4.3 The decision in respect to a section 96A application only relates to the non-

material amendments sought and the notice of the decision should describe these. It is not a reissue of the original planning permission, which still stands. The two documents should be read together. As such any conditions attached to the original planning permission, including the removal of permitted development rights would remain in force.

5.4.4 Given the trivial nature of the discrepancies it is officer's view that they are non-material and hence would recommend that Planning Committee resolves to invite the owner of 64 New Penkrigde Road to make an application under section 96A to seek to obtain consent for a non-material amendment to Planning Permission CH/17/073 to ensure that the conditions attached to the planning approval continue to apply.

6.1 Other Issues Raised by the Complainant

6.1 In the course of dealing with the complaint, 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. Ultimately the fact that a person has lit a fire on land owned by a third party without permission is a civil matter.

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 comment 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 be acceptable in planning terms and what a private individual may find objectionable can be quite different.

Notwithstanding the above the property does benefit from a lawful consent for the balcony under planning permission CH/17/073.

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 the Appendices 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 at No66. The owner of No64 has been requested to do this. The applicant has stated that he has removed the bulb from this lamp.

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 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 issue relates to whether there are differences between the building 'as -built' compared to approved plans and whether these differences are material or non-material.
- 6.2.17 Any representations made by the complainant in respect to the 'independent survey' do not provide substantial material fact in respect to the issue of the differences between the building 'as-built' compared to the approved plans and therefore do not alter the overall conclusions reached in this report.

7.0 CONCLUSION

- 7.1 The substantive issue in this case is whether the building 'as-built' materially differs from that 'as-approved' under planning permission CH/17/073. It is clear from an examination of the approved plans and the independent drawings commissioned by the Council of the dwelling 'as-built' that there are a number of differences when compared to the approved drawings.
- 7.2 However, having had regard to the size, scale and nature of the differences within their immediate and wider contexts it is considered that they are so trivial as to be non-material and furthermore would cause no material harm or adverse impacts on amenity. This being the case it is concluded that the situation could be satisfactorily remedied by inviting the owner of 64 New Penkridge Road to submit an application under Section 96A for a non-material minor amendment to planning permission CH/17/073. Subject to such an approval the situation would be remedied and the conditions attached to the original planning permission would still remain in force.
- 7.3 The other issues raised by the complainant do not alter the above conclusion.

8.0 LEGAL IMPLICATIONS

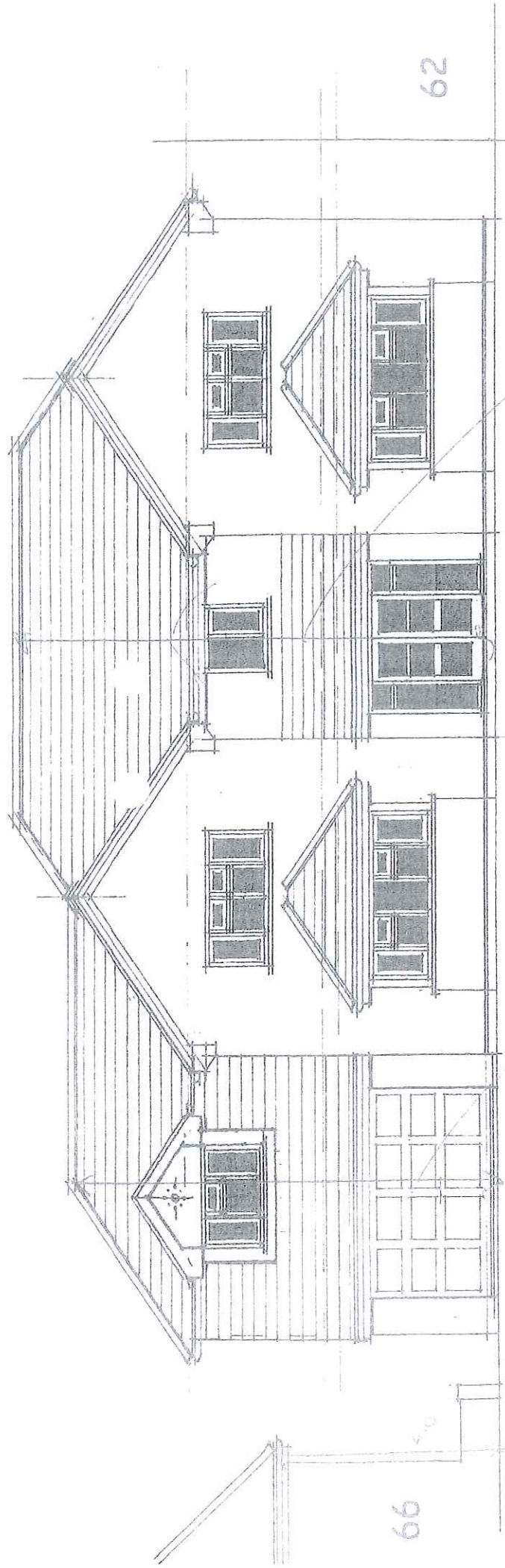
- 8.1 As set out in this report.

9.0 RECOMMENDATION

- 9.1 It is recommended that the owner of 64 New Penkrige Road be invited to submit an application under Section 96A of the Town and Country Planning Act 1990 for a non- material change to planning permission CH/17/073.
- 9.2 That subject to such an application being submitted no enforcement action be taken.

APPENDIX 1:

Drawings of the Dwelling 'as-approved'



FRONT ELEVATION [A]

62

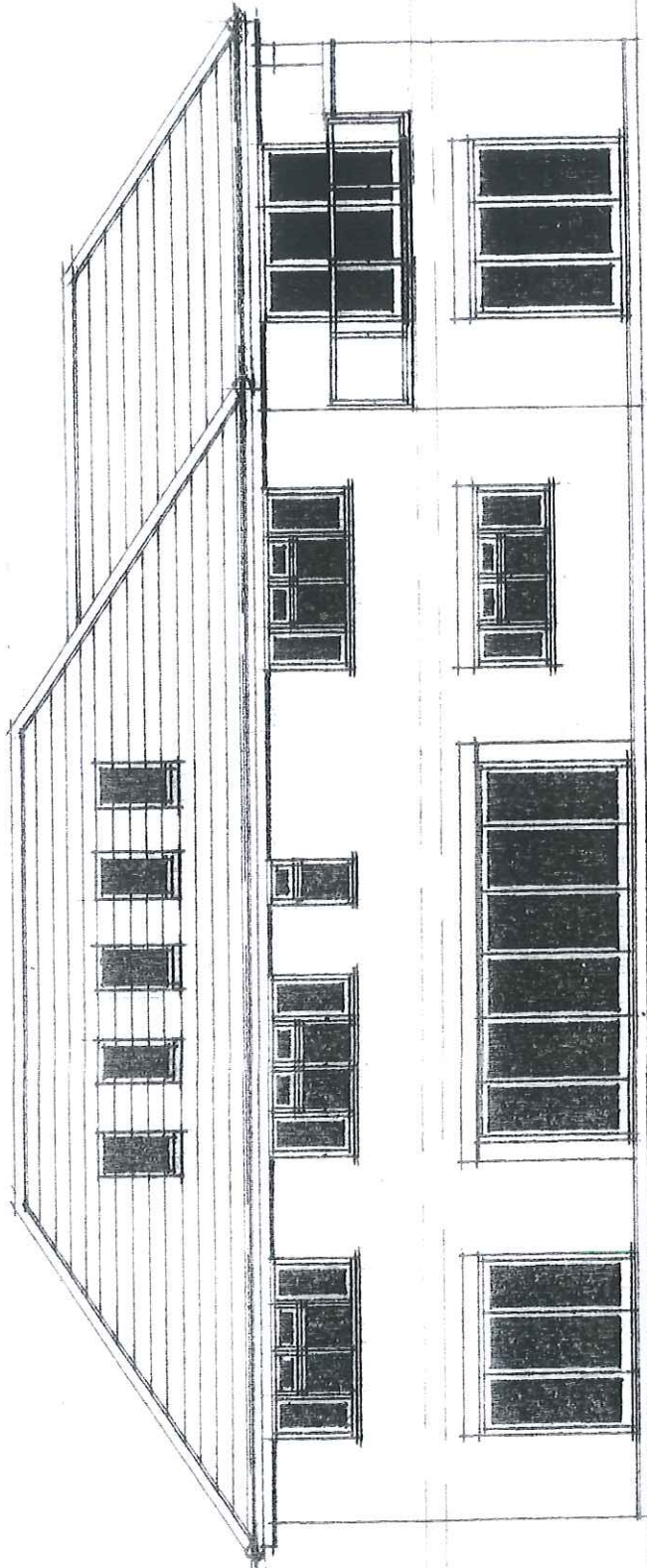
66

8.5

7.5

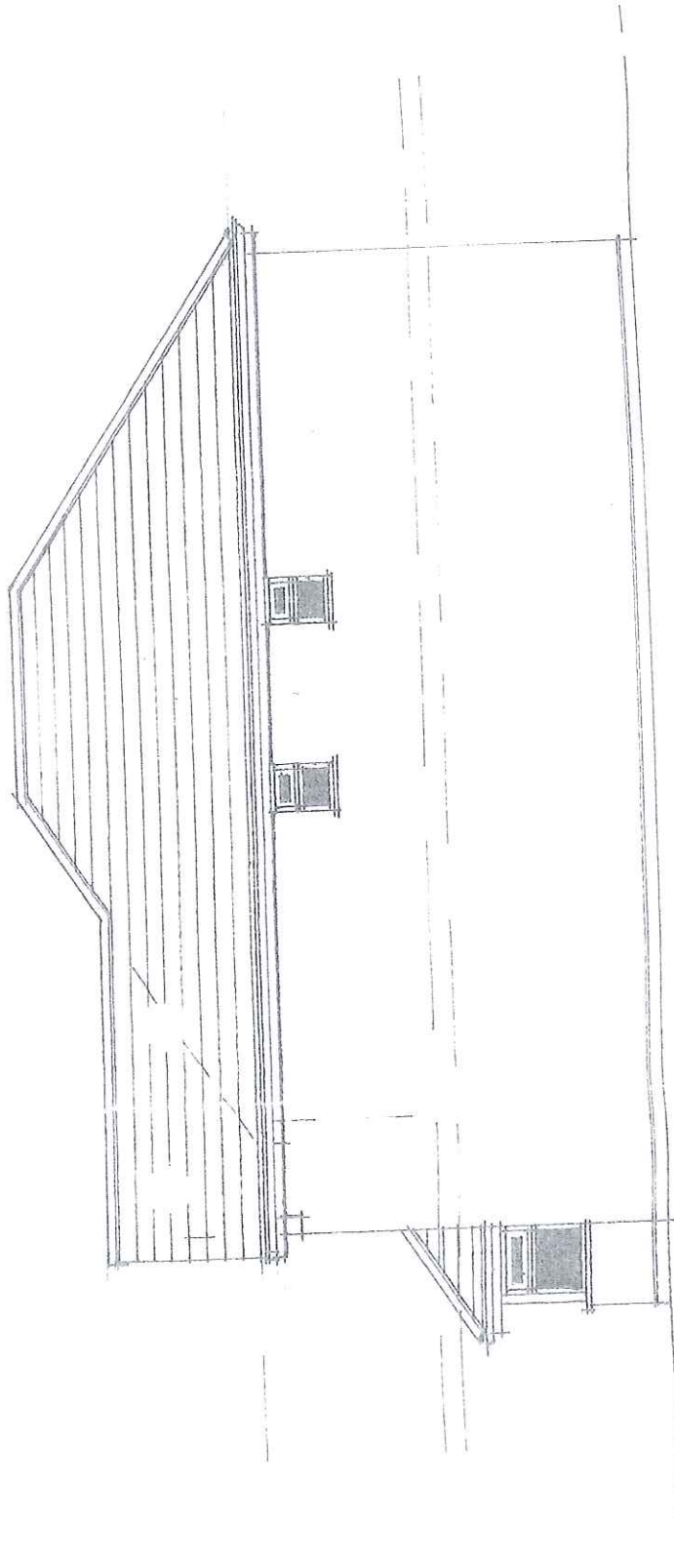
AS APPROVED

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



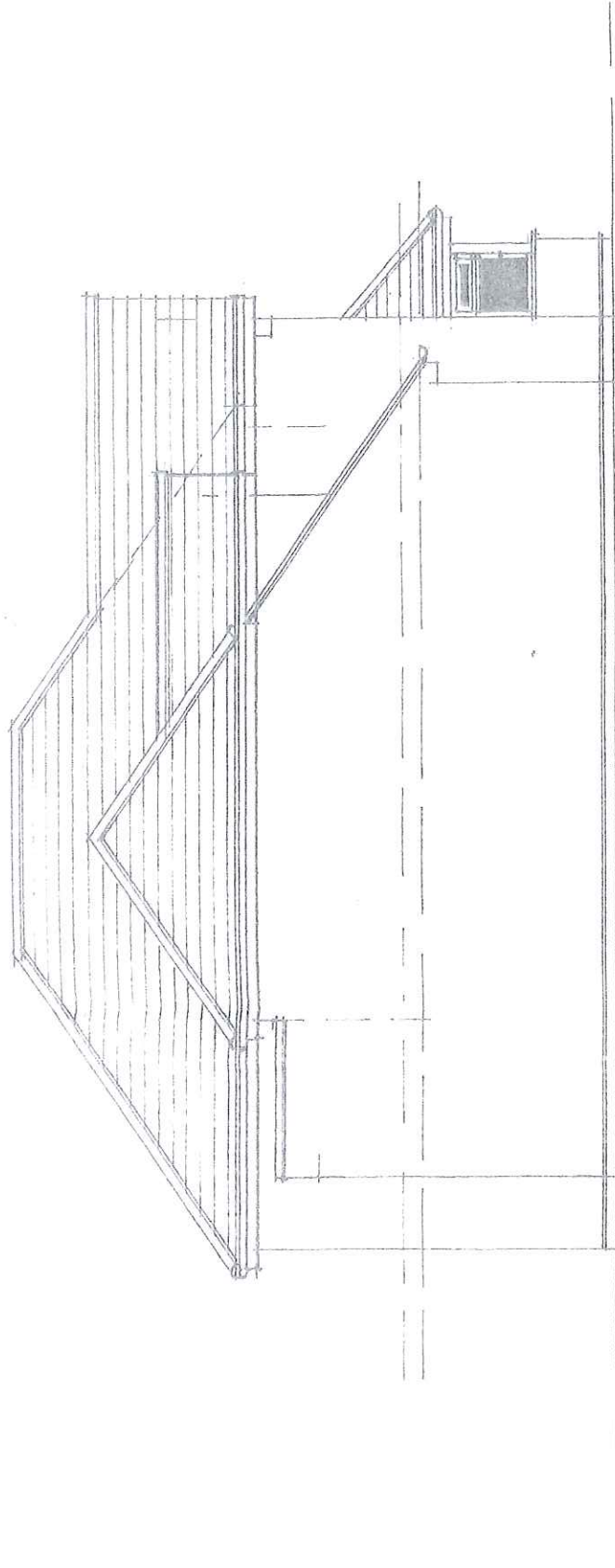
REAR ELEVATION [RB]

AS APPROVED



SIDE ELEVATION TO NO 62 [C]

AS APPROVED

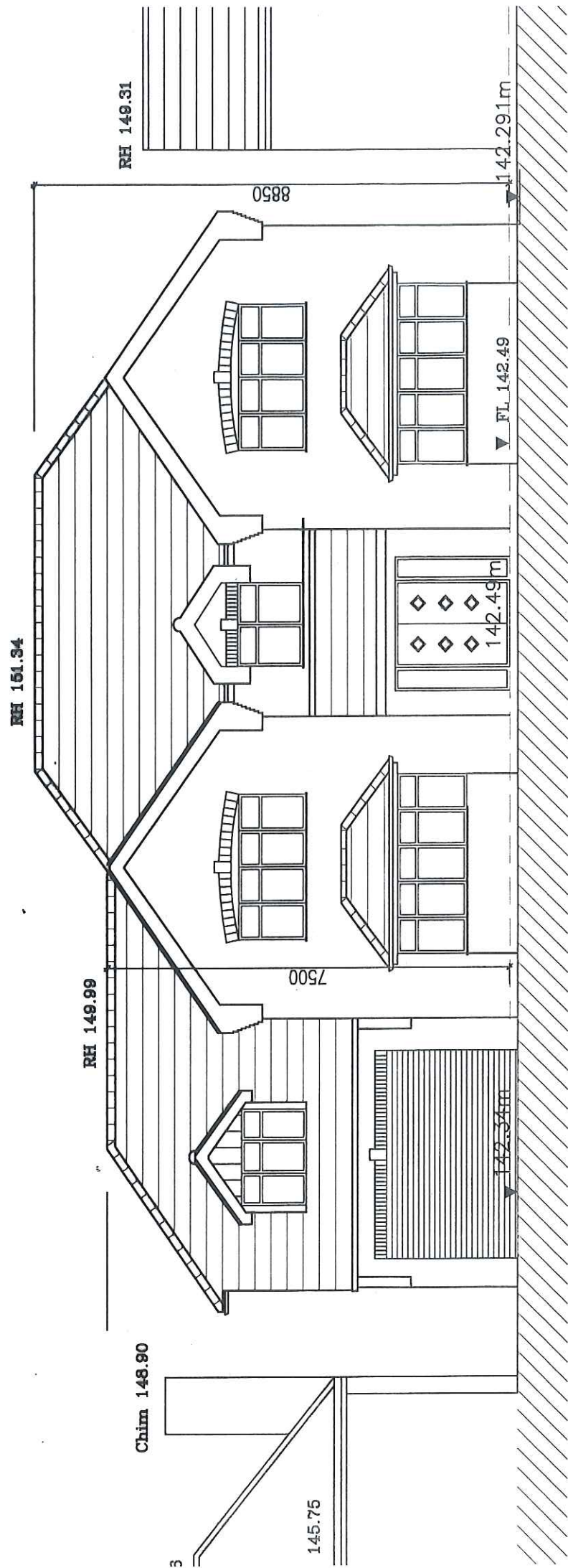


SIDE ELEVATION TO NO 66 [D]

AS APPROVED

APPENDIX 2:

Drawing of the Dwelling 'as-built'



