

Birmingham City Council

Planning Committee

08 July 2021

I submit for your consideration the attached reports for the **North West** team.

| <u>Recommendation</u> | <u>Report No.</u> | <u>Application No / Location / Proposal</u> |
|-----------------------|-------------------|---|
| Approve – Conditions | 6 | 2020/03975/PA 109 Grove Lane Handsworth Birmingham B21 9HF Retention of change of use of part ground floor and complete first and second floors to 7 no. bedroom House in Multiple Occupation (HMO) (Sui Generis) together with the demolition of the outbuilding to create amenity space. |
| Approve – Conditions | 7 | 2021/01179/PA 6 Farncote Drive and land r/o 38 & 40 Walsall Road Sutton Coldfield Birmingham B74 4QS Demolition of existing bungalow and erection of 3 no. detached dwellings |

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|-----------------|------------|---------------------|---------------|
| Committee Date: | 08/07/2021 | Application Number: | 2020/03975/pa |
| Accepted: | 27/07/2020 | Application Type: | Full Planning |
| Target Date: | 15/06/2021 | | |
| Ward: | Handsworth | | |

109 Grove Lane, Handsworth, Birmingham, B21 9HF

Retention of change of use of part ground floor and complete first and second floors to 7 no. bedroom House in Multiple Occupation (HMO) (Sui Generis) together with the demolition of the outbuilding to create amenity space.

Recommendation

Approve subject to Conditions

1. Proposal

- 1.1. Retrospective planning permission is sought for the change of use of part of the ground floor and complete first and second floor from a retail use (Use Class E) to a 7-bedroom HMO (Use Class Sui Generis), together with the demolition of the outbuilding to create amenity space and associated external alterations at 109 Grove Lane, Birmingham.
- 1.2. The premises are currently undergoing refurbishment and were previously used as a retail unit (Use Class E) with ancillary storage at the ground floor and above. The existing retail unit at the ground floor would increase from 27.5m² to 53.7m².
- 1.3. As originally submitted, the proposal was for a 10- bedroom HMO (Sui Generis). Amended plans have been received which reduced the number of the proposed bedrooms from 10 to 7. The HMO accommodation would be located over three floors and the internal layout would comprise:

Ground floor

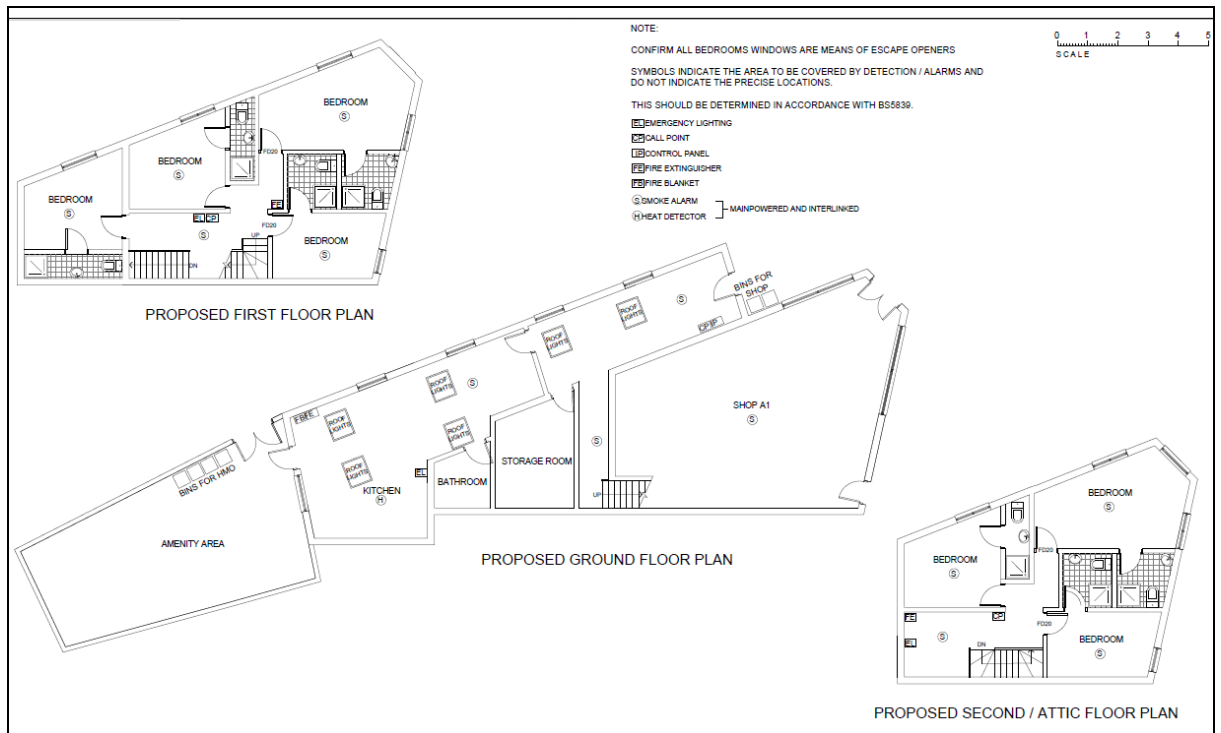
- Retail unit (Use Class E) (53.71m²)
- Living room/kitchen (30.6m²)
- Storage room (9m²)
- Bathroom
- Entrance hallway

First floor (measurements exclude bathroom)

- En-suite bedroom 1 (7.5m²)
- En-suite bedroom 2 (13.2m²)
- En-suite bedroom 3 (9m²)
- En-suite bedroom 4 (8.8m²)

Second/Attic floor (measurements exclude bathroom)

- En-suite bedroom 5 (7.5m²)
- En-suite bedroom 6 (13.2m²)
- En-suite bedroom 7 (8.7m²)



(Image 1: proposed internal layout)

- 1.4. The existing outbuilding has been demolished to provide a waste storage area for the HMO as well as a private amenity space which comprises a rear hard surfaced area of approximately 40m².
- 1.5. No off-street parking provision is being proposed.
- 1.6. The associated external alterations comprise a reconfiguration and replacement of the original windows at first and second floor and addition of roof lights at the ground floor.
- 1.7. [Link to Documents](#)
2. Site & Surroundings
 - 2.1. The application site comprises a three-storey end of terrace commercial property located at the corner of Grove Lane and Douglas Road. The premises were formally used as a retail unit at the ground floor (Use Class E) with ancillary storage above. The property is located within a small terrace of 13 properties facing Handsworth Park and majority of properties along this frontage have been converted to commercial use (Use Class E) at the ground floor with flats above.
 - 2.2. The surrounding area comprises of mixture of residential single-family dwellings as well as properties which have been converted into flats and commercial uses.
 - 2.3. [Site location](#)
3. Planning History
 - 3.1. No planning history.