Elevation A

Note no ridge tile
RH at front 151.34 at the rear

Flat roof

RH 149.99

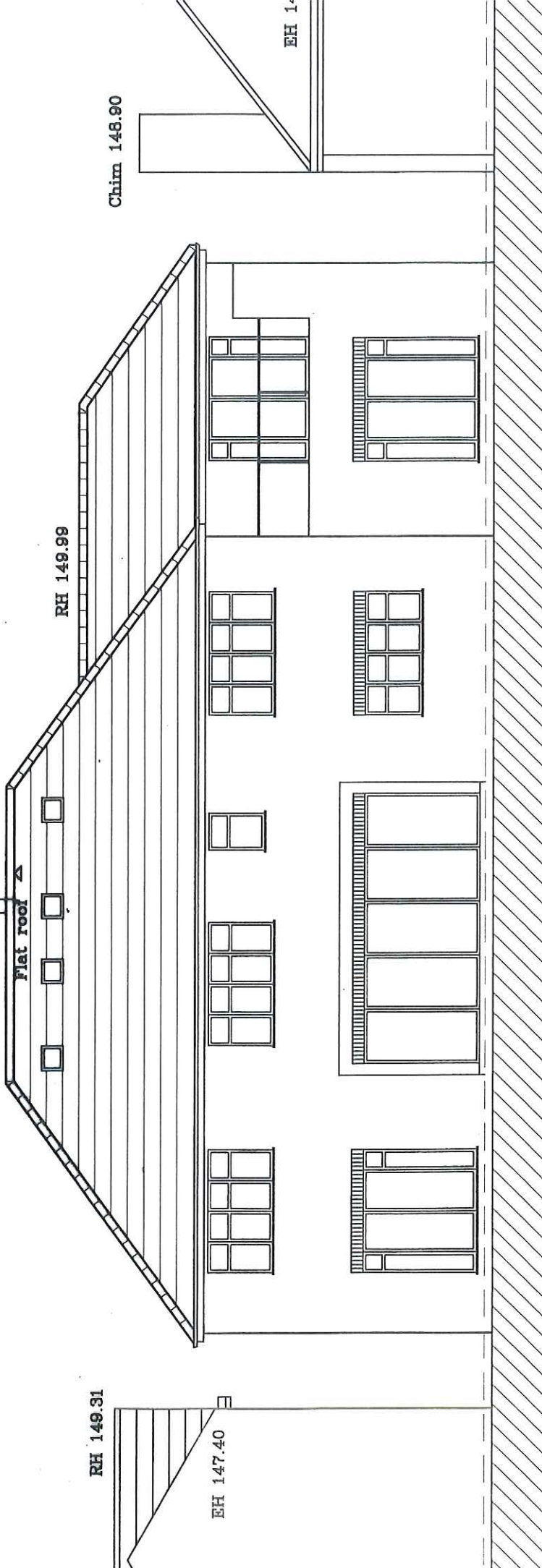
RH 149.31

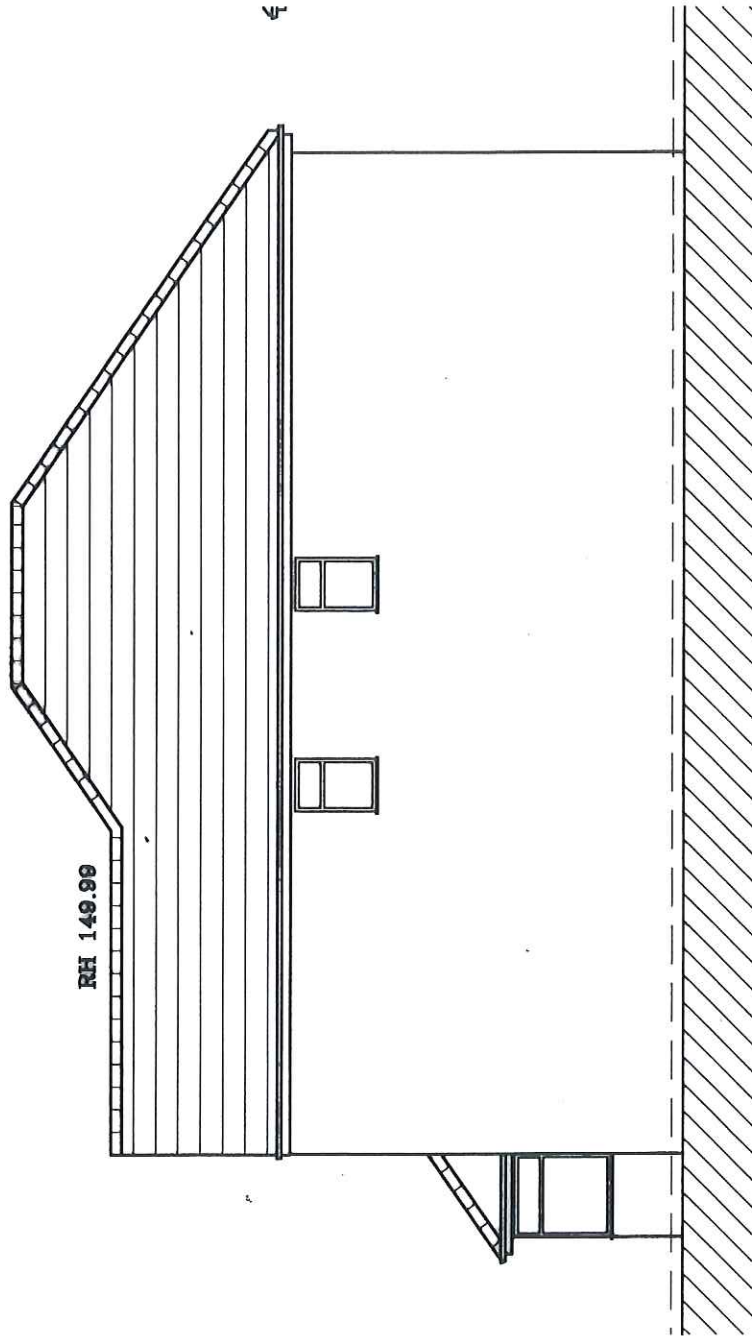
EH 147.40

Chim 148.90

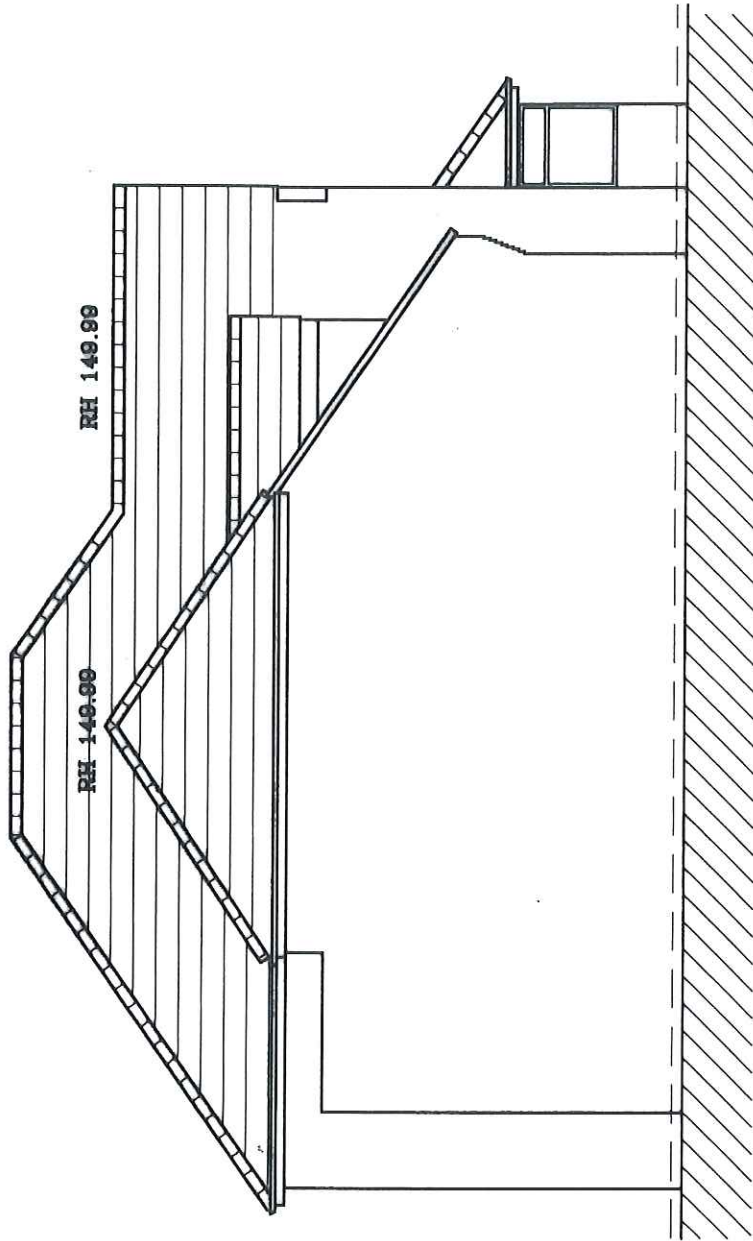
EH 14

Elevation B





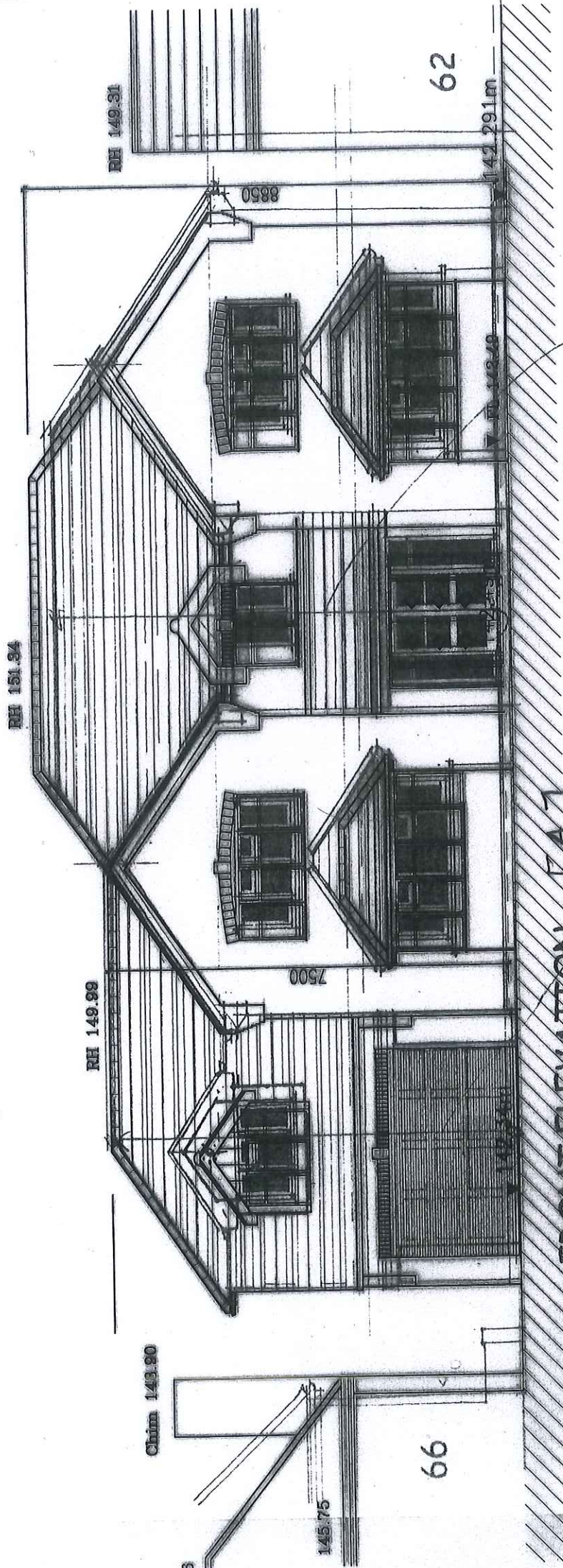
Elevation C



Elevation D

APPENDIX 2(a):