4. Consultation/PP Responses

Original proposal

- 4.1. Local Ward Councillors, Residents Association and neighbouring properties notified, and a site notice posted.
- 4.2. 21 no. letters of objections received from local residents raising the following issues (in summary):
- Overconcentration of HMOs in Handsworth with poorly run HMOs putting strain on our services and existing HMOs should be managed better
 - Increase in antisocial behaviour, flytipping, thefts, robberies, begging
 - No waste disposal
 - Foul sewerage confusing and concerns over drainage and sewerage connections
 - Negative impact on HMO residents
 - No parking or cycling provision
 - Transient nature of this type of housing
 - Flood risk
- 4.3. Grove Lane Residents Association – 4 no. letters of objections received raising the following issues (in summary):
- Overconcentration of HMOs in Handsworth
 - Existing flats above shops on Grove Lane have no provision for waste storage
 - Consultation process has been inadequate
 - The application form is inaccurate
 - Flood risk
 - Insufficient light in the proposed living room
 - Sewerage and water disposal
 - No opening hours for the retail unit at the ground floor
 - Insufficient parking
 - Antisocial behaviour on Murdock Road
 - Existing fly tipping problems in the area
 - In 30 years not a single application for HMO has been refused
 - There are 3 properties directly opposite of 109 Grove Lane on Douglas Road that are HMO

Amended proposal

- 4.4. Local Ward Councillors, Residents Association and neighbouring properties notified and amended site notice posted.
- 4.5. Councillor Hendrina Quinnen – Objecting to the proposal on the following grounds:
- As there are already HMOs around the site on Douglas Road, Albert Road and Grove Lane, an additional HMO will adversely affect the character of this area.
 - The proposed use is likely to cause more nuisance to the residence
 - Community tensions could be created should this planning application be granted
- 4.6. Grove Lane Residence Association – 2 no. letters of objections received raising the following issues (in summary):

- Saturation of poorly run HMOs putting strain on services (schools, GP surgeries, parking, etc)
 - Straining policing provision
 - Antisocial behaviour on Murdock Road caused by HMOs
 - Insufficient space for the residents of this HMO, small kitchen and rooms
 - Flytipping at this corner of property
 - Concerns over drainage and sewerage connection
 - No parking or cycling provision
 - Covid 19 and need for social distancing
- 4.7. Handsworth Helping Hands voluntary group – Objecting to the proposal on the following grounds (in summary):
- Too many HMOs in the area
 - It would have adverse impact on the residential character of the area
 - Proposal would be contrary to TP35 of the BDP as there is demand for family housing
 - Increase in HMOs leads to increase in crime, antisocial behaviour, noise impact and littering
 - No community unity
- 4.8. Further 37 no. letters of objections received from local residents raising the same issues as noted in paragraph 4.2 and the additional issues (in summary):
- Problems arising during the construction period (blocking pavements, rubbles etc)
 - Handsworth having over 2 times the average population density
 - There are at least 6 properties as HMOs and 3 directly opposite of 109 Grove Lane
 - The existing flats above the shops on Grove Lane have no waste provision
 - Consultation process on the application has been inadequate
 - Application is full on inaccuracies
 - No hours of opening for the existing shop
 - There was no pre-application advice
 - Wrong sort of housing in the area
 - Loss of privacy
 - Loss of light in communal areas
 - Visual amenity
 - Concrete bollards should be installed around the kerb to stop car parking at junction and along the kerb of Grove Lane and Douglas Road
 - Strategic Housing Market Assessment should be taken into consideration
 - Treatment of local residents by the developer
 - Design appearance and poor quality of the work
 - Rooms don't meet minimum HMO standards
 - Loss of family dwellinghouse
 - Loss of value of properties in the area
 - There is already hostel at 4 Douglas Road and many others in Handsworth
- 4.9. Regulatory Services – No objections subject to a condition in relation to noise insulation scheme.
- 4.10. Transportation Development – No objections subject to a condition in relation to cycle parking.
- 4.11. West Midlands Police – No objections subject to conditions in relation to secure doors to each bedroom and installation of CCTV and recommended that the proposal is developed to enhanced security standards – 'Secure by Design'.

5. Policy Context

- 5.1. The following local policies are applicable:
- Birmingham Development Plan (2017)
 - Birmingham UDP (saved policies) (2005)
 - Places for Living (adopted SPG 2001)
 - Specific Needs Residential Uses SPG.
 - Car Parking Guidelines SPD (2012)
 - Draft Development Management in Birmingham DPD
- 5.2. The following national policy is applicable:
- NPPF – National Planning Policy Framework (2019)

6. Planning Considerations

- 6.1. The main considerations in the determination of this application are the principle of the change of use, standard of accommodation and quality of the living environment for future occupiers, impact on residential amenity as well as parking and highway safety.

Principle of change of use to a large HMO (Sui Generis)

- 6.2. Whilst the Birmingham Development Plan 2017 contains no policies directly relating to HMO uses, it contains policies which seek to create sustainable, mixed and balanced communities (Policies TP27 and TP30).
- 6.3. The Birmingham UDP 2005 has guidance relating specifically to HMO's in 'saved' policies 8.23 to 8.25. These set out the criteria to assess proposals including the effect on amenities, size and character of the property, floor space standards, car parking facilities and cumulative impacts.
- 6.4. The Specific Needs Residential Uses SPG is clear that the nature of the type of people to occupy the premises is not a material planning consideration, and that HMO accommodation has a role to play in providing housing for certain groups in society.
- 6.5. Saved Policy 8.25 of the UDP states that where a proposal relates to a site in an area which already contains premises in similar use, and/or properties converted into self-contained flats, and/or hostels and residential care homes, and/or other non-residential uses, account will be taken of the cumulative effect of such uses upon the residential character and appearance of the area.
- 6.6. Policy DM11 of the Development Management in Birmingham Development Plan Document (DMB) aims to ensure that new HMOs preserve residential amenity and that harmful concentrations do not arise.
- 6.7. For proposals for new HMO's, draft policy DM11 requires a 100m radius search from the application site for HMO's in that area to be carried out. Policy DM11 goes on to state that where over 10% of properties are found to be HMO's in the search area then consent should only be granted in exceptional circumstance. Using a mapping tool available to the Local Planning Authority to calculate the % concentration of HMOs within a 100m radius of the application site and other data available including planning consents and HMO licensing information; out of 94 residential properties within the radius, only No. 101 Grove Lane and 18 Douglas Road have been identified as HMOs, equating to 2.12% of 94 properties. The proposal would increase the % concentration of HMOs within 100m radius to 3.19%.

- 6.8. In addition, it is noted that within this frontage of Grove Lane which comprises a small terrace of 13 properties between Douglas Road and Chantry Road; 11 no. of those properties have been converted into commercial uses at ground floor with some of them having residential flats above. The public register of HMO licences identifies within this particular frontage of Grove Lane only No. 101 as an HMO.
- 6.9. It is also important to note that the proposed development would not result in the loss of a single-family dwelling; given that the property has always remained in a commercial E use. In addition, the site is not located within an 'Area of Restraint'.
- 6.10. It is noted that concerns have been raised by Councillor Hendrina Quinnen and local residents that there are many HMOs on Douglas Road and apparently 3 no. directly opposite of the application site. Moreover, concerns have been raised by local residents that there is an established hostel for refugees at No. 67 Douglas Road. However, there is no planning history or council tax records that would suggest that this is the case. In addition, the property is outside of the 100m radius of the application site. Concerns have also been raised that No. 26 Douglas Road is being used as an HMO. However, there is no planning or enforcement history to suggest that this is the case. In addition, the public register of HMO licences does not identify this property as an HMO, nor there is an HMO licence pending for this property. Concerns have also been raised by local residents that there are 3 no. properties in the area run by Midland Heart. However, no addresses of those properties have been provided or the evidence that those properties are run by Midland Heart as HMOs. The Council will not be able to accept unverified or anecdotal evidence of HMOs when calculating the % concentration. The public register of HMO licences, mapping tool available to the Local Planning Authority and a search of the address points identified within 100m radius off the application property only No. 18 Douglas Road and No. 101 Grove Lane as an HMO. In addition, planning history and address search identified No.2 Douglas Road and No.6 Douglas Road as self-contained flats (2012/03338/PA), not HMOs, and the planning history for No. 4 Douglas Road shows that in 1980s the property had a planning permission granted for the use a supervised lodging house (56634001).
- 6.11. The proposal would not result in HMO accommodation forming over 10% of the number of residential properties within a 100m radius of the application site and would not lead to a continuous frontage of three or more HMOs or other non-family residential uses. While it is noted that No. 107 Grove Lane would be sandwiched between two non-residential uses; this is the existing situation as the application site was always in a non-residential Class E use. As such, it is considered that the principle of the proposed use of this property as a large 7-bedroom HMO at part of the ground floor and upper floors and a retail unit (Use Class E) at part of the ground floor would not adversely affect the area's residential character given that the application site was previously in non-domestic E use.

Standard of accommodation

- 6.12. The Specific Needs Residential Uses SPG provides a guidance that will be expected to demonstrate that the following space standards can be achieved:
- Two room letting with kitchen/living room and separate bedroom
 - One individual: 6.5m² bedroom floor area
 - Two room letting as living/sleeping room and separate kitchen (excludes bathroom and kitchen)
 - One Individual: 12.5m² living/sleeping room floor area

- 6.13. Policy DM11 of the DMB advocates high quality accommodation with adequate living space including bedrooms of at least 7.5m².
- 6.14. The submitted plans shows that all of the bedrooms would meet and exceed the standards for room letting used by 1 no. individual with communal kitchen/living room contained in the Specific Needs Residential Uses SPG and Policy DM11. In addition, bedrooms 2 and 6 would exceed minimum standards for two room letting as living/sleeping accommodation and separate kitchen. All of the bedrooms provide natural light and satisfactory outlook for the future occupiers. It is noted that the proposal comprises 2 no. bathrooms to the front elevation. As such, a safeguarding condition for obscure glazing has been attached to protect the privacy of the future occupiers.
- 6.15. In addition, all of the bedrooms would share the downstairs kitchen/living room (30.6m²) which would provide satisfactory outlook and with the roof lights providing additional natural light. The proposed open plan kitchen/living room is considered to be of sufficient size and layout to accommodate kitchen cabinets, dining table and sofas and would provide direct access to the rear amenity space.



(Image 2: Proposed kitchen/sitting room)

- 6.16. Whilst there is no guideline for HMO's in the Council's Places for Living SPD in terms of amenity space; the hard-surfaced space to the rear that provides approximately 40m² of private amenity space is considered to be acceptable as the

residual space for amenity. In addition, the site is located directly opposite of Handsworth Park and as such, this could provide additional amenity space that could be used by the residents of the HMO.



(Image 3: Proposed rear amenity space)

- 6.17. Regulatory Services have assessed the proposal and raised no objections subject to a condition in relation to noise insulation. The recommended condition has been attached.

Impact on residential amenity

- 6.18. The proposal complies with the required distance separation guidelines contained in Places for Living SPG and as such, there would be no detrimental on the amenities of the occupiers of the neighbouring properties by way of overlooking.
- 6.19. It is noted that concerns have been raised by local residents that the proposed HMO would increase noise and disturbance in the area. Regulatory Services have assessed the proposal and raised no objections subject to the safeguarding condition for a noise insulation scheme. It is considered that subject to the safeguarding condition for a noise insulation scheme; a 7-bedroom HMO is unlikely to affect the amenities of the existing neighbouring residential occupiers in terms of general noise and disturbance within the context of the previous use.

Impact on visual amenity

- 6.20. In order to facilitate the proposed change of use; the proposal included installation of roof lights and replacement of the windows at first and second floor. The roof lights do not dominate the existing roof and are scaled appropriately. Amended plans have been received showing the reinstatement of the original windows/openings. As such, it is considered that the proposal would therefore have no detrimental impact on the character and appearance of the existing building or the visual amenity of the surrounding area.

Highway safety and parking

- 6.21. It is noted that concerns have been raised by local residents in relation to insufficient parking and that the proposed use would impact on highway safety and parking in the vicinity of the site and bollards should be installed around the kerb to stop car parking at junction and along the kerb of Grove Lane and Douglas Road.
- 6.22. Transportation Development have raised no objections. The site is located near the junction of Grove Lane and Douglas Road and there are TROs enforced directly outside the site. There are no parking restrictions on Douglas Road except on the junction radii. The site is located within easy walking distance to good public transport running at high frequency. It is considered that the use of the property as a 7-bedroom HMO would not lead to any adverse issues with regards to highways safety or parking in the immediate vicinity of the site. A condition to provide secure cycle storage has been attached.

Other matters

- 6.23. It is noted that concerns have been raised by local residents with regards to the nature of existing occupants in existing HMO's on the street and increase in crime as a result and that the proposal would worsen existing high crime rate and levels of anti-social behaviour in the area and a fear of crime.
- 6.24. West Midlands Police have assessed the proposal and raised no formal objections subject to clarification with regards to potential client base for this HMO. Concerns have also been raised that the potential for 7 strangers living together could lead to discord, crime and disorder, that HMO's providing transient accommodation can undermine community cohesion and stability, and according to Police records, HMO's are responsible for a high proportion of calls for police service. However, the Specific Needs Residential Uses SPG is clear that the nature of the type of people to occupy the premises is not a material planning consideration, and that HMO accommodation has a role to play in providing housing for certain groups in society. While crime and the fear of crime are material planning considerations; the assumed behaviour of the potential HMO tenants is not a matter for planning authorities to consider and planning system cannot make the judgement that occupiers of this property are any more likely to be involved in crime than any other type of housing. West Midlands Police recommended that a suitable CCTV is installed and that any works are to be undertaken to the standards laid out in the 'Secured by Design' to reduce crime and anti-social behaviour and doors to each bedroom and the main entrance should be to PAS 24 or equivalent standard to prevent burglary. The CCTV condition has been attached.
- 6.25. In addition, concerns have been raised by local residents with regards to littering on the street. However, the submitted plans show that there is an adequate space to accommodate bins of a suitable size for the proposed retail and HMO uses.
- 6.26. Concerns have been raised by local residents in relation to the existing HMOs in Handsworth not being run properly. However, these matters are not material planning considerations and are matters controlled under Licencing.
- 6.27. Moreover, concerns have been raised by local resident that the consultation process has been inadequate. The Local Planning Authority public consultation process exceeded statutory requirements.
- 6.28. It is also noted that concerns have been raised by local residents in relation to flood risk and drainage and sewerage connection. However, the site is not located within

the Flood Zone 2 or 3 and as such would not be at risk of flooding. The agent has also confirmed that foul sewage would be disposed of and connected to the existing drainage system.

6.29. Finally, concerns have been raised by local residents with regards to problems arising from construction period, treatment of residents by the developer, misrepresentation of the proposal and discrepancies in the application form and impact on property values in the area. However, these matters are not material planning considerations and cannot be taken into account when assessing this application.