**Drawing of the Dwelling 'as-approved' overlaid by the Drawing of the Dwelling
'as built'**



FRONT ELEVATION - R.A. 1
Elevation A

75

85

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

Note no ridge tile

RH at front 151.34 at the rear

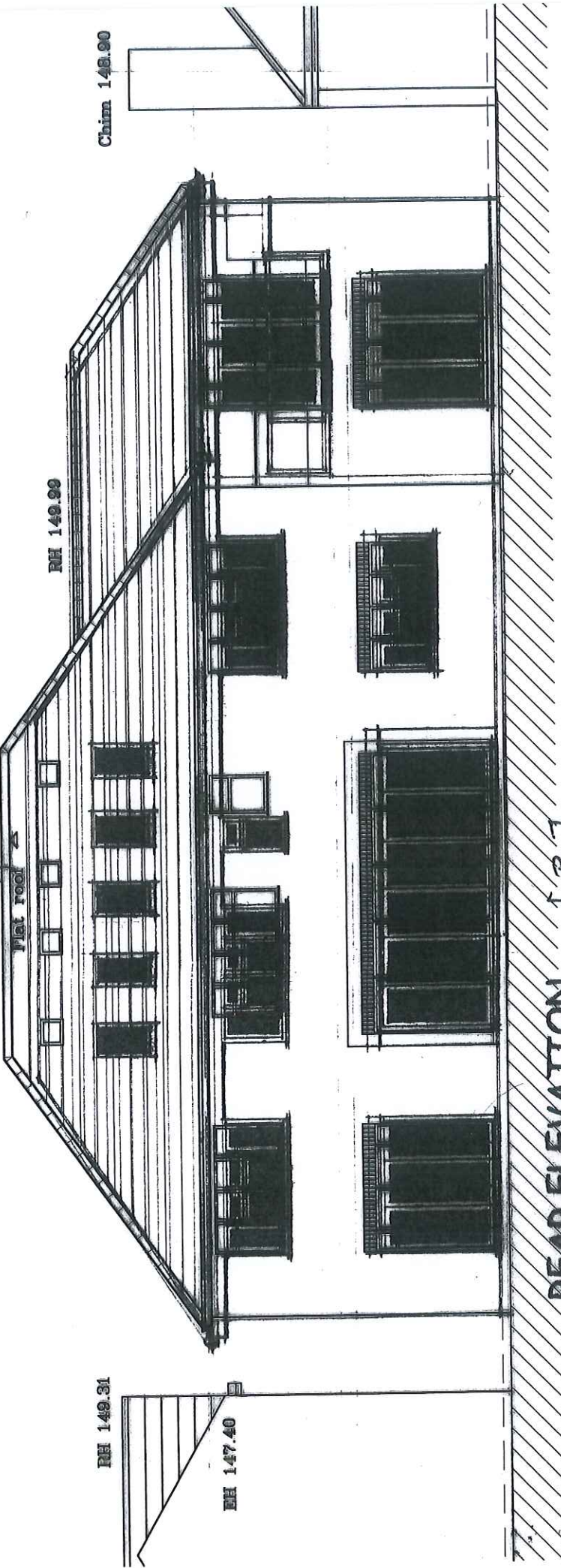
Flat roof

RH 149.99

RH 149.31

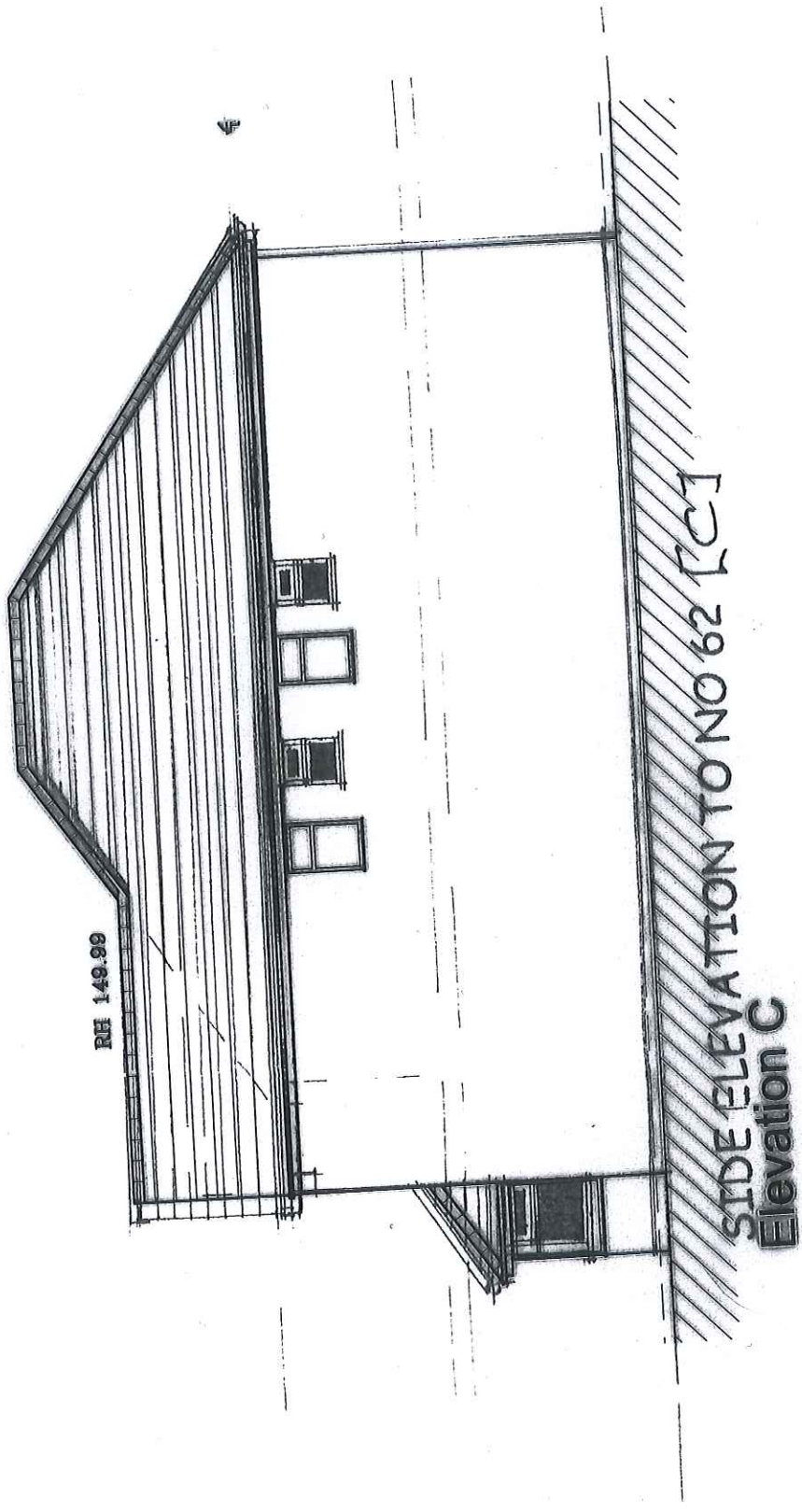
RH 147.40

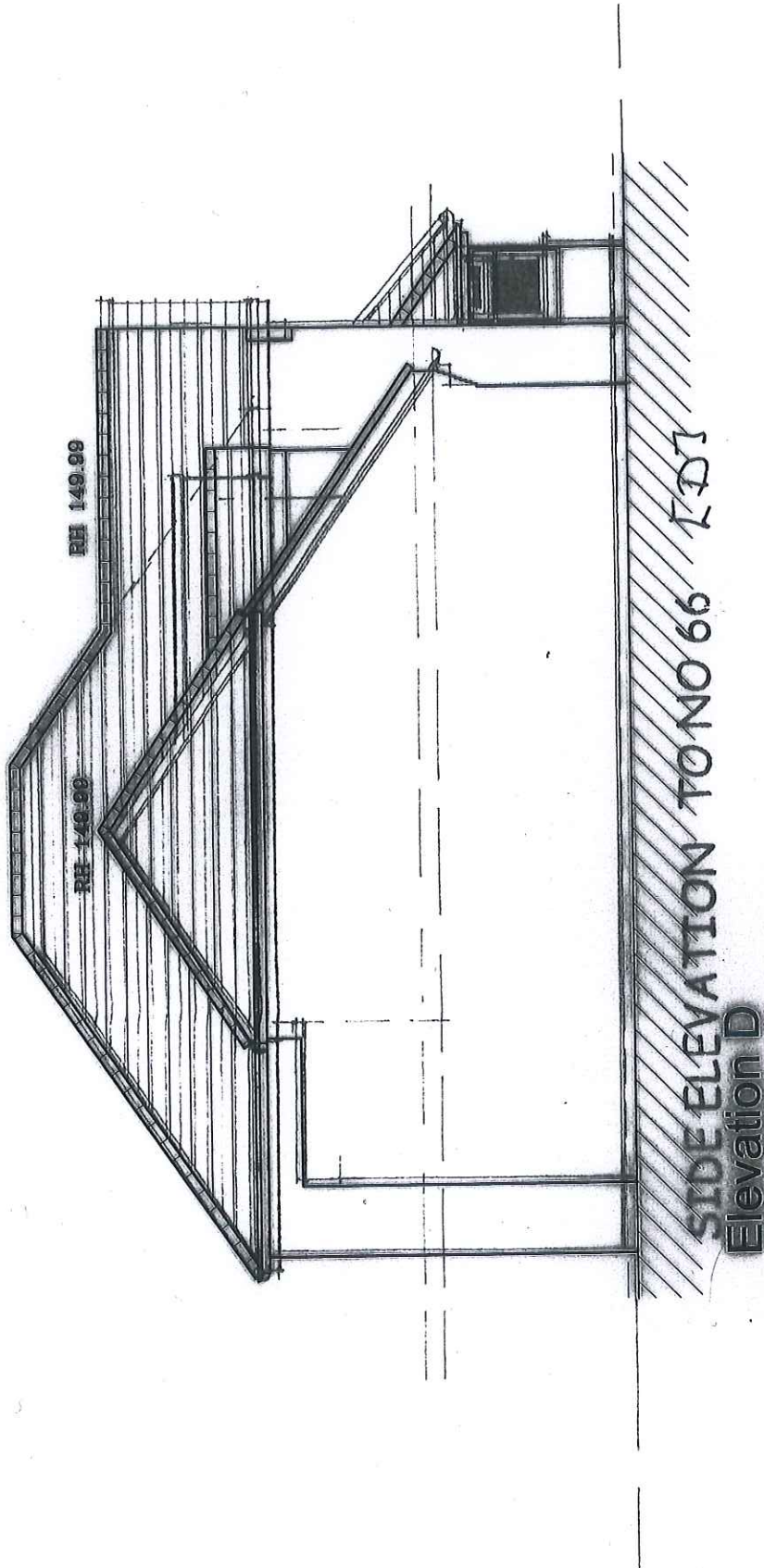
Chimn 148.90



[RB]

REAR ELEVATION
Elevation B





APPENDIX 3(a):

Representations made by Representatives of Mr Kilgallon

Date: October 2018

Your ref:

Our ref: MS/022926/0001

Email: Mike.Smyth@orj.co.uk

Planning Control Committee
Cannock Chase District Council

Dear Member

Our Clients: Mr and Mrs Kilgallon
The Orchard, 64 New Penkridge Road, Cannock, WS11 1HW
Planning Control Committee Meeting -

We are instructed by the above named and refer to the upcoming planning control committee meeting.

Our clients have requested that we set out some relevant information concerning the present planning matter you have been asked to consider, in order to assist your deliberation process.

A number of complaints have been made by the owner of a neighbouring property, no. 66 New Penkridge Road, about the construction of their new property. These complaints are inaccurate and are, in our clients' view, motivated solely by the complainant's personal animosity towards our clients and his disdain for the planning processes; which he does not agree with.

In support of his objections, the complainant supplied the Planning Committee with documents that he wishes committee members to take into consideration. However, as we will identify, the objections raised by the complainant and the documentation provided by him is largely irrelevant in determining the matter before the Committee.

The complainant's file does; however, perfectly illuminate the true complaint, namely, that planning approval was given at all. Unfortunately for the complainant, it is no longer possible for him to challenge the decision to grant planning permission to our

clients and he should not and cannot be allowed an opportunity to try and disguise the true complaint and have it revisited as part of this matter.

The Committee can and must disregard any and all evidence that is not specifically connected to the matter before it, namely whether any enforcement action should be taken against our clients for any “as built” divergences that may exist in comparison to the approved planning permission.

For the sake of clarity, the only question that Members must address is whether or not the development “as built”, sufficiently digresses from the planning permission granted, and, if so, whether any harm has arisen as a consequence.

This is a two stage test, firstly, has there been a divergence from the approved planning permission and, if so, to what extent, and secondly, has any material harm arisen as a result.

Only if BOTH questions can be answered in the affirmative could enforcement action be considered.

When considering whether to take enforcement action against a suspected breach of planning conditions, the National Planning Policy Framework 2018 at paragraph 58 states:

“Enforcement action is discretionary and local authorities should act proportionately in responding to suspected breaches of planning control.”

This proposition is further supported by the Government’s planning practice guidance for ensuring effective enforcement; which provides at paragraph 011 that formal enforcement action may not be appropriate 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.”

A separate report will be presented to the Committee concerning the as built dimensions. Our clients’ position is that any divergences that do exist (as an almost inevitable consequence of the normal construction process) are minor and should be classified as trivial or technical.

Full details of the minor differences between the approved plans and the as built dimensions as confirmed by an independent survey commissioned by the Council are set out in the separate report produced on behalf of Mr. and Mrs. Kilgallon by John Heminsley who is a Chartered Town Planner.

When considering the above divergences against the policy framework set out above, it is asserted on behalf of our clients that any breaches fall well within the scope of being “trivial or technical” in nature; thus Members should consider whether enforcement action would be either necessary or proportionate; which our clients do not believe it would be.

The complainant has supplied information to the Planning Committee about, inter alia, the following matters:

- The developer has not acted in a positive manner
- The developer caused damage to the complainant's property and committed trespass
- The developer has caused nuisance
- The house has an overbearing balcony
- The house has lights that produce glare, affecting the complainant's enjoyment of his property

None of the above listed issues have any relevance to the matter to be decided by the Planning Committee and should therefore be disregarded in their entirety.

The only questions for Members to address are:

1. Does the construction differ from approved planning permission and, if so, to what extent?
2. Do any breaches that exist cause material harm or adverse impact to the amenity of the site or surrounding area?

Any wider issues concerning the original decision to grant planning permission and / or the relationship between the respective parties are not relevant to this matter and must be disregarded.

Yours faithfully

ORJ Solicitors LLP

**FURTHER REPRESENTATIONS ON BEHALF OF MR AND MRS KILGALLON
RE. ALLEGED ENFORCEMENT ISSUES RELATING TO 64 NEW PENKRIDGE ROAD
CANNOCK AS A RESULT OF THE OUTCOME OF MEASUREMENTS CARRIED OUT
ON BEHALF OF THE COUNCIL BY NEIL BOWEN RIBA**

In summary the outcome of the new survey of the as built property confirms that there are no material differences in dimensions from those shown on the approved drawings and therefore no justification for taking enforcement action. The planning policy context for considering the need or otherwise to pursue enforcement action is explained in full in a separate letter from the owners' solicitors.

The key dimensions set out in the table we produced in the document included in the report to Planning Control Committee on 11th July 2018 have been largely confirmed by the new survey -

- The overall as built width of the dwelling is 0.21 metres shorter than shown on the approved drawing confirming our measurement.
- The as built depth of the main dwelling is 13.25 metres (0.05 metres longer than shown on the approved drawing not 0.06 metres longer as we had measured).
- The as built length of the garage is 11.36 metres which is also the measurement we produced and is 0.095 metres longer than the written dimensions shown on the approved drawing, although overlaying the new survey drawing on the approved drawing shows no discernable difference.
- The overall width of the garage is 4.94 metres which matches the approved drawing and our measurement.
- The overall height of the front gables and the ridge of the hipped roof above the garage is 7.6 metres above the external ground level although the new survey quotes 7.5 metres above the internal floor level of the house. Our measurement was 7.7 metres from external ground level as shown on the approved drawing.
- The height of the side boundary walls is 5.4 metres which matches the approved drawing and our measurement.
- The distance between the side wall of the garage and the retaining wall on the boundary with 66 New Penkridge Road was not measured in the new survey and we confirm that it is 0.8 metres as previously quoted.
- The distance between the side wall of the house and the gable wall of 62 New Penkridge Road from the new survey is 1.39 metres. We measured it as 1.33 metres.
- The height of the front eaves of the garage measures 3 metres on the front elevation drawing of the new survey and 3.1 metres on the side elevation drawing of the new survey, compared with our as built measurement of 3.2 metres and the approved measurement of 2.6 metres. As noted in our earlier representations the eaves height is still below the level of the eaves of the dwelling at 66 New Penkridge Road, because the latter property is built at a higher floor level.

The one measurement we did not take, because we did not have the available equipment to reach the top of the roof, was the height of the ridge of the main part of the dwelling. The new survey shows this to be 8.85 metres compared with 8.6 metres shown on the approved drawing. The reason for this is that the main roof has a hidden flat roofed area behind the front ridge line and it was decided to hide the flat roof with ridge tiles at the front and both sides, effectively forming a low parapet on these three sides. The new survey misrepresents the position with the rear elevation (see attached photograph) as there is no additional ridge tile on this elevation because the flat roof has a slight fall towards the rear to enable water to be discharged into the rear first floor gutter.

There are two other discrepancies on the new survey drawings –

1. On elevation A, the property at 66 is shown as being built at the same ground level as no. 64 whereas it is actually at a higher ground level of around 0.8 to 0.9 metres above 64.
2. On elevations C and D, no overhang of front eaves is shown – in reality the front eaves match the rear eaves which are shown on correctly on these drawings.

We confirm that the front ground floor bays and the first floor window above the front porch, as described in our previous representations, are shown accurately on the new survey.

One other difference from the approved drawings revealed by the survey, is that the front facing dormer window above the garage is smaller and positioned at a lower level in the roof. It is 0.2 metres narrower and the ridge is 0.5 metres lower.

Our conclusion is therefore that the differences in the as built dimensions (in some cases these are slightly smaller, slightly larger, slightly lower or slightly higher) from the approved plans are so small as to be insignificant. These changes certainly produce no adverse impact on the neighbouring property at 66 New Penkrige Road over and above the approved plans. It is worth pointing out that at the time the application was being considered and the case officer Mr. Aqbal visited the site, the property was nearly complete and his judgement to grant planning permission was therefore based upon an assessment of the current reality of the built form. There is therefore no justification whatsoever for the Council to take any further action in relation to these minor differences in the overall as built property compared with the approved plans.

John Heminsley OBE BA (Hons) MRTPI

Planning Consultant

9/12/2018

APPENDIX 3(b):
Representations made by Mr Suman

Richard Sunter

From: Jag Suman <jag@midlandpressure.co.uk>
Sent: 14 March 2019 13:36
To: Glenn Watson
Cc: Richard Sunter; Dean Piper; Hyra Sutton; stevesymonds.architect@gmail.com; MRudd@kingschambers.com
Subject: Re: 64 New Penkridge Road



Without Prejudice

Dear Mr Watson,

Richard has advised in his email that due to 'time constraints' he is unable to proceed with the meeting on 20th March - therefore adjourning the meeting.

Further to my conversation with him on 12th March, it was highlighted:

1. He has completed the report for the purpose of the meeting on 20th March.
2. He is out of office for 1 week and returns on 20th March. (20th March being the day of the site visit and Planning control meeting).

When asked whether he was annual leave or not, he did not wish to comment. I did however attempt to contact you via phone on 13th March however spoke to Julia. She confirmed Richard is on annual leave.

Richard proceeded with the survey of the New House in September 2018 - a survey which was requested by democratically elected committee members to be an 'independent survey'.

Richard advised he appointed Neil Bowen Architects from Wakefield to conduct the survey so there is 'no local connection'.

Richard thereafter continuously refused to negotiate and share the instructions of the survey or any correspondence between him and the Architect. As a result, the survey is now missing certain critical measurements to assist in this case.

Richard refused committee members to visit my property during the site visit in July 2018. The visit was specifically requested by committee members. I provided Richard with the opportunity to allow committee members to visit my property on the day of the site visit however he bluntly refused.

Furthermore, Richard provided a report to committee members which does not contain the entire facts of the case, dismissing critical elements of the case.

Presently, Richard has adjourned the planning control meeting in what seems to accommodate his annual leave providing us with very little notice.

Are we in acceptance Richard has no connections in the area of Wakefield or the surrounding areas and there is no 'local connection' ?? (Please see attached).

Please note in April 2019 - it will have been 2 years since you approved the retrospective plans for this New House - a planning application which has been proven to date to be riddled with misleading supporting statements and inaccurate drawings.



Tony McGovern | Managing Director
 Civic Centre, PO Box 28, Beecroft Road, Cannock, Staffordshire WS11 1BG
 tel 01543 462621 | fax 01543 462317 | www.cannockchasedc.gov.uk
 Search for 'Cannock Chase Life' @CannockChaseDC

You have been provided with a number of opportunities to answer to our complaints but continue proceed and dictate this case by acknowledging, accepting and promoting the actions of Richard.

Regards
Jag Suman

Richard Sunter



From: Jag Suman <Jag@midlandpressure.co.uk>
Sent: 17 January 2019 10:53
To: Richard Sunter
Cc: Sheila Cartwright; Dean Piper; Glenn Watson; Jackie Vermeer; Steve Symm; Michael Rudd; Hyra Sutton; Tony McGovern
Subject: Re: 64 New Penkridge Road

Dear Mr Sunter,

With regards to your email below, it is actually your intentions which concern us most.

We believe it is in all of our interests for the arrangement of a planning control meeting however prior to this being achieved, we require an immediate insight into the supporting evidence regarding the approval of this planning permission and an overview of the procedures adhered to - for the authorisation an independent survey of the new house in September 2018.

Unfortunately, two previous planning control meetings have been adjourned due to:

- 1) you - not providing the full facts of the case to committee - therefore a site visit was requested.
- 2) you - not allowing committee members to visit my property - therefore a further site visit has to be arranged.
- 3) you, the owners and their representative of the new house - providing the committee members with drawings of the new house which are inaccurate and now;
- 4) your management of an independent survey of the new house, in particular, the vast amount of time consumed to provide the findings of the survey, the non-negotiable approach applied by you whilst authorising the survey and your inability to provide the original emailed instructions for the survey.

This list is not exhaustive.

Based on your email and failure to acknowledge our concerns, it is understood you are willing to proceed into another planning control meeting - in what can be described as a haphazard manner. A planning control meeting unnecessarily organised by you at the cost of the Local Authority (which is theoretically being paid for by the people of Cannock) and for which you have no hesitation to proceed with.

Regards
 Jag Suman

Sent from my iPhone

On 14 Jan 2019, at 09:39, Richard Sunter <RichardSunter@cannockchasedc.gov.uk> wrote:

Dear Mr Suman

In respect to the above issue I should inform you that it is my intention to take a report to Planning Control Committee on 27th February 2019.

Yours Sincerely

Richard Sunter



Tony McGovern | Managing Director
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Richard Sunter

From: Jag Suman <Jag@midlandpressure.co.uk>
Sent: 20 December 2018 15:49
To: Glenn Watson; Richard Sunter
Cc: Jackie Vermeer; Sheila Cartwright; Raj Suman
Subject: Update..

Dear Mr Watson,

I have had no response from you with regards to my concerns yet I am within my rights under the freedom of information request to view the original emails sent by Richard Sunter to Neil Bowen Architects.

Currently, you and Richard Sunter are failing to provide me with this information which as a result is further delaying this case - and for which I will hold you and Richard Sunter responsible for.

I have been requesting this information since the so called independent survey was authorised and as I have previously advised, we will not be further dictated by the actions and terms of Richard Sunter. We will also reiterate this survey was not independent.

Not only do your actions continue to waste the time and money of the Local Authority but you also continue to provide a very unsatisfactory service.

Please can you forward me all of the original correspondence between the two parties with immediate effect. I would also like you to provide me with the emails between the Architect and the surveyor.

Regards
Jag Suman

Sent from my iPhone

Richard Sunter

From: Jag Suman <Jag@midlandpressure.co.uk>
Sent: 22 November 2018 16:23
To: Glenn Watson
Cc: Dean Piper; Richard Sunter; Steve Symm; Stuart Evans; Michael Rudd; Sheila Cartwright; Jackie Vermeer
Subject: Re: Meeting/ Survey..



Dear Mr Watson,

I am deeply disappointed in the manner Richard continues to disguise the actual facts of this case.

Referring to attachment 1. in your email, I would like to further elaborate on point a and point b.

Point A:

- the further site visit is required as a result of Richard Sunter refusing and declining us the opportunity of a site visit at No.66 on 11th July 2018.

- To avoid any doubt, my wife and I asked Richard Sunter directly outside of No.66 as to why committee members are not visiting No.66. In response to this, Richard Sunter advised the members don't need to visit, giving no explanation and simply walked away.

- this decision made by Richard Sunter to decline the site visit did not comply with the resolution of the committee made on 20th June 2018 and we need to understand why Richard Sunter was allowed to dismiss this request from us and committee members.

The decision to overrule a decision made by committee members is contrary to the purpose of having a planing committee.

Can you give justification as to why Richard Sunter made the decision to refuse a site visit on 11th July 2018 - even though a site visit was stipulated by Committee members?

Point B:

An independent person has not been appointed by the council to undertake new measurements.

A company from Wakefield has been appointed who have then appointed another company to conduct the survey.

Richard Sunter did not allow for the instructions of the survey to be negotiated and the original instructions and emails between Richard Sunter and the architect were also not shared.

To help support the survey findings and the conduct of Richard Sunter, a certificate or some form or a compliance document should be provided by the surveyor to clarify the accuracy, responsibility and its worthiness should the survey be presented in a court of law.

Can this document be provided as a matter of urgency along with the original instructions (the latter which I have now requested on numerous occasions)?

The surveyor, I assume is of chartered status and provides an expert witness service should we need to request his/ her presence at the committee meeting or even in a court of law.



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APPENDIX: 4.1

Photograph of the Application Site Showing the Site As it Existed Before Development Commenced



APPENDIX: 4.2

Photograph of the Application Site Showing the Site As it Existed Before Development Commenced



APPENDIX 4.3

Photograph of the Application Site Showing the Relationship Between the New Build and the Dwelling at No66 New Penkridge Road



APPENDIX 4.4:

Photograph of the Application Site Showing the Relationship Between the New Build and the Dwelling at No66 New Penkridge Road



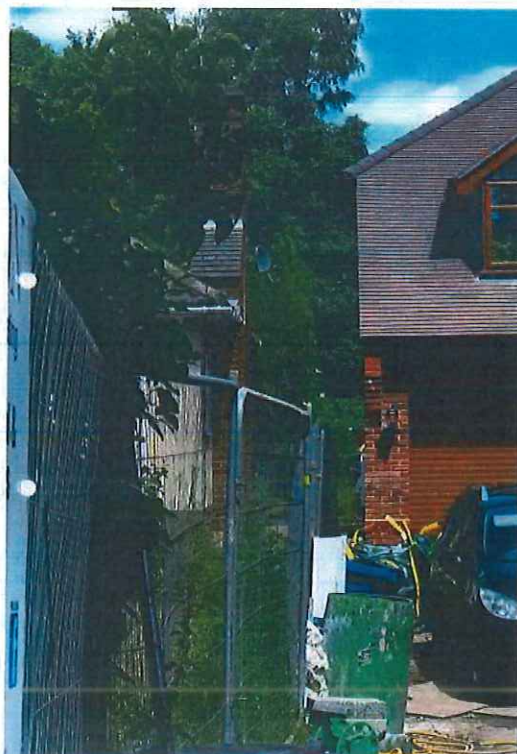
APPENDIX 4.5:

Photograph of the Application Site Showing the Relationship Between the New Build and the Dwelling at No66 New Penkrige Road (NB the window in the side elevation of No 66 New Penkrige Road)



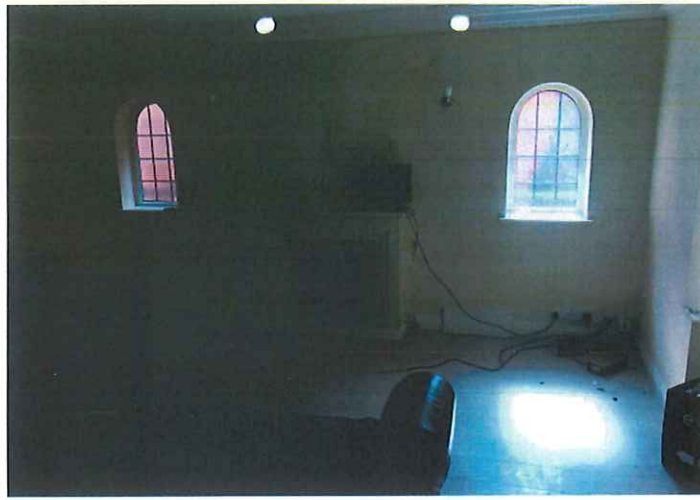
APPENDIX 4.6:

Photograph of the Application Site Showing the Relationship Between the New Build and the Dwelling at No66 New Penkrige Road



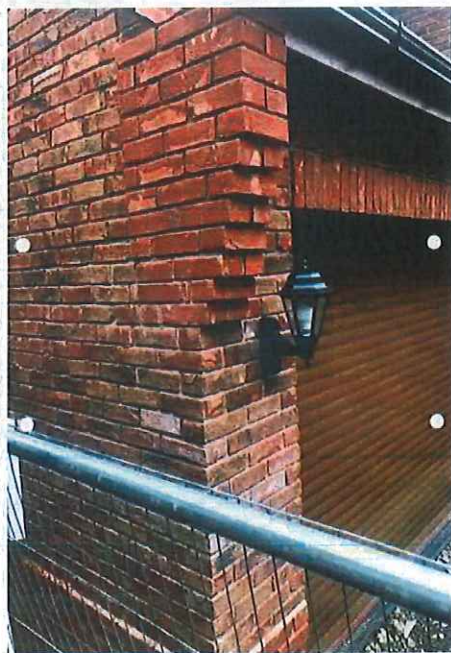
APPENDIX 4.7:

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 4.9:

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



APPENDIX 4.10

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



APPENDIX 4.11

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



Appendix 4.12

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



APPENDIX 4.13

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



APPENDIX 4.14

Photograph Showing the Relationship Between the Sider Elevations of the Dwelling As-Built and No66 New Penkrige Road



APPENDIX: 5

Information Submitted to Members Before the Meeting of
the Planning Committee on 20 June 2018

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





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.....

**LOSS OF PRIVACY &
OVERLOOKING**

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.

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**





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.

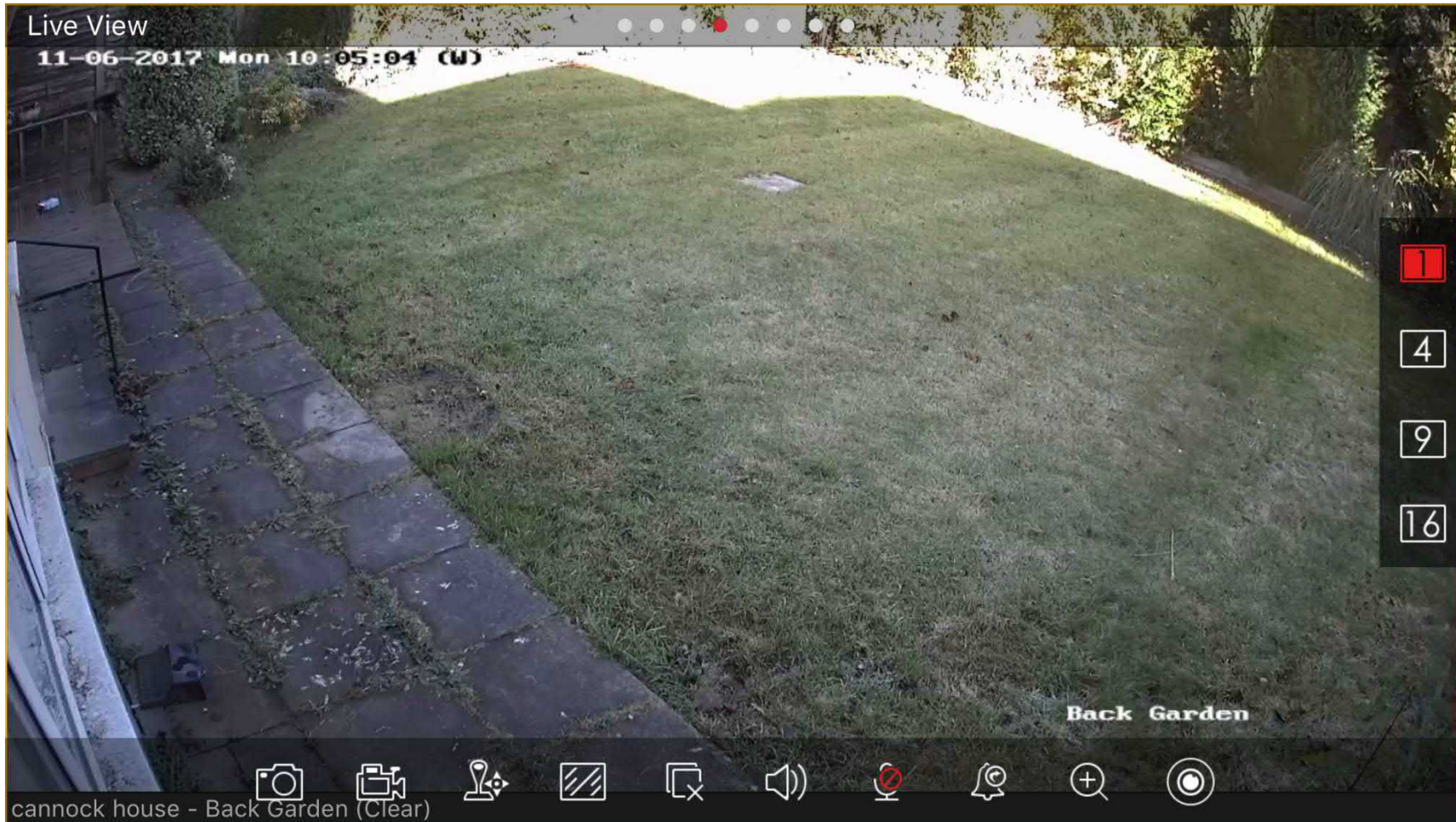


Image showing overshadowing at rear elevation which virtually covers the entire garden and rear façade.

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.52.

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



FALSE MANIPULATION OF DRAWINGS

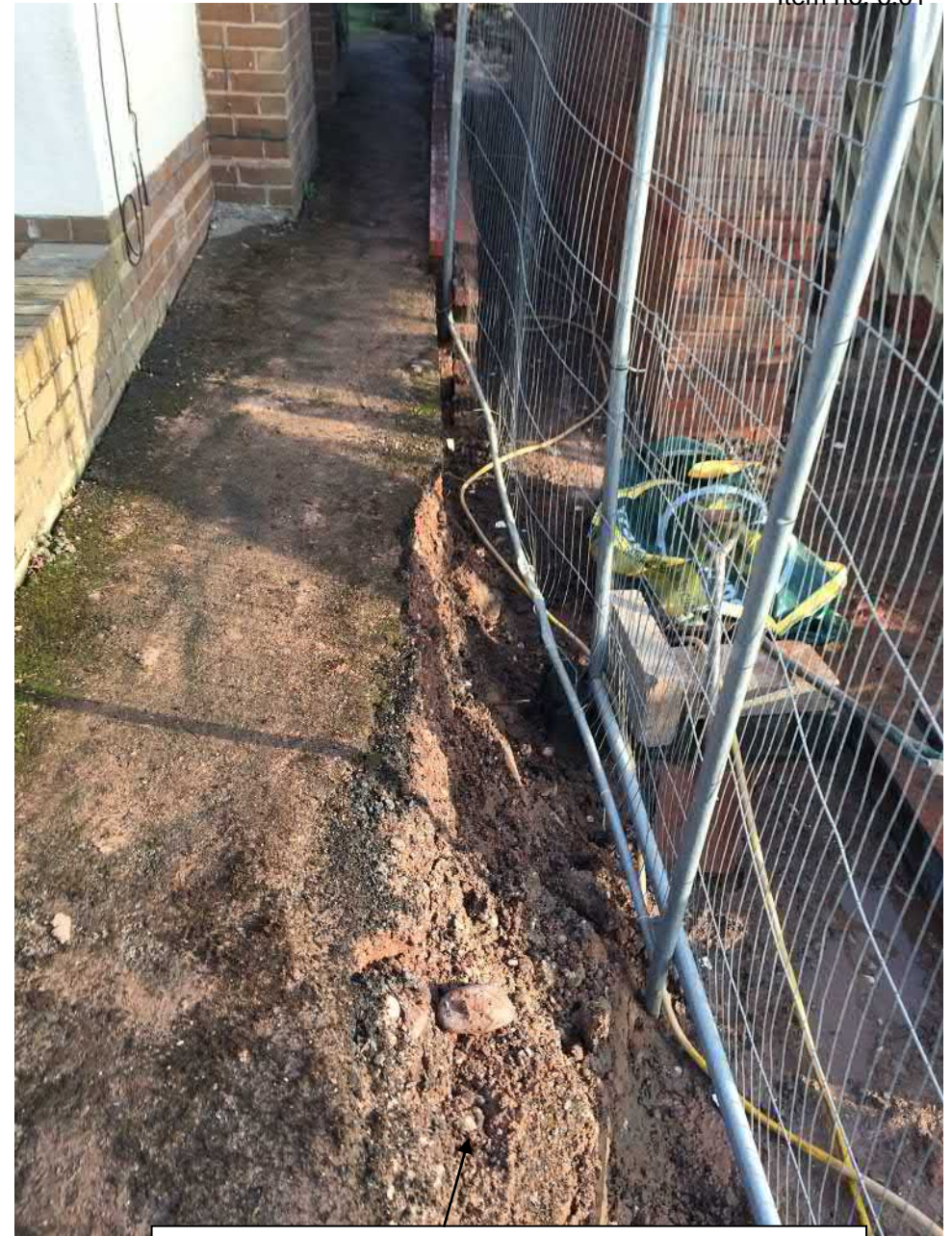
Adjacent dwellings shown to be 1.3m taller.

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.



Unnecessary 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.

SITE COMPARISONS

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.

SITE COMPARISONS

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 Penkrige 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.

SITE COMPARISONS

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.

193.25.117.54

No
 c) Features of geological conservation importance:
 Yes, on the development site
 Yes, on land adjacent to or near the proposed development
 No

15. Trees and Hedges
 Are there trees or hedges on the proposed development site? Yes No
 And/or: Are there trees or hedges on land adjacent to the proposed development site that could influence the development or might be important as part of the local landscape character? Yes No
 If Yes to either or both of the above, you may need to provide a full Tree Survey, at the discretion of your local planning authority. If a Tree Survey is required, this and the accompanying plan should be submitted alongside your application. Your local planning authority should make clear on its website what the survey should contain, in accordance with the current 'BS5837: Trees in relation to design, demolition and construction - Recommendations'.

16. Trade Effluent
 Does the proposal involve the need to dispose of trade effluents or waste? Yes No
 If Yes, please describe the nature, volume and means of disposal of trade effluents or waste

18. All Types of Development: Non-residential Floorspace

10/18/16: 2015 04-02 FS 18/Workbook: 61493

**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.

APPENDIX: 6

Information Submitted by the Developer in Response to the Complainants Submission

**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 submitted.

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

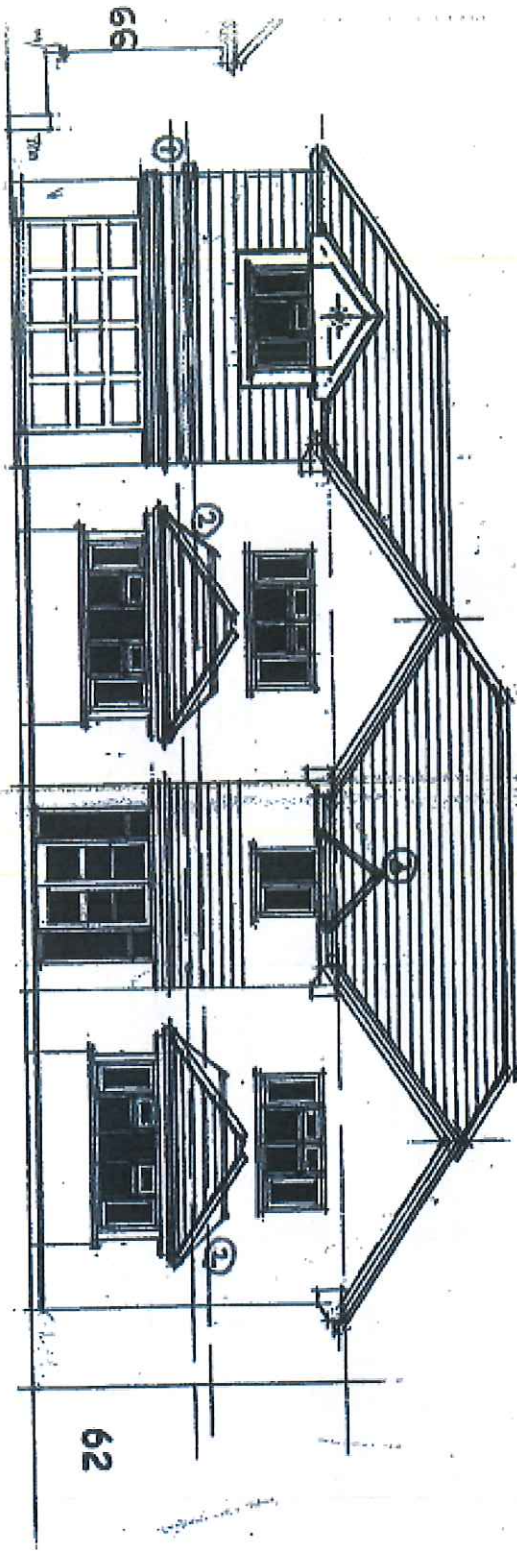
- Page 1 – we have already confirmed the date the boundary hedge was removed, well before planning application CH/17/073 was submitted. There is no condition imposed on the grant of the permission requiring a new hedge to be planted.
- Page 2 – there is no loss of privacy over and above the normal views 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 Penkrige 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 Hamish
OBE BA(Hon) MRTP1
2/7/18