6.30. The proposed development does not attract a CIL contribution.

7. Conclusion

7.1. This application is recommended for approval as the proposal complies with policies that have been set out above. The proposal provides satisfactory living accommodation for the future occupiers and is acceptable in terms of visual amenity and highways considerations. There are no planning grounds to refuse this application.

8. Recommendation

8.1. Approve subject to Conditions.

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- | | |
|---|--|
| 1 | Requires the scheme to be in accordance with the listed approved plans |
| 2 | Limits the number of residents to 7 people |
| 3 | Requires obscure glazing for specific areas of the approved building |
| 4 | Requires the submission a Noise Insulation Scheme to establish residential acoustic protection |
| 5 | Requires the submission of cycle storage details |
| 6 | Requires the submission of a CCTV scheme |
| 7 | Requires the reinstatement of original windows within 6 months |
-

Case Officer: Lucia Hamid

Photo(s)

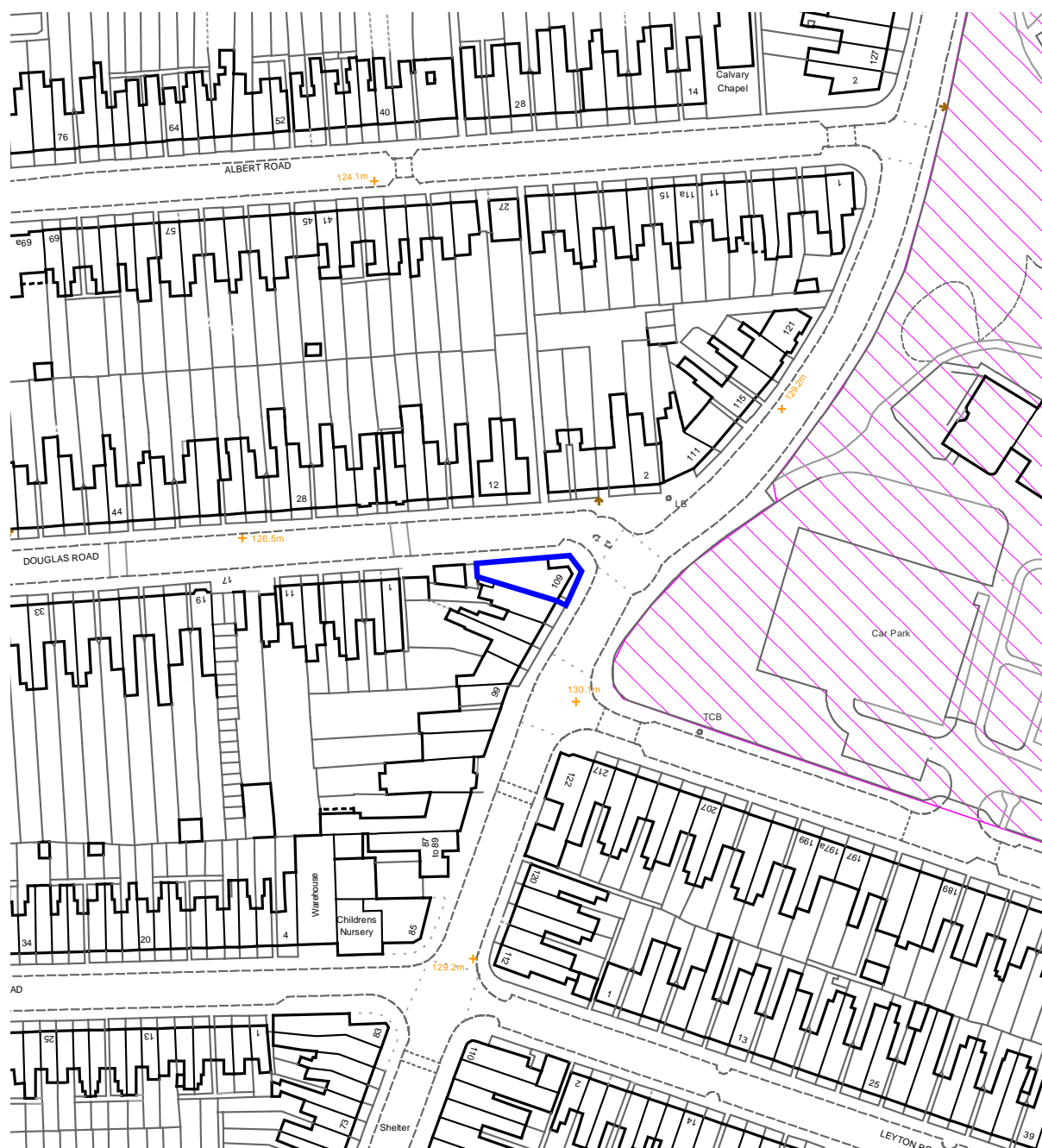


Picture 1: Front of the property view from Grove Lane



Picture 2: Side of the property view from Douglas Road

Location Plan



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|-----------------|------------------|---------------------|---------------|
| Committee Date: | 08/07/2021 | Application Number: | 2021/01179/PA |
| Accepted: | 18/02/2021 | Application Type: | Full Planning |
| Target Date: | 26/07/2021 | | |
| Ward: | Sutton Four Oaks | | |

6 Farncote Drive and land r/o 38 & 40 Walsall Road, Sutton Coldfield, Birmingham, B74 4QS

Demolition of existing bungalow and erection of 3 no. detached dwellings

Recommendation

Approve subject to Conditions

1. Proposal

- 1.1. The proposal would comprise of three dwellings, 2 storeys in height sited to the rear of properties which front onto Farncote Drive, Walsall Road and Knighton Drive. A new access road is proposed between No. 4 and 8 Farncote Drive, together with landscaped strip either side of the access, tree planting and bin collection point.