FRONT ELEVATION



AS BUILT CHANGES LILAC

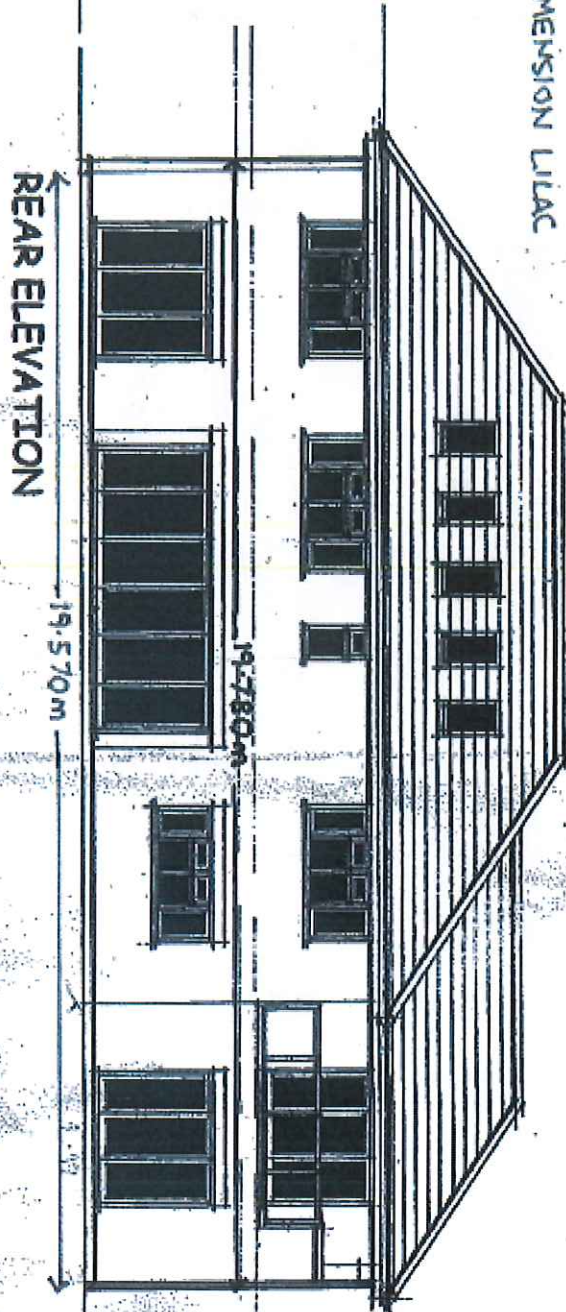
- ① ADDITIONAL BRICK COURSES ABOVE GARAGE DOOR
- ② ALTERED SHAPE OF ROOFS TO BAY WINDOWS
- ③ GABLE ROOF ABOVE LANDING WINDOW

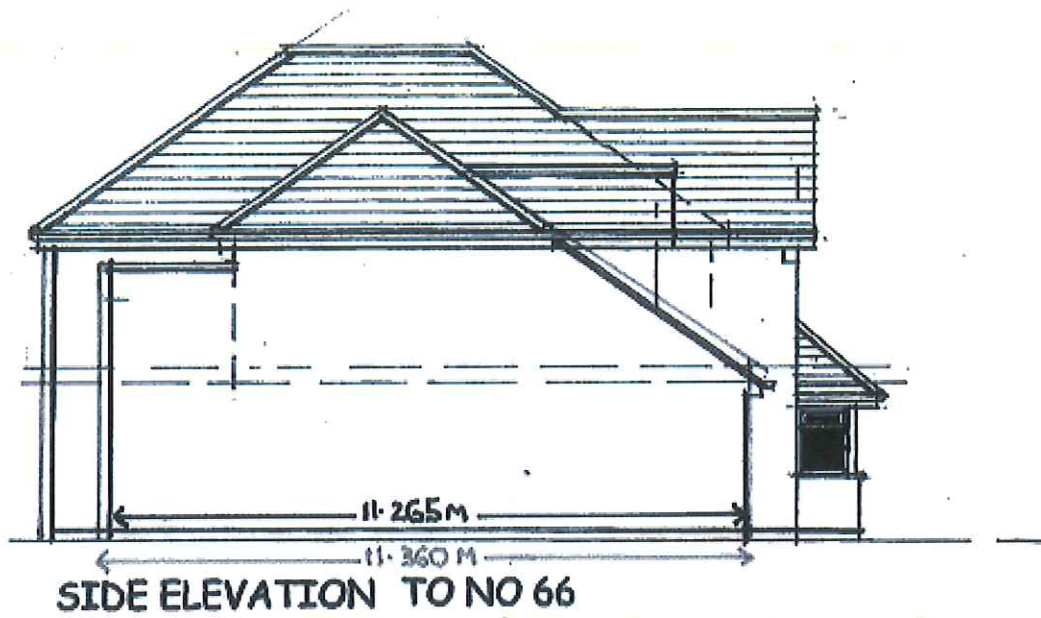
66

62

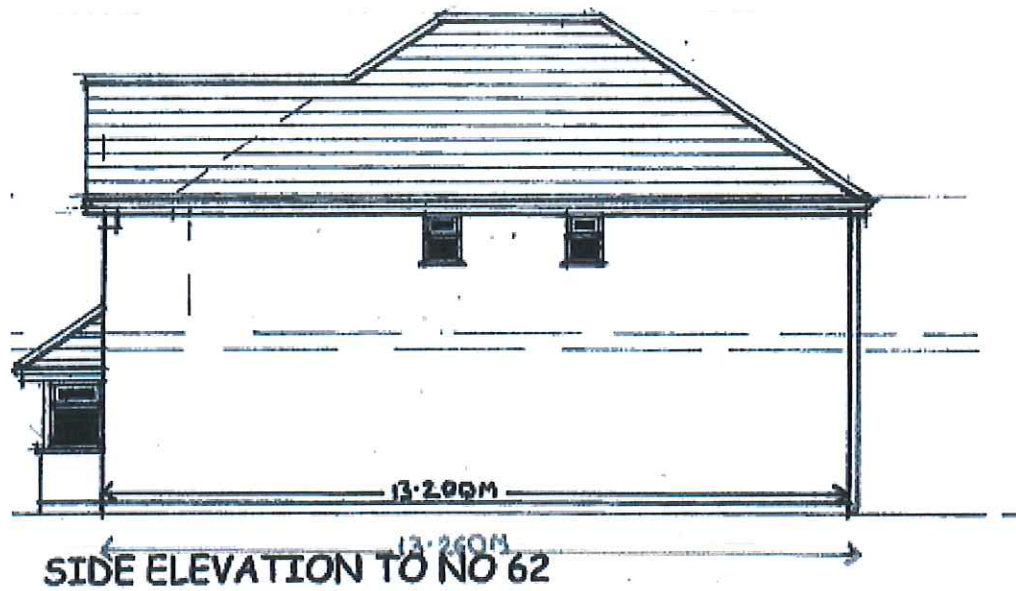
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AS GUILT DIMENSION LILAC

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





PLAN DIMENSIONS BLACK
AS BUILT DIMENSIONS LILAC



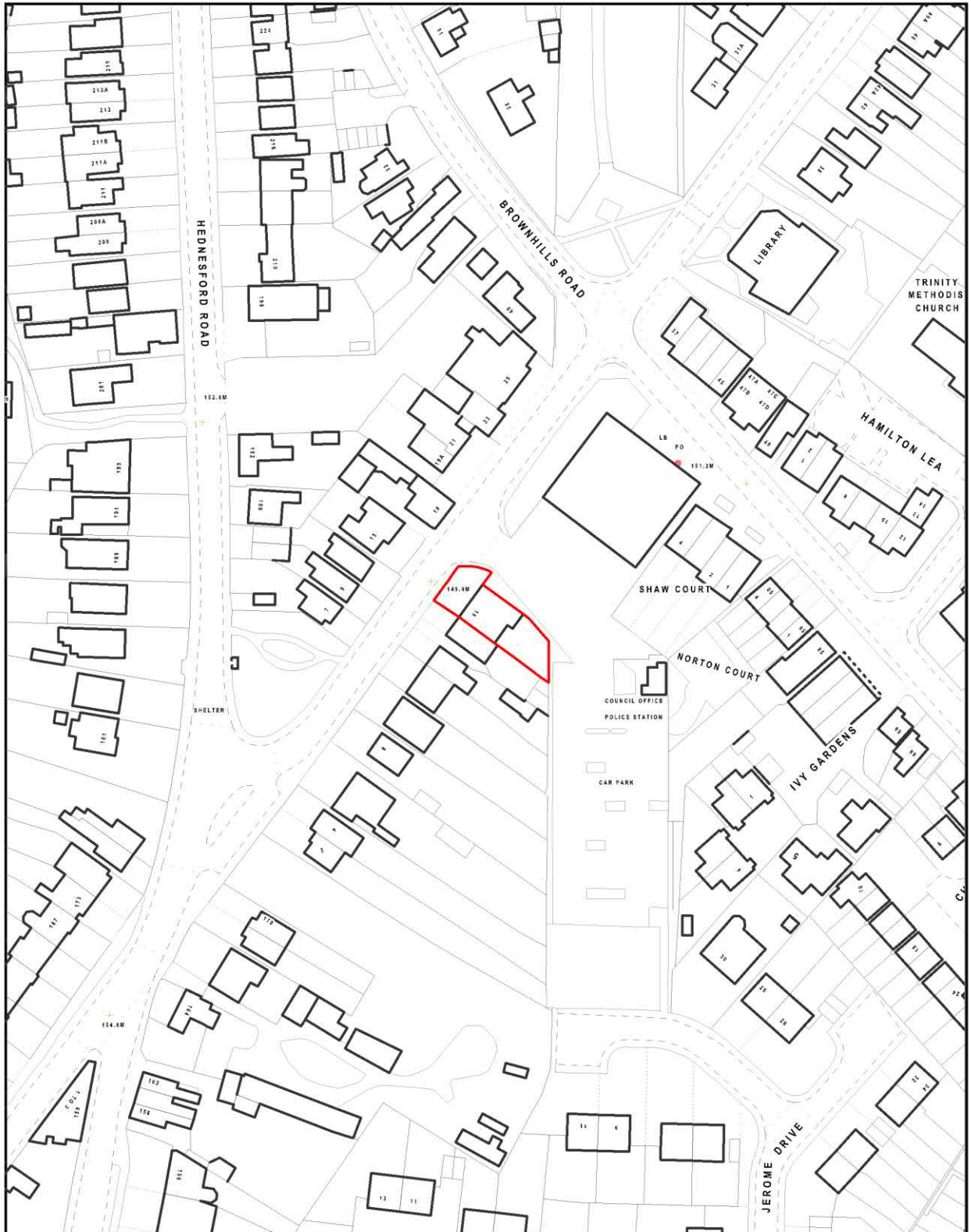


Application No: CH/19/076

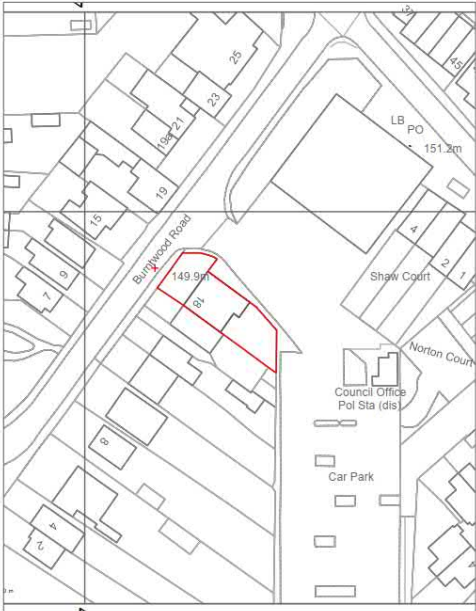
Location: Dental Practice, 18, Burntwood Road, Norton Canes, Cannock, WS11 9RE

Proposal: Retention of roller shutter to secure shopfront

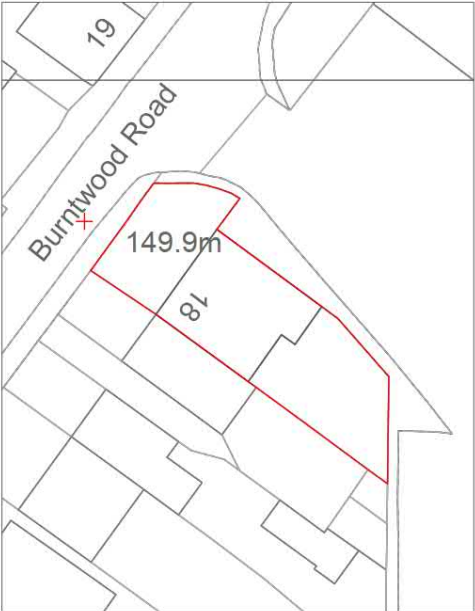
Item no. 6.74



Location and Block Plan



Location Plan 1:1250



Block Plan 1:500

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ISSUE	DATE	DESCRIPTION
REVISIONS		
 QA Architecture Architects, Project Managers & Interior Designers Unit 12A, The Wing Yip Centre Tel: 0121 328 9898 278 Thimble Mill Lane Fax: 0121 328 9899 Birmingham B7 5HD e-mail: qa-architecture.com		
CLIENT Rotahurst (MS) Ltd Pension and Assurance Scheme		
PROJECT Roller Shutter to Shopfront		
DRAWING TITLE Location Plan and Block Plan		
DRAWN JEB	SCALE @ A4 1:1250/500	DATE Feb 2019
JOB No. 10383	DRAWING No. 03	REV.

Photo of the Roller Shutter

Roller Shutter to Dental Practice 18 Burntwood Road Norton Canes WS11 9RE



Contact Officer:	Claire Faulkner
Telephone No:	01543 464 337

PLANNING CONTROL COMMITTEE

15 MAY 2019

Application No:	CH/19/076
Received:	21-Feb-2019
Location:	Dental Practice, 18 Burntwood Road, Norton Canes, Cannock, WS11 9RE
Parish:	Norton Canes
Description:	Retention of roller shutter to secure shopfront
Application Type:	Full Planning Application

This application has been referred to Planning Control Committee on the grounds that Norton Canes Parish Council have objected and the officer recommendation is for approval.

RECOMMENDATION:

Approve Subject to Conditions

Reason(s) for Recommendation:

In accordance with paragraph 38 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 the National Planning Policy Framework.

Conditions (and Reasons for Conditions):

1. Notwithstanding the approved plans, the security roller shutter shall be finished in a matt white powder coated colour within 3 months of the date of this permission. The roller shutter and associated boxing shall thereafter be retained and maintained for so long as the development remains in existence unless otherwise approved in writing by the Local Planning Authority.

Reason

In the interests of the visual amenity and to ensure compliance with Local Plan Policy CP3.

Consultations and Publicity

External Consultations

Parish Clerk, Norton Canes Parish Council

The Parish Council are concerned that no previous planning application was applied for with regard to the installation of the roller shutter blind. We do note that the Enforcement Officer did attend the site following concern raised. The outcome of which is that the business submitted a retrospective application.

The concern is that the roller shutter at the front of the building is made of industrial material and affects the street scene which is mainly residential houses.

Internal Consultations

None undertaken.

Response to Publicity

A site notice was displayed and adjacent occupiers notified with one letter of objection received. The objection is summarised below:-

- The entrance door is next to the front window of No.16 and could encourage people to look into the living room of No.16.;
- The shutter is of an ugly industrial type;
- The applicant has erected a fence panel by the front door and this does improve the privacy but does little to improve the look of the set up.

Relevant Planning History

CH/02/0204 Extension to dental surgery. Allowed on appeal.

86/136 Permission dated for a change of use to dental surgery from residential.

1 Site and Surroundings

- 1.1 The application site comprises a dentist surgery fronting Burntwood Road, Norton Canes.
- 1.2 The application site forms one half of a pair of semi-detached properties with the adjoining property being residential. The application site was granted a change of use in 1986.
- 1.3 The application site is located on the edge of the village centre of Norton Canes, with residential properties to the south and west, and predominantly commercial properties to the north and east. As such, it is located on the interface of a predominantly commercial area with a predominantly residential area.

- 1.4 The application site is the end building in a row of residential properties and is sited on the corner of Burntwood Road and the entrance to the main car park that serves Norton Canes Co-op. Some of the commercial properties in the wider area benefit from roller shutter doors; including the chip shop opposite (which has a bright blue finish). Similarly, there are several shops on Brownhills Road which have roller shutters to the front and have relationships to residential properties.
- 1.5 The application site is located within a Mineral Safeguarding Area and is also within the Coal Authority Low Risk Boundary and a historic landfill boundary.

2 Proposal

- 2.1 The application seeks retrospective consent for the erection of the roller shutter to the front entrance on Burntwood Road.
- 2.2 In support of the application, the applicant has stated that they have invested in excess of £300,000 capital into developing the dental practice, with investment planned to develop the facilities further in the future. Due to this, roller shutters are required to protect the investment.
- 2.3 Part of this investment includes high-tech equipment that will be installed and used in the running of the premises, comprising of; x-ray machines (£20,000), autoclaves (£2,000), suction pumps and compressor units (£15,000), dental chairs (£20,000), plus the I.T. requirements associated with them.
- 2.4 The applicant has gone on to state that site security is of primary concern and the Care Quality Commission also have specific requirements as to how the applicant ensures payment information is kept secure. This can be addressed with roller shutters.
- 2.5 During the course of the refurbishment works, the applicant has stated that they have had a number of thefts which took place and which added additional costs to the project. Internal roller shutters would not be appropriate at this location. This is because other members of the community have advised of security issues that they have faced with the nearby Co-op, hairdressers, pharmacy, local convenience store and bakery all experiencing issues with broken or smashed windows which internal shutters would not protect. Also, external shutters act as a visible deterrent.

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) and the Minerals Local Plan for Staffordshire (2015-2030).
- 3.3 Relevant Policies within the Local Plan include:-
- CP1 – Strategy

CP3 – Chase Shaping-Design

3.4 The relevant policies within the Minerals Plan are:

3.2 – Safeguarding

3.5 National Planning Policy Framework

3.6 The NPPF (2019) 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 states that there should be ‘presumption in favour of sustainable development’, and sets out what this means for decision taking.

3.7 The NPPF (2019) confirms the plan-led approach to the planning system and that decisions must be made in accordance with the Development Plan unless material considerations indicate otherwise.

3.8 Relevant paragraphs within the NPPF include paragraphs:-

8: Three dimensions of Sustainable Development

11-14: The Presumption in Favour of Sustainable Development

47-50 Determining Applications

124, 127, 128, 130 Achieving Well-Designed Places

212, 213 Implementation

3.9 Other relevant documents include

Design Supplementary Planning Document, April 2016

Neighbourhood Area Plan (Draft)

4 Determining Issues

4.1 The determining issues for the application are:-

- Principle of development
- Design
- Impact upon neighbouring dwellings

4.2 Principle of Development

4.2.1 The proposal seeks retrospective planning permission for the addition of a perforated roller shutter door and associated box housing to the front of the building which is on the edge of the village centre of Norton Canes. This is designated as a Local Centre in the Cannock Chase Local Plan wherein it is the intention of Policy CP11 to safeguard local shops and services.

4.2.2 The application site relates to the alteration of the external appearance of an existing commercial premise within a Local Centre and therefore is acceptable in principle.

4.3 Design and Impact on the Character and Form of the Area

4.3.1 In respect to issues in relation to design 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.

4.3.2 Relevant policies within the NPPF in respect to design and achieving well-designed places include paragraphs 124, 127, 128 and 130. Paragraph 124 makes it clear that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve.

4.3.3 Paragraph 127 of the NPPF, in so much as it relates to impacts on the character of an area goes on to state: -

Planning policies and decisions should ensure that developments:

- a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
- b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
- c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);
- d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit.

4.3.4 Finally, Paragraph 130 states planning permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions, taking into account any local design standards or style guides in plans or supplementary planning documents. Conversely, where the design of a development accords with clear expectations in plan policies, design should not be used by the decision taker as a valid reason to object to development.

- 4.3.5 The roller shutter is typical of that often found on a wide variety of commercial buildings throughout the Cannock District. Indeed, there is an example of such a shutter on the hot food takeaway across the highway from the application site with further examples being found on Brownhills Road, where shops can be found adjacent to residential properties.
- 4.3.6 Whilst the installation of roller shutters on commercial buildings is not an unusual phenomenon, the installation of such features on premises within wholly or predominantly residential areas would not normally be acceptable. However, in this case the merits of the case are not so clear cut. In the first instance the roller shutters do appear somewhat incongruous in their immediate residential context, although in part, this is due to their galvanised finish which is more industrial in nature.
- 4.3.7 On the other hand, the slightly wider context of the location within the Local Centre, it can be clearly seen that there are larger roller shutters in the streetscene and on Brownhills Road there are roller shutters on commercial premises with similar relationships to residential properties.
- 4.3.8 In mitigation of the impacts, it is noted that the applicant has confirmed that the roller shutter would be finished in a white colour to reflect the render finish of the main building. This could be controlled through an appropriately worded condition. In addition, the roller shutter itself is of a perforated design and the roller mechanism is installed in an external box and in the context of the whole frontage is relatively small. These factors would serve to reduce its overall impact.
- 4.3.9 Therefore after taking the design of the shutter and the wider commercial context into account it is considered, on balance, that subject to a condition for powder coating/painting, the proposal the proposal would be in accordance with Local Plan Policy CP3 and the NPPF.

4.4 Impact on the Amenity of the Occupiers of the Neighbouring Property

- 4.4.1 Policy CP3 of the Local Plan states that the following key requirements of high quality design will need to be addressed in development proposals and goes on to include [amongst other things] the protection of the "amenity enjoyed by existing properties".
- 4.4.2 Paragraph 127(f) of the NPPF states that planning policies and decisions should ensure that developments [amongst other things] create places with a high standard of amenity for existing and future users.
- 4.4.3 Whilst the comments of the neighbour are noted in respect to the lack of privacy as a consequence of the entrance, your officers confirm that this entrance already exists. Therefore the erection of the roller shutter door would not, in itself, have impact on the level of privacy over and above that what currently exists. Furthermore, by virtue of its size, scale and location it is considered that it would not result in any loss of daylight or outlook.

4.4.4 As such, the proposal would not have a significant impact on the amenity of the occupiers of the neighbouring property and therefore is in accordance with Policy CP3 of the Local Plan and paragraph 127(f) of the NPPF.

4.5 Objections Raised not Already Covered Above

4.5.1 The neighbour stated that the applicant has erected a fence panel by the front door and whilst this does improve the privacy they are of the opinion that it does little to improve the look of the set up. Your Officers confirm that the erection of a fence in this location would be permitted development, would not require the benefit of planning permission from the local planning authority and does not form part of this application. As such no weight should be afforded to this objection.

5 Human Rights Act 1998 and Equalities Act 2010

Human Rights Act 1998

5.1 The proposals set out in this report are considered to be compatible with the Human Rights Act 1998. The proposals could potentially interfere with an individual's rights to the peaceful enjoyment of his or her property as specified in Article 8 and Article 1 of the First Protocol, however, the issues arising have been considered in detail in the report and it is considered that, on balance, the proposals comply with Local Plan Policy and are proportionate.

Equalities Act 2010

5.2 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:

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

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

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 neutral contribution towards the aim of the Equalities Act.

6 Conclusion

- 6.1 In respect to all matters of acknowledged interest and policy tests, it is considered that the proposal, on balance, and subject to the attached conditions, would not result in significant harm to acknowledged interests and is therefore considered to be in accordance with the Development Plan.
- 6.2 It is therefore recommended that the application be approved subject to the attached conditions.

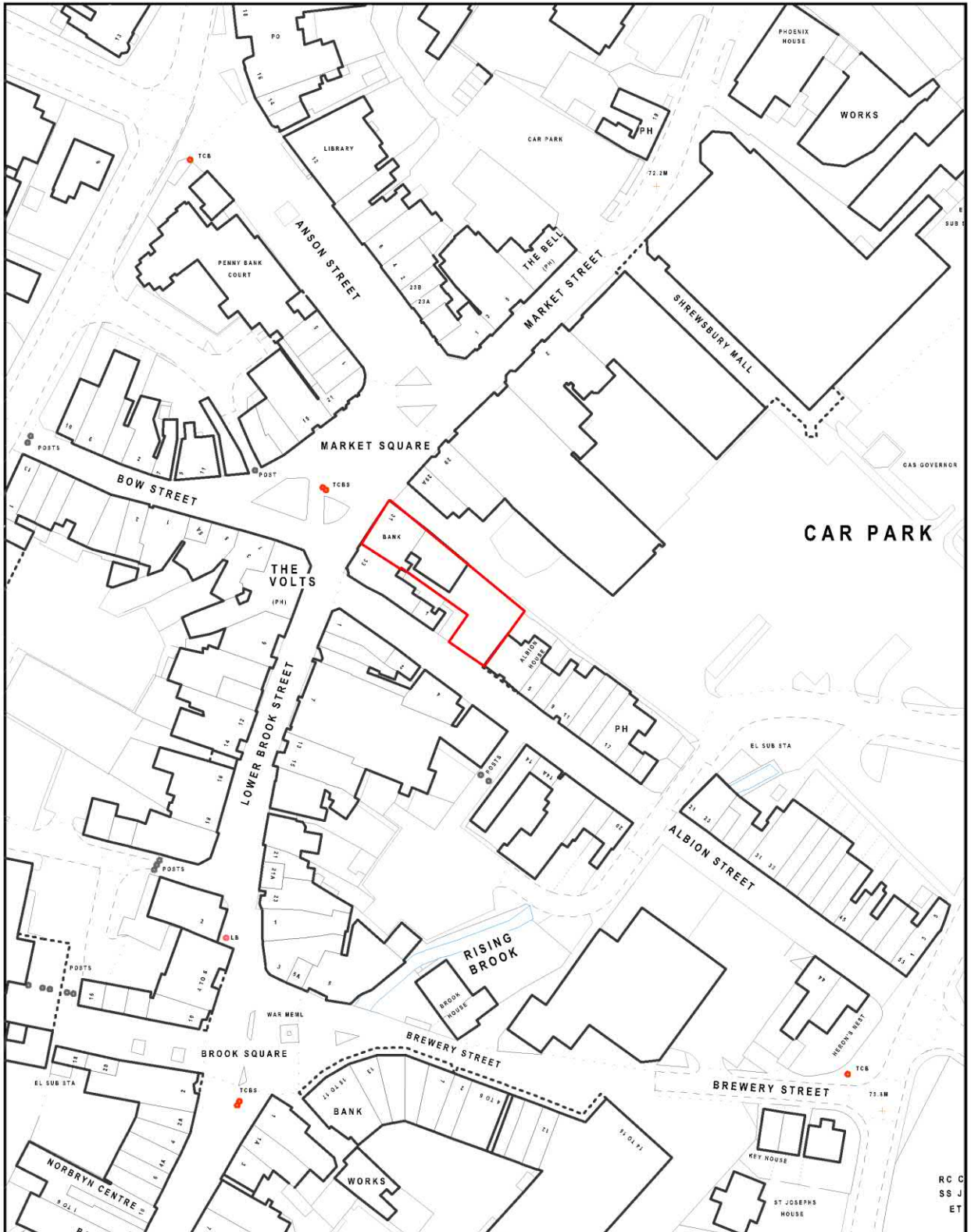


Application No: CH/18/403

Location: 31, Market Square, Rugeley, WS15 2FA

Proposal: Change of use of first and second floors from A2 (Bank) to Large-Scale HMO (Sui Generis) .

Item no. 6.85



Location Plan



31, Market Square, Rugeley, Staffordshire, WS15 2FA



Site Plan shows area bounded by: 404402.29, 318028.25 404543.71, 318169.67 (at a scale of 1:1250), OSGridRef: SK 4471809. The representation of a road, track or path is no evidence of a right of way. The representation of features as lines is no evidence of a property boundary.

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Contact Officer:	Audrey Lewis
Telephone No:	01543 464 528

PLANNING CONTROL COMMITTEE

15 MAY 2019

Application No:	CH/18/403
Received:	05-Nov-2018
Location:	31 Market Square, Rugeley, WS15 2FA
Parish:	Rugeley
Description:	Change of use of first and second floors from A2 (Bank) to Large-Scale HMO (Sui Generis)
Application Type:	Full Planning Application

RECOMMENDATION:

Approve Subject to Conditions

Reason(s) for Recommendation:

Reason for Grant of Permission:

In accordance with paragraph 38 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

Conditions (and Reasons for Conditions):

1. Within 3 months of the date of this permission, a scheme for the provision of bin storage (a minimum of 5 No. 1100L Euro bins) shall be submitted to, and approved by, the Local Planning Authority. The scheme will be implemented in accordance with the approved details within 1 month of the approval of such details and retained as such for the lifetime of the development.

Reason

To provide a necessary facility, in accordance with Local Plan Policy CP3.

2. Those rooms identified as stores on the first floor shall not be used as habitable rooms at any time.

Reason

In the interests of ensuring a high standard of amenity is maintained in accordance with Policy CP3 of the Cannock Chase Local Plan and Paragraph 127(f) of the NPPF.

Notes to the Developer:

NOTE:

These comments are provided in response to the works currently described in the above applications and the applicant should be aware that any other alterations to the Listed Building, internal or external, which could affect its character as a building of special architectural or historic interest, are prohibited unless authorised by a specific Listed Building Consent. This includes any works of sound proofing which should be deemed necessary to ensure the conversion complies with the Building Regulations.

The applicant should be aware that implementation of works affecting the character of the Listed Building without the necessary Listed Building Consent is an Offence.

The conversion works must be undertaken in accordance with BS8233:2014. Guidance on sound insulation and noise reduction for buildings which is applicable to refurbished buildings undergoing a change of use. Sound insulation works must at least meet the minimum standards laid down in Building Regulations for conversion works.

Consultations and Publicity

External Consultations

Rugeley Town Council

Concerns expressed that the number of bedrooms appears excessive given the number of bathrooms and kitchen facilities. In addition, the walls dividing the rooms would be only stud partitioning and therefore not affording privacy to inhabitants.

Waste & Recycling

Bin collection and storage points should be constructed to a sufficient size and quality for the number of bins required and consideration given to their proper environmental screening.

The apartment development shown requires a communal waste storage point of a suitable size and quality to house a minimum of 5no. 1100ltr. Euro bins.

There must be a minimum clear space of 150mm between individual containers and between containers and surrounding walls (BS5906:2005).

Bins should not have to be moved to access other containers; should not be over filled; or cause a hazard to collection crews.

Bin stores should be located at ground/ vehicle access level with adequate access. The doorway must of a sufficient size to allow for the safe manoeuvring and ease of access and egress of refuse crews while moving bins, including level access from the collection / storage area to the kerbside.

Sufficient consideration must be given to lighting, ventilation, fire safety and vermin control.

The security of the bin store is the responsibility of the landlord; where locks are fitted, bin stores should be opened prior to the scheduled collection or keys / access codes made available to the Council.

Communal bin stores should be positioned so as to allow unobstructed access (free from parked cars etc.) and have a safe working area of 3.5m width and 4m length, with no change in level to the loading point, including the provision of dropped kerbs edgings as required

County Highways Officer

The proposal is for the change of use from a bank to a 10 bedroom house of multiple occupation. The property is located in Rugeley town centre on Market Square. There are 7 car parking spaces attached to the property which is in line with parking standards for HMO (1 space per 2 bedrooms). The Highway Authority has no objection to this proposal.

Fire Officer

The works have been undertaken in accordance with the fire risk assessment.

Crime Prevention Officer

No comment to make with regards to the application.

Landor Society

No comments received.

Internal Consultations

Conservation Planning Officer (comments dated 13.12.18)

The site comprises a grade II listed late 18thC building within Rugeley Town Centre Conservation Area. It stands facing Market Square and though apparently built as a dwelling it has most recently been used as bank premises but has an imposing facade and a modern rear extension.

The applications are retrospective as the work has already been implemented. Any Listed Building Consent cannot be retrospective but can only date from the date of any consent. Approval is sought for internal alterations to create 10 bed-sits together with 2 shared bathrooms a wc/shower and 2 kitchens on the first rooms with stud walling. Access is from the rear door and stairs. The ground floor remains in commercial use.

Legislation and Policy

The Planning (Listed Buildings and Conservation Areas) Act 1990 sets out the Local planning authority's duties:

S.66 In considering whether to grant planning permission for development which affects a Listed Building or its setting the local planning authority shall have special regard to the 'desirability 'of preserving the' building or its' setting or any features of special architectural or historic interest which it possesses.

S.72 the local planning authority has a duty to pay special attention to the desirability of preserving or enhancing the character or appearance of a Conservation Area. While the duty may only require that no harm should be caused, it nonetheless creates a special presumption and considerable weight and attention should be given to any harm found to arise regarding the character or appearance of the Conservation Area.'

The NPPF 2018 sets out the process for considering the conservation and enhancement of historic environment in paras 184-202, and the potential impacts of development proposals. Of particular relevance here:

Para 190: the Local Authority should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset). They should take this into account when considering the impact of a proposal on a heritage asset to avoid or minimise any conflict between the heritage assets conservation and any aspect of the proposal.

Para 192: in determining applications. Local planning authorities should take account of:

- The desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation.
- The positive contribution that conservation of heritage assets can make to sustainable communities including their economic viability.
- The desirability of new development making a positive contribution to local character and distinctiveness.

Paras 193 and 194: When considering the impact of a proposed development on the significance of a designated heritage asset – great weight should be given to the asset's conservation. Any harm to or loss of the significance of a designated asset (including from development within its setting) should require clear and convincing justification. The NPPF then sets out the process for consideration of different levels of harm to different heritage assets.

Local Plan Policy CP15 seeks the safeguarding of historic buildings, areas and their settings from developments harmful to their significance in order to sustain character, local distinctiveness and sense of place. Proposals including new developments that are sensitive to and inspired by their context and add value to the existing historic environment, landscape and townscape character will generally be supported, with planning standards applied in a flexible manner to maintain historic continuity.

The Rugeley Town Centre Conservation Area Appraisal 2012 sets out the special interest of the Conservation Area and makes recommendations for its enhancement. This is supplemented by the Conservation Area Management Plan 2012, which encourages maximum occupancy of properties including flats above shops to maximise the vitality and viability of the town centre. The majority of the Conservation Area itself,

comprising the ground floor units of many of the town's historic properties, is occupied by a variety of mixed small scale uses from shops and banks to pubs and takeaways. At first floor level are a further variety of uses supporting the town centre, including flats.

Conclusion

In principle, these alterations comprising the limited insertion of additional walls to subdivide rooms may not adversely affect the Listed Building providing no features of special architectural or historic Interest have been damaged or removed. In principle it brings back into use vacant floorspace above commercial premises which helps maximise the vitality and viability of the town centre.

I have read the Fire Risk Assessment dated 10th September 2018 provided by the applicant which contains an Action Plan of further works necessary to protect occupants from fire and I have the following comments:

- 4.2 – the sealing of the minor breaks in fire separation identified where services pass through walls/floors with fire rated sealing products is unlikely to adversely affect the character of the Listed Building.
- 4.2 – the installation of fire resistant ceilings to bedrooms 7/8 and the first floor kitchen, providing that it either replaces the existing suspended ceilings or is in addition to them is unlikely to adversely affect the character of the Listed Building.
- 4.3 – works to fire doors, providing that they are all modern doors, is unlikely to affect the character of the Listed Building.

On this basis then, no objections to the applications from a conservation viewpoint.

NOTE:

These comments are provided in response to the works currently described in the above applications and the applicant should be aware that any other alterations to the Listed Building, internal or external, which could affect its character as a building of special architectural or historic interest, are prohibited unless authorised by a specific Listed Building Consent. This includes any works of sound proofing which should be deemed necessary to ensure the conversion complies with the Building Regulations.

The applicant should be aware that implementation of works affecting the character of the Listed Building without the necessary Listed Building Consent is an offence.

Environmental Health

No adverse comments in principle from Environmental Protection. The conversion works must be undertaken in accordance with BS8233:2014. Guidance on sound insulation and noise reduction for buildings which is applicable to refurbished buildings undergoing a change of use. Sound insulation works must at least meet the minimum standards laid down in Building Regulations for conversion works.

Private Sector Housing/Licensing Officer (dated 15 March 2019)

We can confirm that we are satisfied that works have now been done to meet the standard required for licensing. A draft HMO licence has been issued and the final licence is due to be issued on 25 March after a 2 week consultation period.

Private Sector Housing/Licensing Officer (dated 11 April 2019)

Further to our conversation this morning and reflection on our earlier comments, please find below our revised comments.

On the condition that the two store rooms noted on the plan dated 10th December 2019 are free from hazards, we accept they can be used as sleeping accommodation. We will inspect the property again next week and let you know our findings.

We will be prohibiting the two rooms currently labelled as room 5 and 6 under the Housing Act 2004.

Housing Strategy/ Housing Options Officer

The building is already open as a HMO.

We are already aware that this property is poorly managed. There was a recent report of an alleged illegal eviction and management did not appear to understand their legal obligations.

Traditionally this type of dwelling usually attracts single people, who may be on low income or income related benefits, in practice 10 units in one building could potentially cause issues particularly given the property is situated within the town centre itself. The level of day to day management of the property should be clarified as a matter of urgency, will they be providing a site manager?

Policy Officer

The scheme proposes a House in Multiple Occupation (HMO) on the upper floors of a former bank. The site is located within Rugeley Town Centre boundary and Rugeley Primary Retail Area on the Local Plan Policies Map.