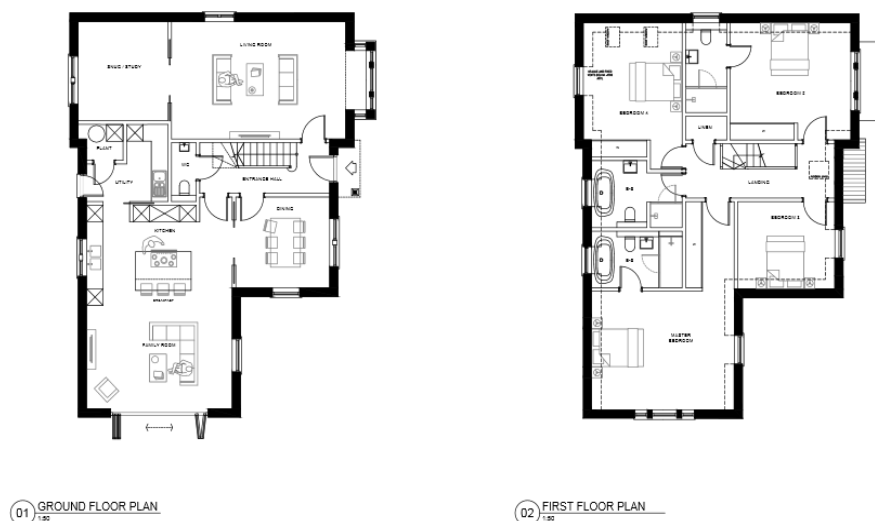


Proposed Site Layout

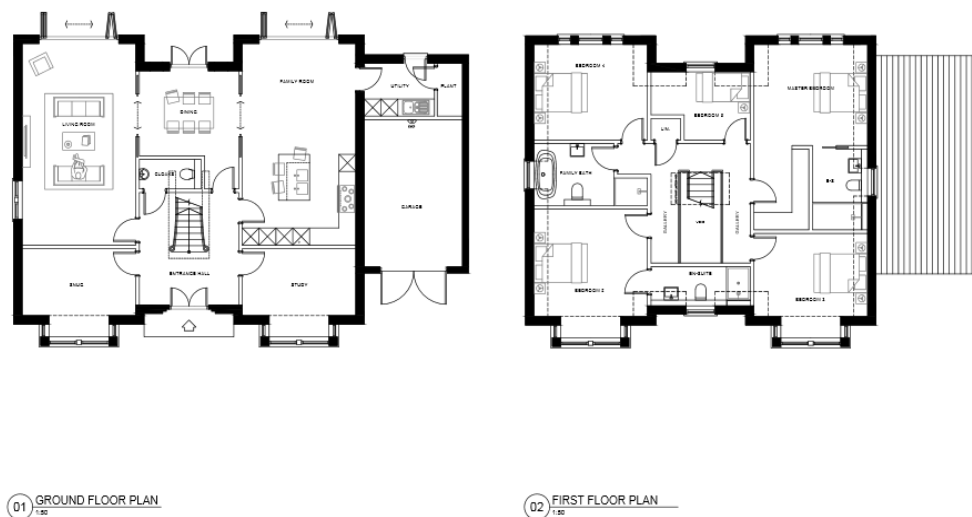
- 1.2. The proposed dwellings are set out as follows:
- Plot 1 and plot 3 (handed) – A 2 storey brick-built dwelling with gable features and half hip roof design with bay windows at ground floor. There would be 4 bedrooms.
 - Plot 2 – A 2 storey brick-built dwelling with secondary render and full height bay column features. There would be 5 bedrooms.

- 1.3. Private amenity spaces to the rear of the proposed dwellings would vary between approximately 220sqm and 353sqm.
- 1.4. Plots 1 and 3 would benefit from a detached garage, to the side. There would be a total of 6 car parking spaces (two per dwelling).
- 1.5. Amended Plans have been provided to position plot 3 a metre further away from the rear of No.12 Farncombe Drive with plots 1 and 3 about 2.5m from the site boundaries.

PLOT 3 HANDED



Plot 1 and 3 Proposed Floor Plans



Plot 2 Proposed Floor Plans

- 1.6. [Link to Documents](#)
2. Site & Surroundings

- 2.1. The application site relates to 6 Farncombe Drive, a residential dwelling and consists of part of the rear gardens of no's 38 and 40 Walsall Road. The existing properties within Farncombe Drive, to the north of the application site comprise single storey bungalows. There are more traditional two storey residential dwellings to the south

and east of the application site. The majority of the housing within in area are generally detached properties, set within generous plots.

- 2.2. The site is located within an established residential area with new residential development located on the opposite site of Farncote Drive.

2.3. [Site Location](#)

3. [Planning History](#)

6 Farncote Drive and land to the rear of 38, 40, 44 Walsall Road

- 3.1. 12/10/2020 - 2020/06376/PA - Demolition of existing bungalow and development of land at the rear of 38 & 40 Walsall Road for the erection of four dwellings, refused.

4 Farncote Drive and land to the rear of 38, 40, 44 Walsall Road

- 3.2. 30/11/2005 - 2005/01141/PA – Erection of 6 detached dwellings with associated new vehicular access, landscaping and demolition of 4 Farncote Drive, non-determination public inquiry appeal, dismissed.

38-40 Walsall Road and rear of 4 Farncote Drive

- 3.3. 27/08/2004 - 2004/03976/PA - Erection of 4 detached dwelling houses and 3 terraced dwelling houses, new vehicular access and demolition of 4 Farncote Drive, refused.

4. [Consultation/PP Responses](#)

- 4.1. Andrew Mitchell MP, Local Ward Members, Resident Associations and local residents consulted. Site Notice displayed by the applicant. Andrew Mitchell MP has made representation on behalf of local residents and 24 objections have been received from local residents in relation to the proposed development. Objections have been summarised below:

- Reference to previously refused applications and appeals at the site
- Loss of light
- Overshadowing
- Loss of privacy/overlooking
- The proposed development will dominate the existing bungalows
- Increase in noise and disturbance
- Size of plots are substantially smaller than surrounding properties
- Out of character
- Visual impact
- Scale, layout and design
- Building height and roof form
- Form of backland development
- Financial gain
- Existing parking pressures and narrowness of access along Farncote Drive, in particular access for emergency service vehicles
- Siting of access road
- Refuge and storage
- Boundary dispute
- Tree issues

- Human Rights Act in particular Protocol 1, Article 1 and 8; the right to the peaceful enjoyment of all their possessions which includes the home and other land
 - Reference to other residential development in the area
 - The proposal would not benefit the local community
 - Impact on wildlife
 - Pressure on local schools and doctor's practices
 - Overbearing and intrusive impact
 - Inaccurate information provided on plans and supporting documents
 - Impact on mental health and well-being
- 4.2. The Royal Sutton Coldfield Town Council object and the committee raise concerns that the proposal is out of keeping with the street scene.
- 4.3. Regulatory Services – No objections, subject to conditions relating contamination remediation scheme and land verification report, noise insulation and for the provision of a vehicle charging point.
- 4.4. Transportation Development – No objections, subject to conditions for pedestrian visibility splay to be incorporated / maintained at the vehicular access and for all highway works to be carried out to BCC standard specification.
- 4.5. Severn Trent Water – No objections.
- 4.6. West Midlands Police – No objections.
- 4.7. West Midlands Fire Service – Advise on approval of Building Regulation for access and facilities for the fire service.

5. Policy Context

- 5.1. The following local policies are applicable:
- Birmingham Development Plan (2017)
 - Birmingham Unitary Development Plan (2005) – Saved policies
 - Places for Living (2001)
 - 45 Degree Code (2006)
 - Mature Suburbs Guide to Control Residential Intensification SPD (2008)
 - Car Parking Guidelines SPD (2012)
- 5.2. The following national policies are applicable:
- NPPF: National Planning Policy Framework (2019)

6. Planning Considerations

- 6.1. The main considerations in the determination of this application are the principle of residential development, the impact on the character of the area, residential amenity, ecology/trees, highway safety and existing parking provision.

Background

- 6.2. This application follows a recently refused application for the demolition of existing bungalow and for the erection of four dwelling houses (planning reference: 2020/06376/PA). The application site has a history of applications attempting to secure permission to erect new dwellings on this site and at neighbouring land, with two previous refusals with one dismissed on appeal under planning references: 2005/01141/PA and 2004/03976/PA, for reasons relating to the siting and layout the

plot, design issues and impact on highway safety and increased parking pressures. The proposed development contained within this application seeks to overcome the previous reasons for refusal.

Principle of Residential use

- 6.3. The site is located within an established and sustainable residential area; therefore the principle of residential development on the site is accepted subject to site specific considerations.

Character

- 6.4. Farncote Drive is a cul-de-sac that is characterised by single storey and 2 storey houses. The local area is generally characterised by residential buildings within spacious plots, set well back from streets and with large, green rear gardens and mature trees.
- 6.5. No. 6 Farncote Drive would be demolished to create a 14 – 18m wide corridor to facilitate access to the land at the rear, in the form of a 5.5m wide access road with green verges to both sides. The difference with the last refused scheme (2020/06376/PA) for 4 houses, is that a house is no longer proposed within the corridor, allowing for a wider road and a more open and green character, reducing traffic and visual impacts on existing dwellings. This is considered acceptable and reflects the open character of other cul-de-sac access roads in the locality, including Farncote Drive itself.
- 6.6. Three houses are proposed on this backland site. These are laid out in a more informal way than the previously refused scheme, with frontages clustered around the end of the cul-de-sac and large rear gardens that back on to properties on Knighton Drive. Amended plans have been submitted to position plot 3 a metre further away from the rear of No.12 Farncote Drive with plots 1 and 3 about 2.5m from the site boundaries. The plot 2 house is set approximately 10.4m from the rear boundaries of existing Knighton Drive houses.
- 6.7. The height of the proposed houses has been minimised by partially accommodating first floors within the roof spaces, so that by reducing the eaves height the houses are about 7.9m high, significantly less than a standard 2-storey property. This approach helps to mitigate visual and landscape impacts and is welcomed.
- 6.8. The opportunity should be taken to plant the verges alongside the access road for landscape, visual and ecological value. It is acknowledged that positive changes have been made to the development compared to the previously refused scheme, predominantly removal of the house alongside the access road, revised housing layout and building footprints. The development is considered to be acceptable in terms of impact on local character.

PLOT 3 HANDED



Plot 1 and 3 Proposed Elevations



Plot 2 Proposed Elevations



Existing and Proposed Streetscene

Ecology/Trees

6.9. The applicants have undertaken studies in relation to protected species which includes a baseline ecology appraisal (Guma, June 2020), a single dusk emergence survey (2nd June 2021) and an updated internal and external inspections of the building were also completed at this time. Based on these results, the 2021 ecology report concludes the recommendations in the 2020 ecological appraisal (submitted in support of 2020/06376/PA) remain valid. These recommendations were:

- Replacement trees, of appropriate local native species, should be planted. New hedge/shrub planting should consist of native species, or non-native varieties that are not invasive and which provide good nectar sources for invertebrates.
- Removal of the garden sheds, hedges and trees should take place outside of the bird breeding season (ie avoid the period late February/early March – end August). If this is not possible, a suitably qualified ecologist should undertake an inspection for nesting birds prior to works commencing and should advise on a suitable course of action if active birds' nests are present. A nest box on the south elevation of the bungalow was recorded in 2020; if this box has not yet been removed, it should be removed outside of the bird breeding season to prevent its use for nesting in subsequent seasons.
- Nest boxes should be installed on retained trees or incorporated into the fabric of the new houses, prioritising colonial nesting species (house sparrow, starling, swift).
- As a precautionary measure, trenches/excavations should be backfilled overnight or fitted with an escape ramp to ensure small mammals do not become trapped; open pipes over 150mm diameter should be capped off overnight.

6.10. In addition, a further recommendation is made in the 2021 ecology report:

- Low level lighting (no higher than 1 lux) should be used around the development to minimise disturbance to foraging bats and nesting birds.

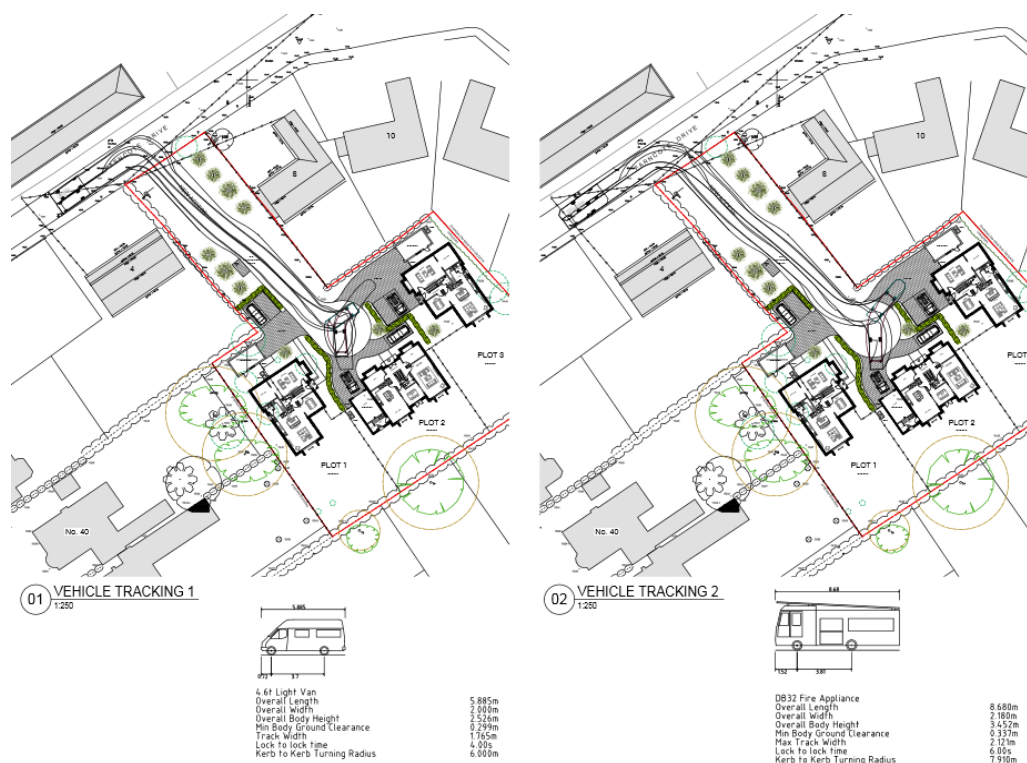
- 6.11. The City Ecology has no objections subject to the implementation of the above recommendations being secured by conditions and informative(s). The proposed site layout shows new planting adjacent to the access road and within the frontages of the new properties. Existing boundary hedges appear to be retained, although some tree removals are proposed. To compensate for these losses, and to maximise its ecological value, new planting should be designed in accordance with the above ecology report recommendation regarding native species and ecologically beneficial ornamental species. Further details of new planting should also be secured by condition.
- 6.12. Notwithstanding the objections raised from local residents in relation to tree issues. It is noted that Tree Preservation Order 1078 applies to the northwest corner of the application site, currently within the garden of 40 Walsall Road and to its boundary with garden of 4 Farncote Drive. A BS5837 Arboricultural Report including tree protection plan has been submitted with this application. My Tree Officer has raised no objections, subject to conditions for tree protection. In respect of the gardens that form the development proposal, there are no trees of any landmark significance. There are three category grading U trees to removed which are of low suitability for retention.