The Cannock Chase Local Plan (Part 1) 2014 does not include any specific policy provisions for HMO developments. However, Local Plan (Part 1) Policy CP3 and the Design SPD provide guidance on overall expectations for standards of good quality and amenity for all developments which should be considered. There are no set standards for bedroom sizes within local policy/guidance. Guidance could be sought from the Council's Environmental Health/Private Sector Housing Team with regards to the detailed proposals in this regard (as the licensing authority for HMOs).

Policy CP11 sets out the strategy for the town centres including that non-retail uses will only be permitted where they do not detract from the primary retail function of the town centre.

Policy CP15 outlines the protection of the historic environment including the requirement to be sensitive to the setting and using development around existing historic urban areas as an opportunity.

Policy RTC2 in the Rugeley Town Centre Area Action Plan contains a presumption of retaining A1 uses at ground floor level within the Primary Retail Area and states that other uses will be supported at first floor level or above.

The revised National Planning Policy Framework (24.07.2018) sets out the national planning policy context including Chapter 7 which aims to ensure the viability of town centres by permitting a mix of uses including housing.

As the proposal is a sui generis use, there is no CIL liability arising.

The case officer will need to consider whether the scale of the project would require mitigation measures for residential development on the Cannock Chase SAC, and the process for dealing with this accordingly. The advice of Natural England should be sought, as set out in the Frequently Asked Questions sheet which has been jointly produced by Natural England and the Cannock Chase SAC Partnership https://www.cannockchasedc.gov.uk/sites/default/files/cc_sac_faq_may_2018_0.pdf

Response to Publicity

The application has been advertised by site notice, neighbour letter and newspaper notice. The following representations were received: -

The provision of 2 bathrooms for a 10 bedroom dwelling isn't appropriate – there was better provision than that in squalid housing at university. Equally, the provision of a single kitchen is not fit for purpose. This is a case of a landlord trying to cram as many people into a building as possible and not providing appropriate conditions for future residents.

We regularly receive complaints about parking in the town and the lack of provision at this property has the ability to further exacerbate this problem. 7 spaces for 10 bedrooms is not a good equation. The proximity of this to the pedestrianised zone is surely going to cause problems.

I am absolutely in favour of an increase in housing in the area, it is required. However, the housing must be appropriate and fit for use. I would like to see the current application blocked and for it to be re-submitted improved provision.

The plans show intent to convert the former NatWest Bank into a 10 bedroom dwelling. The plans submitted only provide for one bathroom on each floor, both very small in size. I do not feel this adequately provides for the proposed number of prospective residents. In addition to this, the plans include provision for a small kitchen on the lower floor. Again, I believe that this will fail to meet the requirements of all occupants and greatly restricts privacy.

In addition to this, the accompanying car park includes only seven parking spaces. This would not provide adequate provision for all residents, this could result in a serious and potentially dangerous situation, given the town centre location and surrounding pedestrianised area.

Relevant Planning History

Extensive planning history, however, the Listed Building Consent application CH/18/405 is the only relevant application to current proposed scheme and is due to be determined at the same time.

1 Site and Surroundings

1.1 The application site is a grade II listed late 18thC building within Rugeley Town Centre Conservation Area. It stands facing Market Square and though

apparently built as a dwelling, it has most recently been used as bank premises but has an imposing facade and a modern rear extension.

- 1.2 The application is retrospective as the House in Multiple Occupation (HMO) use has already commenced. Approval is sought for change of use of first and second floors from A2 (former Nat West Bank) to a large scale HMO (Sui Generis). The HMO use provides 10 bed-sits, together with 2 shared bathrooms, a wc/shower, and 2 kitchens on the first floor with stud walling. Access is from the rear door and stairs. The ground floor remains in commercial use.

2 Proposal

- 2.1 The Applicant is seeking retrospective planning permission for change of use of first and second floors from A2 (Bank) to Large-Scale HMO (Sui Generis).
- 2.2 The application is accompanied with a fire risk assessment dated 14 December 2018 and a Design and Access Statement. The plans have been amended to provide a window to all of the HMO bedsit rooms.

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) and the Minerals Local Plan for Staffordshire (2015-2030).
- 3.3 Relevant Policies within the Local Plan Include:
- CP1: - Strategy – the Strategic Approach
 - CP3: - Chase Shaping – Design
 - CP6: - Housing Land
 - CP7: - Housing Choice
 - CP11: - Town Centre Boundaries
 - CP13: - Cannock Chase Special Area of Conservation (SAC)
 - CP15: – Historic Environment
- 3.4 There are no appropriate policies within the Minerals Plan.
- 3.5 National Planning Policy Framework
- 3.6 The NPPF (2019) 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 states that there should be ‘presumption in favour of sustainable development’ and sets out what this means for decision taking.

3.7 The NPPF (2019) confirms the plan-led approach to the planning system and that decisions must be made in accordance with the Development Plan unless material considerations indicate otherwise.

3.8 Relevant paragraphs within the NPPF include paragraphs: -

8:	Three dimensions of Sustainable Development
11-14:	The Presumption in favour of Sustainable Development
47-50:	Determining Applications
108-109	Sustainable Transport
124, 127, 128, 130:	Achieving Well-Designed Places
184-202	Conserving and enhancing the historic environment
212, 213	Implementation

3.9 Other relevant documents include: -

Design Supplementary Planning Document, April 2016.

The Rugeley Town Centre Conservation Area Appraisal 2012.

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

4 Determining Issues

4.1 The determining issues for the proposed development include:-

- i) Principle of development
- ii) Design and impact on the character and form of the Conservation Area and Listed Building
- iii) Impact on residential amenity.
- iv) Impact on highway safety.
- v) Impact on nature conservation
- vi) Affordable housing
- vii) Drainage and flood risk
- viii) Waste and recycling facilities
- ix) Crime and fear of crime

4.2 Principle of the Development

4.2.1 The existing building is designated as Grade II Listed within the Rugeley Town Centre Conservation Area boundary.

4.2.2 Policy CP1 in the Cannock Chase Local Plan (Part 1) 2014 states that there will be a presumption in favour of sustainable development and that development should secure economic, social and environmental improvements where possible. Planning permission can be granted, unless material considerations such as any adverse impacts of granting permission or specific policies in the

National Planning Policy Framework (NPPF) 2018 indicate development should be restricted.

- 4.2.3 Although the Local Plan has a housing policy, it is silent in respect of its approach to windfall sites on both greenfield and previously developed land. As such in accordance with Policy CP1 of the Local Plan the proposal falls to be considered within the presumption in favour of sustainable development, outlined in paragraph 11 of the NPPF. However, paragraph 177 of the NPPF makes it clear "the presumption in favour of sustainable development does not apply where development requiring appropriate assessment (under habitat Regulations) because of its potential impact on a habitats site is being planned or determined."
- 4.2.4 Policy CP13 of the Local Plan recognises that any project involving net new dwelling will have an impact on the SAC and as such should be subject to an appropriate assessment under the Habitat Regulations. This appropriate assessment has been carried out at the plan making stage which underpinned the formulation of policy CP13. This being the case it can only be concluded that the presumption in favour of sustainable development does not apply to the current application and that the proposal should be considered having regard to the development plan and other material considerations.
- 4.2.5 CP15 seeks the safeguarding of historic buildings, areas and their settings from developments harmful to their significance in order to sustain character, local distinctiveness and sense of place. Proposals including new developments that are sensitive to and inspired by their context and add value to the existing historic environment, landscape and townscape character will generally be supported with planning standards applied in a flexible manner to maintain historic continuity.
- 4.2.6 Local Plan (Part 1) Policy CP1 identifies that the urban areas of the District, will be the focus for the majority of new residential development. It also identifies that a 'positive approach that reflects the presumption in favour of sustainable development' will be taken when considering development proposals. The site is not located within either Flood Zone 2 or 3. The site and is not designated as a statutory or non-statutory site for nature conservation. However, the site is a Grade II Listed Building and located within a Conservation Area.
- 4.2.7 The proposed use would not only be in the main urban area, it would be in the town centre which is an eminently sustainable location and would be compatible with surrounding land uses. It meets the policy objectives of the relevant paragraphs of the NPPF and Local Plan Policy CP15, which aim to preserve the building and its setting.
- 4.2.8 As such it would be acceptable in principle at this location. Although a proposal may be considered to be acceptable in principle it is still required to meet the provisions within the development plan in respect to matters of detail. The next part of this report will go to consider the proposal in this respect.

4.3 Design and Impact on the Character and Form of the Conservation Area and Listed Building

4.3.1 The Planning (Listed Buildings and Conservation Areas) Act 1990 sets out a local planning authority's duties: -

S.66 In considering whether to grant planning permission for development which affects a Listed Building or its setting the local planning authority shall have special regard to the 'desirability' of preserving the building or its 'setting or any features of special architectural or historic interest which it possesses.

S.72 the local planning authority has a duty to pay special attention to the desirability of preserving or enhancing the character or appearance of a Conservation Area. While the duty may only require that no harm should be caused, it nonetheless creates a special presumption and considerable weight and attention should be given to any harm found to arise regarding the character or appearance of the Conservation Area.'

4.3.2 In respect to issues in relation to design 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.

4.3.3 Relevant policies within the NPPF in respect to design and achieving well-designed places include paragraphs 124, 127, 128 and 130. Paragraph 124 makes it clear that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve.

4.3.4 Paragraph 127 of the NPPF, in so much as it relates to impacts on the character of an area goes on to state: -

Planning policies and decisions should ensure that developments:

- a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
- b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
- c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);

- d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;

4.3.5 Finally Paragraph 130 states planning permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions, taking into account any local design standards or style guides in plans or supplementary planning documents. Conversely, where the design of a development accords with clear expectations in plan policies, design should not be used by the decision taker as a valid reason to object to development.

4.3.6 In this respect it is noted that Appendix B of the Design SPD sets out clear expectations and guidance in respect to the design of residential development as well as specific guidance for Cannock Town Centre and historic suburbs. Relevant points are; preserve and enhance the character and appearance of historic areas and their settings, including views in and out, and support the local preference for non-intrusive traditional architecture with good quality contemporary schemes where appropriate.

4.3.7 The Conservation Officer was re-consulted on the application, since the receipt of a fire risk assessment (dated 10 September 2018) and has no objections to the alterations.

4.3.8 There are no external alterations to the Listed Building proposed. The internal alterations to subdivide the building would comprise stud partitioning and would not affect any features of special architectural interest. As such, it is considered that the proposal would not harm the character of the Conservation Area or the setting of the Listed Building.

4.3.9 Therefore, having had regard to Policies CP3 & CP15 of the Local Plan and the above mentioned paragraphs of the NPPF, it is considered that the proposal would be well-related to existing buildings and their surroundings, successfully integrate with existing features of amenity value, maintain a strong sense of place and visually attractive such that it would preserve the character appearance and significance of the Conservation Area and the Grade II Listed Building.

4.3.10 As such, the proposal would conform with the relevant policies of the Local Plan and the appropriate sections of the NPPF.

4.4 Standard of Residential Amenity

4.4.1 Policy CP3 of the Local Plan states that the following key requirements of quality design will need to be addressed in development proposals and goes on to include [amongst other things] the protection of the 'amenity enjoyed by existing properties'. This is supported by the guidance as outlined in Appendix B of the Design SPD which sets out guidance in respect to space about dwellings and garden sizes.

- 4.4.2 Paragraph 127(f) of the NPPF states that planning policies and decisions should ensure that developments [amongst other things] create places with a high standard of amenity for existing and future users.
- 4.4.3 No neighbour objections have been received to the proposal. There are no nearby residential properties and no external changes proposed to the building. As such, the proposal has no impact on privacy, or amenity to existing surrounding residents.
- 4.4.4 Whilst issues have been raised by the Town Council and Ward Councillors in respect to the facilities within the HMO the Environmental Protection Officer and the Licensing Officer have no objection to the amended proposal, which ensures there are sufficient facilities, internal room sizes and windows serving the existing occupiers of each bedsit room.
- 4.4.5 It is therefore considered that the proposal provides a good standard of amenity for the occupiers and does not affect any surrounding neighbouring residents. As such the proposal would comply with policy requirements of CP3 and the NPPF.

4.5 Impact on Highway Safety

- 4.5.1 Paragraph 109 of NPPF states that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
- 4.5.2 The proposal provides 7 parking spaces for the residents of the HMO.
- 4.5.3 The County Highways have no objections to the proposals as the application site is located within a sustainable location and the proposal is accordance with parking standards for a HMO (1 space per 2 bedrooms).
- 4.5.4 It is therefore considered that the proposal would not have an adverse impact upon highway safety, or parking capacity.

4.6 Impact on Nature Conservation Interests

- 4.6.1 The application site is not subject to any formal or informal nature conservation designation and is not known to support any species that is given special protection or which is of particular conservation interest. As such the site has no significant ecological value and therefore the proposal would not result in any direct harm to nature conservation interests.
- 4.6.2 Under Policy CP13 development will not be permitted where it would be likely to lead directly or indirectly to an adverse effect upon the integrity of the European Site network and the effects cannot be mitigated. Furthermore, in order to retain the integrity of the Cannock Chase Special Area of Conservation (SAC) all development within Cannock Chase District that leads to a net increase in dwellings will be required to mitigate adverse impacts. The proposal would lead to a net increase in dwellings and therefore is required to mitigate its adverse impact on the SAC. Such mitigation would be in the form of a contribution towards the cost of works on the SAC and this is provided by a S106 agreement,

which should collect SAC contributions based upon 6 HMO bedrooms equating to 1 No. dwelling. Therefore 12 rooms would contribute a SAC payment which would be equivalent to 2 No. dwellings. The proposal is for 10 bedrooms, which shall be rounded up to the nearest whole equivalent (2No. x SAC payment). An appropriate Habitats Regulation Assessment has been undertaken as part of the due process.

4.6.3 Given the above it is considered that the proposal, subject to SAC mitigation, would not have a significant adverse impact on nature conservation interests either on, or off, the site. In this respect the proposal would not be contrary to Policies CP3, CP12 and CP13 of the Local Plan and the NPPF.

4.7 Affordable Housing and other Developer Contributions

4.7.1 Under Policy CP2 the proposal would be required to provide a contribution towards affordable housing. However, given the order of the Court of Appeal, dated 13 May 2016, which give legal effect to the policy set out in the Written Ministerial Statement of 28 November 2014, and the subsequent revision of the PPG, it is considered on balance that the proposal is acceptable without a contribution towards affordable housing.

4.8 Drainage and Flood Risk.

4.8.1 The site is located in a Flood Zone 1 which is at least threat from flooding. The proposal would utilise the existing drainage facilities of the building, which is located within a built up area well served by drainage infrastructure. As such it is considered acceptable.

4.9 Waste and Recycling Facilities

4.9.1 The proposal accommodates bin storage facilities to the rear of the building. The Waste and Recycling Department have been consulted on the proposal and have no objection to the proposed waste storage and recycling facilities. The exact nature of facilities provided could be controlled through condition and it is recommended the attached condition is attached to any permission granted.

4.10 Crime and the Fear of Crime

4.10.1 The Crime Prevention Officer has been consulted about the proposal and has no comments to make.

4.10.2 Issues have been raised in respect to a management plan for the property and in respect to illegal evictions. However, it should be noted that these issues relate to the licensing of the property and do not relate to the land use planning issues in respect to this change of use. As such these considerations should be given no weight in the determination of this application.

5 Human Rights Act 1998 and Equalities Act 2010

Human Rights Act 1998

- 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.

Equalities Act 2010

- 5.2 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:

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

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

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 not conflict with the aim of the Equalities Act.

6 Conclusion

- 6.1 In respect to all matters of acknowledged interest and policy tests it is considered that the proposal, subject to the attached conditions, would not result in any significant harm to acknowledged interests and is therefore considered to be in accordance with the Development Plan.
- 6.2 It is therefore recommended that the application be approved subject to the attached conditions.

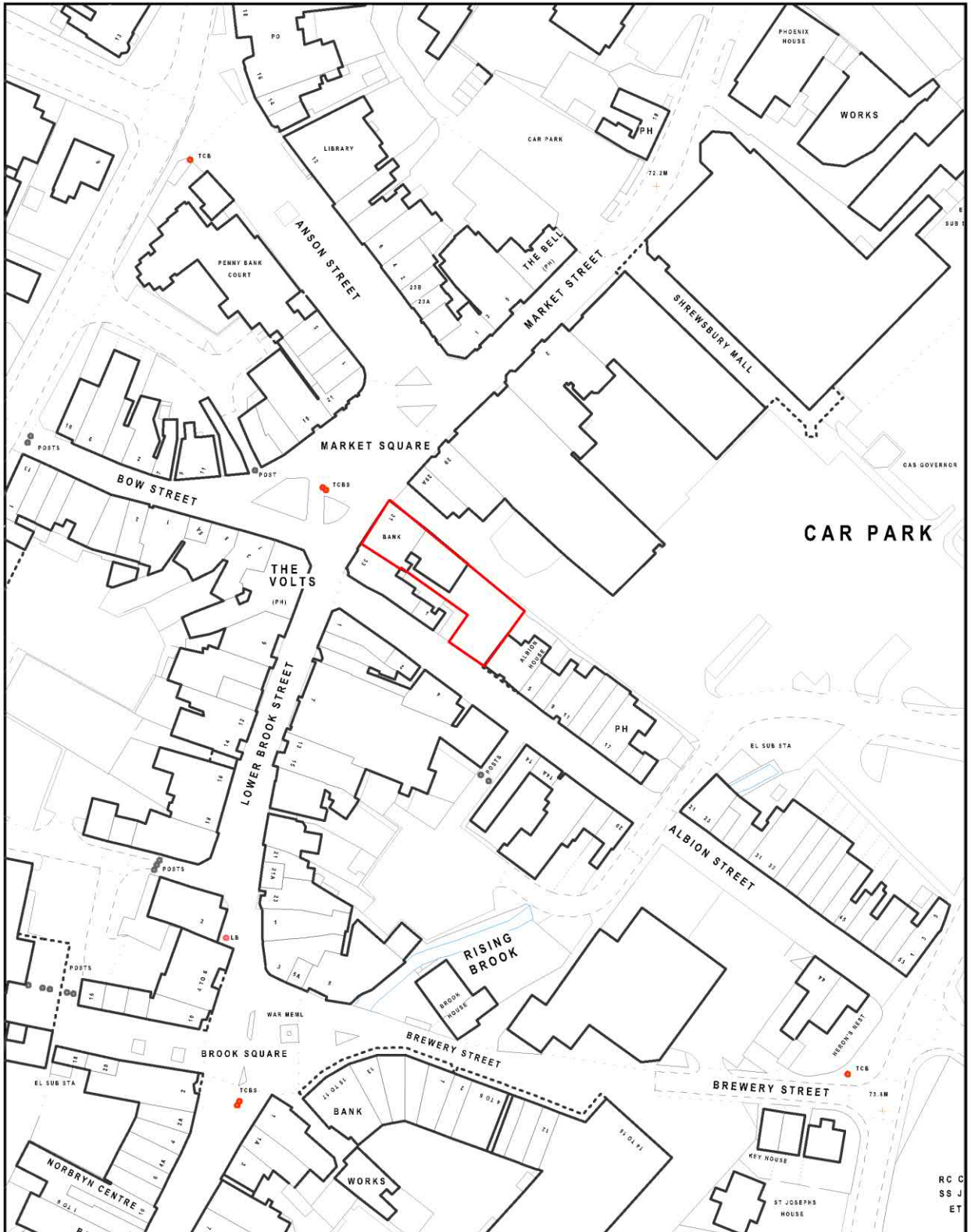


Application No: CH/18/405

Location: 31, Market Square, Rugeley, WS15 2FA

Proposal: Listed Building Consent - Works to facilitate the conversion of first and second floors to HMO comprising predominantly stud walling.