Impact on Residential Amenity and Residential Standards

- 6.13. The proposed development complies with the minimum standards for internal floor areas and bedroom sizes, including built in storage, as given in the DCLG Technical Housing Standards. Although, plot 2 would have one bedroom with a size of approximately 6.8sqm which is below the minimum standard. The indicative layout of the dwelling includes furniture layouts that would be functional and would be conducive to the creation of a good living environment and an acceptable standard of residential amenity.
- 6.14. The adopted SPG 'Places for Living' advocates 70sqm of minimum garden size for family accommodation. Each of the proposed dwellings would have a private rear garden space in excess of these standards. Permitted development rights have been removed for extensions and windows to protect the amenities of neighbouring occupiers.
- 6.15. The proposal would comply with the 45 Degree Code as a result there would be no detrimental impact on neighbouring occupiers' light or outlook.
- 6.16. The numerical standards contained within 'Places for Living' SPG would be met, with the exception of bedroom 4 to plots 1 and 3. These windows do not achieve the 5m per storey set back (10m total) to boundaries to neighbouring gardens at 40 Walsall Road and 12 Farncote Drive. To mitigate this the scheme proposes these windows to be obscurely glazed and fixed to a height of 1.7m from first floor level and with high level roof lights to the room. A condition is attached to secure these. As such, there would be no unacceptable loss of privacy or overlooking issues to neighbouring properties. There is also screening with mature trees and landscaping adjacent to existing and proposed site boundaries.
- 6.8. My Regulatory Services Officer raises no objections, subject to conditions relating to contamination remediation scheme and land verification report, noise insulation scheme and the provision of a vehicle charging point. The application site is located within a residential area and the appropriate condition for noise insulation is attached. However, the recommended condition to secure electric vehicle charging points for the use of the development would be unnecessary as the proposed dwellings would benefit from off-street, dedicated parking to the front of the premise. I consider that provisions would be in place for electric vehicles to be charged via the mains electricity source from the dwellings.

Highway Safety and Parking

- 6.17. Transportation development has no objections, subject to conditions for pedestrian visibility splay to be incorporated / maintained at the vehicular access and for all highway works to be carried out to BCC standard specification.
- 6.18. Notwithstanding the objections raised with regards to the narrow width of Farncote Drive and the existing parking issues on Farncote Drive including the impact on manoeuvring of vehicles to/from the site. It is considered that the traffic associated with additional two dwellings would unlikely to be significant to have severe impact on surrounding highways. The submitted drawing (1040 12C) shows two parking spaces and a garage for each property which complies with the Council's Car Parking Guidelines.



Vehicle Tracking Plan

Other Matters

- 6.19. It is noted that a local resident considers that the proposal development would have an adverse impact on their human rights in the context of the Human Rights Act 1998. The Planning System respects the rights of the individual whilst acting in the interest of the wider community. It is an inherent part of the decision-making process to assess the effects that a proposal will have on individuals and weigh this against the wider public interest in determining whether development should be allowed to proceed.
- 6.20. The potential impact of the development on the value of nearby properties and boundary disputes are not a material planning consideration.

Community Infrastructure Levy (CIL)

- 6.21. The application site is located in a CIL Residential High Market Value Area and it is therefore CIL Liable. The application form submitted indicates that it is not sought to claim a self-build exception for a whole new home and a CIL payment is required.

7. Conclusion

- 7.1. The proposed development would be within an existing residential area close to local amenities and services including public transport services. The proposed development would not have an unacceptable impact on the amenities of adjoining occupiers, the character, ecological value, or highway safety.

8. Recommendation

8.1. Approve subject to conditions

-
- | | |
|----|--|
| 1 | Requires the prior submission of a contamination remediation scheme |
| 2 | Requires the submission of a contaminated land verification report |
| 3 | Requires the prior submission of level details |
| 4 | Requires the submission a Noise Insulation Scheme to establish residential acoustic protection |
| 5 | Requires the submission of hard and/or soft landscape details |
| 6 | Requires the submission of hard surfacing materials |
| 7 | Requires the submission of boundary treatment details |
| 8 | Requires the submission of a landscape management plan |
| 9 | Requires the submission of sample materials for windows and façade cladding materials |
| 10 | Requires the submission of Architectural Details |
| 11 | Requires pedestrian visibility splays to be provided |
| 12 | Requires the submission and completion of Highway works |
| 13 | Removes PD rights for new windows |
| 14 | Removes PD rights for extensions |
| 15 | Removes PD rights for boundary treatments/gates across the access road |
| 16 | Requires obscure glazing for bedroom 4 of plots 1 and 3 |
| 17 | Requires the submission of a scheme for ecological/biodiversity/enhancement measures |
| 18 | Requires the prior submission of details of bird/bat boxes |
| 19 | Requires the implementation of the submitted mitigation/enhancement plan |
| 20 | Requirements within pre-defined tree protection areas |
| 21 | Requires tree pruning protection |
-

22 Requires the scheme to be in accordance with the listed approved plans

23 Implement within 3 years (Full)

Case Officer: Chantel Blair

Photo(s)