Item no. 6.103



Location Plan



31, Market Square, Rugeley, Staffordshire, WS15 2FA



Site Plan shows area bounded by: 404402.29, 318028.25 404543.71, 318169.67 (at a scale of 1:1250), OSGridRef: SK 4471809. The representation of a road, track or path is no evidence of a right of way. The representation of features as lines is no evidence of a property boundary.

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Block Plan & Floor Plans

Existing Floor Plans 1:100
Prior to alteration



Ground Floor
(No changes, Established A2 Use as Banking Premises)



First Floor



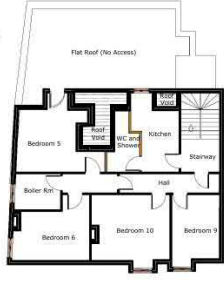
Second floor

Proposed Floor Plans 1:100
As exists today

Orange walls denote new stud walling, all other arrangements as 'existing' drawing



First Floor



Second floor



Existing and Proposed Block Plan @ 1:200 (No changes proposed)

NEPTUNE PLANNING
9 West Drive, Bonehill, Tamworth
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email: info@neptuneplanning.co.uk

This drawing is to be read in conjunction with any structural calculations/details prepared by the Structural Engineer.
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- Services, Gas, Electric, Water, services are to be located in order in accordance with the relevant service providers requirements. Any person carrying out works shall do so only when the responsibility is assumed with the responsible service provider and shall follow requirements. The proposed works are to be installed, unless the contract does otherwise. All other services shall be installed in accordance with the relevant service provider. It is the Client's responsibility to ensure that the relevant service provider is satisfied with the work.

Retrospective conversion of first and second floors to large scale HMO

Former Network Bank
31 Market Square
Rugby
WS44 2FA

Drawing Title: Existing and proposed floor plan and site plans	01
Scale: 1:100 (Floor Plans) 1:200 (Block Plan)	C
Date: 10 December 2018	

Contact Officer:	Audrey Lewis
Telephone No:	01543 464 528

PLANNING CONTROL COMMITTEE

15 MAY 2019

Application No:	CH/18/405
Received:	05-Nov-2018
Location:	31 Market Square, Rugeley, WS15 2FA
Parish:	Rugeley
Description:	Listed Building Consent – Works to facilitate the conversion of first and second floors to HMO comprising predominantly stud-walling (Retrospective)
Application Type:	Listed Building Application

RECOMMENDATION:

Approve Subject to Conditions

Reason(s) for Recommendation:

Reason for Grant of Permission

In accordance with paragraph 38 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.

Conditions (and Reasons for Conditions):

1. The development hereby permitted shall be retained in accordance with the following plans:

Location Plan

Drg No. C-01

Fire Risk Assessment dated 13 December 2018

Reason

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

Notes to the Developer:**NOTE:**

These comments are provided in response to the works currently described in the above applications, and the applicant should be aware that any other alterations to the Listed Building, internal or external, which could affect its character as a building of special architectural or historical interest, are prohibited unless authorised by a specific Listed Building Consent. This includes any works of sound-proofing which should be deemed necessary to ensure the conversion complies with the Building Regulations.

The applicant should be aware that implementation of works affecting the character of the Listed Building without the necessary Listed Building Consent is an Offence.

Consultations and Publicity***External Consultations***Landor Society

No comments received.

Rugeley Town Council

Concerns expressed that the number of bedrooms appears excessive given the number of bathrooms and kitchen facilities. In addition, the walls dividing the rooms would be only stud partitioning and therefore not affording privacy to inhabitants.

Internal ConsultationsConservation Planning Officer

The site comprises a grade II listed late 18thC building within Rugeley Town Centre Conservation Area. It stands facing Market Square and though apparently built as a dwelling it has most recently been used as bank premises but has an imposing facade and a modern rear extension.

The applications are retrospective as the work has already been implemented. Any Listed Building Consent cannot be retrospective but can only date from the date of any consent. Approval is sought for internal alterations to create 10 bed-sits together with 2 shared bathrooms a wc/shower and 2 kitchens on the first rooms with stud walling. Access is from the rear door and stairs. The ground floor remains in commercial use.

Legislation and Policy

The Planning (Listed Buildings and Conservation Areas) Act 1990 sets out the Local planning authority's duties:

S.66 In considering whether to grant planning permission for development which affects a Listed Building or its setting the local planning authority shall have special regard to the 'desirability' of preserving the 'building or its setting or any features of special architectural or historic interest which it possesses.

S.72 the local planning authority has a duty to pay special attention to the desirability of preserving or enhancing the character or appearance of a Conservation Area. While the duty may only require that no harm should be caused, it nonetheless creates a special presumption and considerable weight and attention should be given to any harm found to arise regarding the character or appearance of the Conservation Area.'

The NPPF 2018 sets out the process for considering the conservation and enhancement of historic environment in paras 184-202, and the potential impacts of development proposals. Of particular relevance here:

Para 190: the Local Authority should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset). They should take this into account when considering the impact of a proposal on a heritage asset to avoid or minimise any conflict between the heritage assets conservation and any aspect of the proposal.

Para 192: in determining applications. Local planning authorities should take account of:

- The desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation.
- The positive contribution that conservation of heritage assets can make to sustainable communities including their economic viability.
- The desirability of new development making a positive contribution to local character and distinctiveness.

Paras 193 and 194: When considering the impact of a proposed development on the significance of a designated heritage asset – great weight should be given to the asset's conservation. Any harm to or loss of the significance of a designated asset (including from development within its setting) should require clear and convincing justification. The NPPF then sets out the process for consideration of different levels of harm to different heritage assets.

Local Plan Policy CP15 seeks the safeguarding of historic buildings, areas and their settings from developments harmful to their significance in order to sustain character, local distinctiveness and sense of place. Proposals including new developments that are sensitive to and inspired by their context and add value to the existing historic environment, landscape and townscape character will generally be supported, with planning standards applied in a flexible manner to maintain historic continuity.

The Rugeley Town Centre Conservation Area Appraisal 2012 sets out the special interest of the Conservation Area and makes recommendations for its enhancement. This is supplemented by the Conservation Area Management Plan 2012, which encourages maximum occupancy of properties including flats above shops to maximise the vitality and viability of the town centre. The majority of the Conservation Area itself, comprising the ground floor units of many of the town's historic properties, is occupied by a variety of mixed small scale uses from shops and banks to pubs and takeaways. At first floor level are a further variety of uses supporting the town centre, including flats.

I have read the Fire Risk Assessment dated 10th September 2018 provided by the applicant which contains an Action Plan of further works necessary to protect occupants from fire and I have the following comments:

- 4.2 – the sealing of the minor breaks in fire separation identified where services pass through walls/floors with fire rated sealing products is unlikely to adversely affect the character of the Listed Building.
- 4.2 – the installation of fire resistant ceilings to bedrooms 7/8 and the first floor kitchen, providing that it either replaces the existing suspended ceilings or is in addition to them is unlikely to adversely affect the character of the Listed Building.
- 4.3 – works to fire doors, providing that they are all modern doors, is unlikely to affect the character of the Listed Building.

On this basis then, no objections to the applications from a conservation viewpoint.

NOTE: These comments are provided in response to the works currently described in the above applications and the applicant should be aware that any other alterations to the Listed Building, internal or external, which could affect its character as a building of special architectural or historic interest, are prohibited unless authorised by a specific Listed Building Consent. This includes any works of sound proofing which should be deemed necessary to ensure the conversion complies with the Building Regulations.

The applicant should be aware that implementation of works affecting the character of the Listed Building without the necessary Listed Building Consent is an offence.

Environmental Health

No adverse comments in principle from Environmental Protection. The conversion works must be undertaken in accordance with BS8233:2014. Guidance on sound insulation and noise reduction for buildings which is applicable to refurbished buildings undergoing a change of use. Sound insulation works must at least meet the minimum standards laid down in Building Regulations for conversion works.

Response to Publicity

Press notice, site notice displayed and adjacent occupiers notified with two letters of objection received from the two Councillor objections on the following grounds:

- The provision of 2 bathrooms for a 10 bedroom dwelling isn't appropriate – there was better provision than that in squalid housing at university. Equally, the provision of a single kitchen is not fit for purpose. This is a case of a landlord trying to cram as many people into a building as possible and not providing appropriate conditions for future residents.
- We regularly receive complaints about parking in the town and the lack of provision at this property has the ability to further exacerbate this problem. 7 spaces for 10 bedrooms is not a good equation. The proximity of this to the pedestrianised zone is surely going to cause problems.

- I am absolutely in favour of an increase in housing in the area, it is required. However, the housing must be appropriate and fit for use. I would like to see the current application blocked and for it to be re-submitted improved provision.
- The plans show intent to convert the former Natwest Bank into a 10 bedroom dwelling. The plans submitted only provide for one bathroom on each floor, both very small in size. I do not feel this adequately provides for the proposed number of prospective residents. In addition to this, the plans include provision for a small kitchen on the lower floor. Again, I believe that this will fail to meet the requirements of all occupants and greatly restricts privacy.
- In addition to this, the accompanying car park includes only seven parking spaces. This would not provide adequate provision for all residents, this could result in a serious and potentially dangerous situation, given the town centre location and surrounding pedestrianised area.

Relevant Planning History

Extensive planning history, however, only the current application CH/18/403 for change of use to HMO is relevant to the current proposed scheme and is due to be determined at the same time as this Listed Building Consent application.

1 Site and Surroundings

- 1.1 The application site is a grade II listed late-18thC building within Rugeley Town Centre Conservation Area. It stands facing Market Square and though apparently built as a dwelling, it has most recently been used as bank premises, but has an imposing façade and a modern rear extension.
- 1.2 The applications are retrospective as the work has already been implemented. Approval is sought for internal alterations to create 10 bed-sits, together with 2 shared bathrooms, a wc/shower, and 2 kitchens on the first floor with stud walling. Access is from the rear door and stairs. The ground floor remains in commercial use.

2 Proposal

- 2.1 The applicant is seeking consent for Listed Building Consent – Works to facilitate the conversion of first and second floors to HMO, comprising predominantly stud-walling.
- 2.2 The application is accompanied with a fire risk assessment dated 13 December 2018.

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) and the Minerals Local Plan for Staffordshire (2015-2030).
- 3.3 Relevant Policies within the Local Plan include:
- CP15 – Historic Environment
- 3.4 There are no appropriate policies within the Minerals Plan.
- 3.5 National Planning Policy Framework
- 3.6 The NPPF (2019) 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 states that there should be ‘presumption in favour of sustainable development’, and sets out what this means for decision taking.
- 3.7 The NPPF (2019) confirms the plan-led approach to the planning system and that decisions must be made in accordance with the Development Plan unless material considerations indicate otherwise.
- 3.8 Relevant paragraphs within the NPPF include paragraphs:-
- 184-202 Conserving and enhancing the historic environment.
- 3.9 Other relevant documents include:-
- Design Supplementary Planning Document, April 2016.
- The Rugeley Town Centre Conservation Area Appraisal 2012.

4 Determining Issues

- 4.1 The only determining issue for the proposal is the design and impact on the special historic and architectural interests and significance of the List Building.
- 4.2 Design and Impact on the Special Historic and Architectural Interests of the Listed Building
- 4.3 The site comprises a grade II listed late 18thC building within Rugeley Town Centre Conservation Area, which has been converted at the upper-floor levels to a 10-bedroom HMO using the provision of internal stud wall partitioning to form the new bedsit rooms.
- 4.4 Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states ‘In considering whether to grant planning permission for development which affects a Listed Building or its setting, the local planning authority shall have special regard to the desirability of preserving the ‘building or its setting or any features of special architectural or historic interest which it possesses’.
- 4.5 Policy and guidance in respect to the above includes Policy CP15 of the Local Plan, and paragraphs 184-202 of the NPPF. The texts to these policies are

provided in full in the Conservation Officer's comments and therefore are not repeated here.

- 4.6 The works that have been undertaken have not necessitated or resulted in any external alterations to the exterior of the listed building.
- 4.7 Furthermore, it is therefore considered that the subdivision of the rooms with stud partitioning has not affected any features of special architectural or historic interest, have brought back into use vacant floor-space, which helps maximise the vitality and viability of the listed building and the role it plays in supporting the town centre. Furthermore, being a reversible intervention into the building and being the minimum required for its intended purpose, it conforms to current conservation philosophy.
- 4.8 The Conservation Officer, having had regard to the significance of this designated heritage asset, has no objections to the alterations subject to a Listed Building Consent informative being included on the permission.
- 4.8 As such, the proposal conforms to the relevant policies of the Local Plan and the appropriate sections of the NPPF.
- 4.9 Other Issues
- 4.10 The issues raised by the Town Council and Ward Members are noted. However, they relate to the standard of accommodation, which although relevant to the determination of the planning application, are not material to the determination of the listed building consent application. As such, no weight should be attributed to these matters in the determination of this application.

5 Human Rights Act 1998 and Equalities Act 2010

Human Rights Act 1998

- 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.

Equalities Act 2010

- 5.2 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:

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

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

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 not conflict with the aim of the Equalities Act.

6 Conclusion

- 6.1 It is considered that the proposal, subject to the attached conditions and informative, has not resulted in any significant harm to this special architectural and historic interest of the Listed Building.
- 6.2 It is therefore recommended that the application be approved subject to the attached conditions.

CANNOCK CHASE DISTRICT COUNCIL

PLANNING CONTROL COMMITTEE

WEDNESDAY 15 MAY 2019

**PROPOSED AMENDMENT TO THE PROTOCOL FOR OFFICERS TO REQUEST
SITE VISITS ON PLANNING APPLICATIONS, TREE PRESERVATION
ORDERS AND ENFORCEMENT CASES**

**Joint report of the Development Control Manager and the Interim Head of Law
and Administration**

1. Purpose of Report

- 1.1 To request Members to recommend to Council amending the circumstances in which site visits by members of the Planning Control Committee can be made by amending paragraph 7.8 of the Council's Local Protocol for Planning Decision Making.

2. Background

- 2.1 Paragraphs 7.7 to 7.10 of the Council's Local Protocol for Planning Decision Making (Part 5, Section 39 of the Council's Constitution) deal with site inspections by Members of the Planning Control Committee. An extract from the Local Protocol for Planning Decision Making showing these paragraphs is attached at Appendix 1.
- 2.2 Currently paragraph 7.8i provides for site inspections "When officers recommend an inspection in advance of producing a report so that if Committee agrees the inspection can take place on the day the Committee meets to consider the report on the application". Officers are under considerable pressure to determine applications within target timescales set by the government and if they fail to do so there can be penalties for the Council. It would assist officers greatly if, in relation to a planning application, TPO or enforcement case, where they considered that a site visit was necessary, rather than having to wait for the next meeting of the Planning Control Committee before being able to make that request they could instead seek the approval of the Chairman of the Planning Control Committee or in the Chairs absence the Vice Chairman. In order to enable this to happen paragraph 7.8i would need to be amended by inserting the following words at the beginning of line 2 - "the Chairman or in their absence the Vice Chairman of the".
- 2.3 No other changes to paragraphs 7.7 to 7.10 are proposed.

3. Process for changing the Local Protocol for Planning Decision Making

- 3.1 If Members wish to consider making the change requested this would need to be in the form of a recommendation to Council to amend paragraph 7.8i of the Local Protocol for Planning Decision Making.

4. Recommendation

- 4.1 Members resolve to endorse the change and recommend that Council amends paragraph 7.8i accordingly.

Appendix 1:

Extract from the Local Protocol for Planning Decision Making

“7.7 Site Inspections by members of the Planning Control Committee.

- 7.8 Inspections can be made to sites which are the subject of planning applications, TPOs or enforcement cases in the following circumstances:

- (i) When officers recommend an inspection in advance of producing a report so that if Committee agrees the inspection can take place on the day the Committee meets to consider the report on the application.
- (ii) When a member of the Committee requests an inspection as part of the procedure in 7.4 ii) 6 above.
- (iii) When the Committee decides it needs to defer a decision on an application in order for a site inspection to take place.

- 7.9 In all cases clear and relevant planning reasons must be given as to why an inspection is considered necessary and what it would be likely to achieve. As a general principle an inspection is only likely to be appropriate when it will clarify or supplement information contained in the officer's written report and that information cannot be obtained in another way. It will not be appropriate for an inspection to take place merely because a consultee or neighbour has requested it unless Councillors can identify clear and relevant planning reasons.

- 7.10 The purpose of the inspection is to obtain additional information about a proposal by looking at the site and the surroundings. It is not an opportunity to discuss the merits of the proposal with the applicant or objectors. Representations from applicants and third parties will therefore not be permitted. The following procedure will apply:

- (i) The inspection will be managed by the Chairman of the Committee or in his/her absence the Vice Chairman.

- (ii) Applicants will be informed of the time of the inspection but not invited to participate other than to allow access to land or property if appropriate.
- (iii) Officers will attend to give a brief explanation of the proposal and answer any questions from Councillors
- (iv) Officers will make a brief note of the inspection including a record of which members attended and any new factual information which may have been brought out. This will be placed on the case file.
- (v) Third parties (objectors) are not invited to inspections and would not be entitled to enter the site unless invited to do so by the applicant. If objectors are present with the consent of the applicant they may listen to the officers' explanation and Councillors' discussion but not participate."