Photo 1: Front View of 6 Farncote Drive

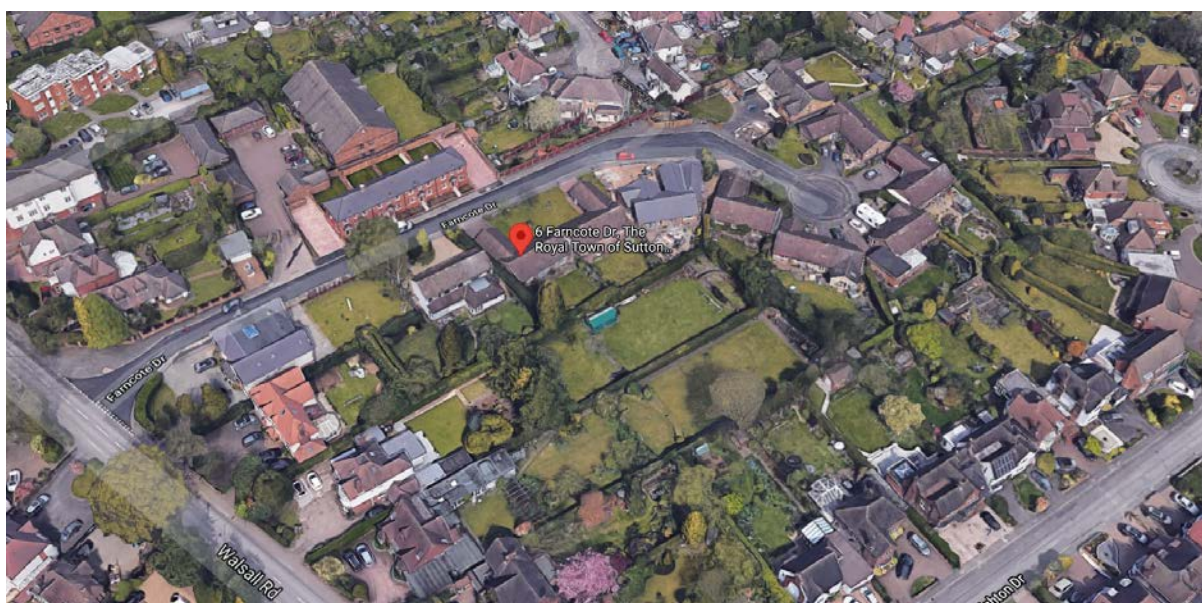
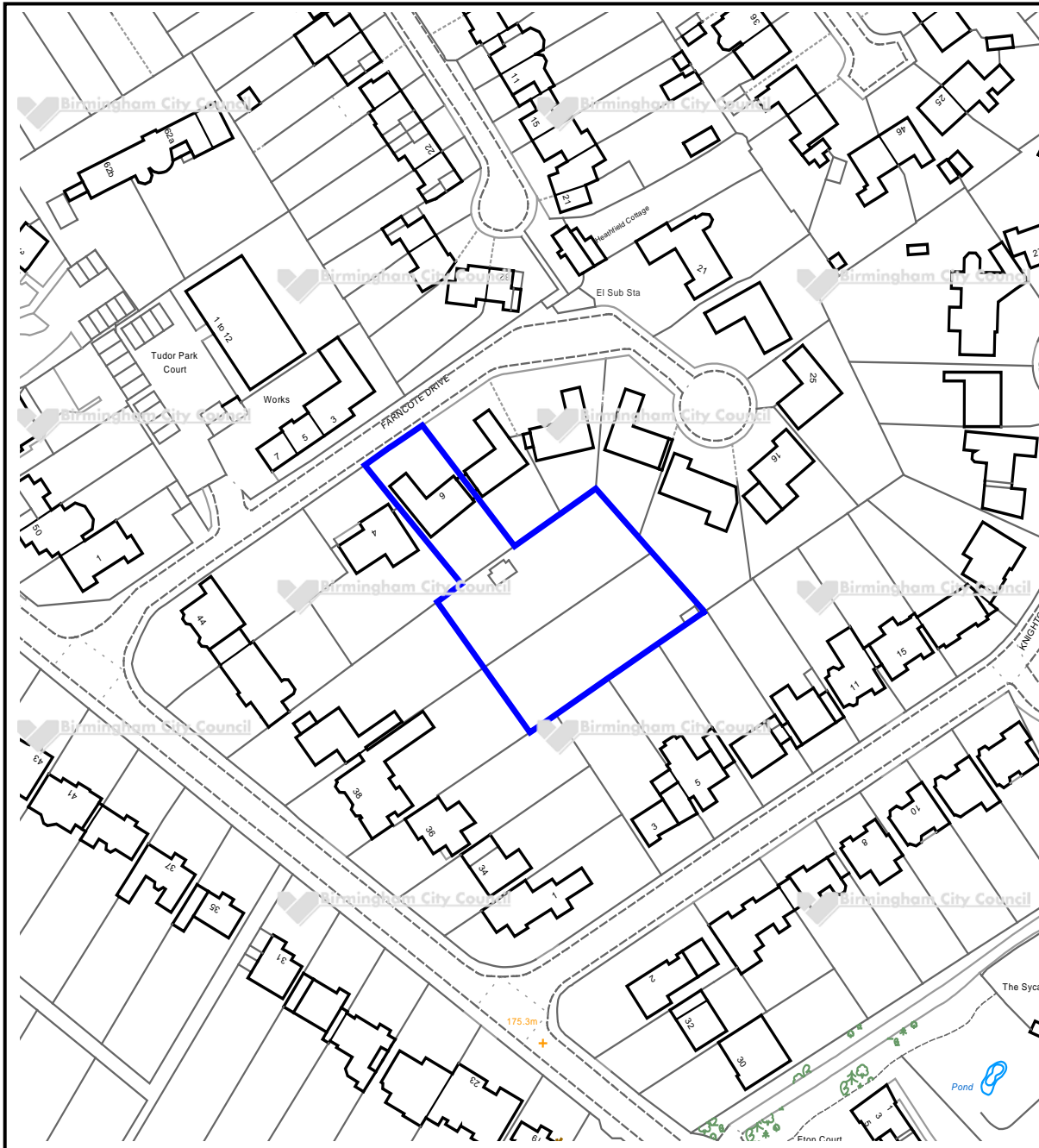


Photo 2: Aerial view

Location Plan



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Birmingham City Council

Report to Planning Committee

8th July 2021

Subject: Revisions to the Scheme of Delegation

Report of: Acting Director, Inclusive Growth

Report author: Sean Hannaby, Interim Assistant Director Planning

Email Address: sean.hannaby@birmingham.gov.uk

Does the report contain confidential or exempt information? ☐ Yes ☒ No

If relevant, provide exempt information paragraph number or reason if confidential :

1. Executive Summary

- 1.1. The current Scheme of Delegation was agreed to be reviewed when there is no longer need for virtual meetings and when it is possible to assess the impact of the changes made in May 2020.
- 1.2. The current Scheme of Delegation is considered to have been effective in ensuring that decisions are made in a timely manner and has enabled Planning Committee to focus on dealing with the most significant applications. However, as a result of observations over the past year, it is considered that some further minor changes could help clarify specific issues or introduce specific additional delegation.

2. Recommendations:

- 2.1. Notes that the Scheme of Sub-Delegations will be amended as set out in Appendix 1.

3. Background:

- 3.1. The current Scheme of Delegation was agreed in May 2020 partially as a result of ensuring effective decision-making during lockdown and partially in response to the issues raised in the Peer Review. It was intended that these amendments would be reviewed when it will be possible to assess the impact of the changes and when there is no longer need for virtual meetings.
- 3.2. The Peer Review recommended that the Council '*thoroughly modernise and update the scheme of delegation*' in order to '*radically reduce the number of applications being reported to Planning Committee to enable a clear focus on the most strategic and controversial applications.*'

- 3.3. The current Scheme of Delegation did just that and introduced changes that enabled more delegated decisions to be made but retained the provision of ward members requesting applications to be referred to committee and for officers to refer applications that they consider to be sensitive or controversial in order to maintain democratic oversight of decisions. Because some of these changes were considered to be radical, the extent of delegation was intended to be reviewed following the return to physical meetings in order to assess whether the changes have been effective in enabling the Committee to focus on the most contentious applications.
- 3.4. It is considered that the changes introduced in May 2020 have not resulted in any loss of oversight by Committee or lack of involvement by local ward members or communities and therefore there are no areas of delegation that are recommended to be repealed.
- 3.5. In accordance with the current scheme of delegation, many applications can be determined under delegated powers but there are still many of a major or sensitive nature that are determined by Planning Committee.
- 3.6. During the past 12 months officers have also been noting a number of applications that are referred to Committee automatically more because of historical precedent rather than because of their significance and additional delegation is proposed to include these additional categories. These include minor applications on Council owned land, legal determinations or other straightforward decisions.

4. Changes to the Scheme of Officer Delegation:

- 4.1. The changes to the scheme of delegation are set out in Appendix 1 with explanatory comments in the column alongside. Where the wording of a category has not been changed it is stated.
- 4.2. The proposed changes are as follows:
1. Category 9(a) now includes a note to clarify that Lawful Development Certificates or Lawful Use Certificates are not able to be referred to Committee at the request of Ward Members. These types of applications are legal determinations based on the evidence submitted and based on case law. They cannot be influenced by opinions and must be determined based on the facts of the case.
 2. Category 9(c) has a minor amendment to the wording to clarify that it does not apply to relatives of members or officers.
 3. Category 9(e) and 9(i) deal with departure applications and have been amalgamated. There are no changes to the scope of the delegation.
 4. Category 9(g) is changed to allow major residential applications that exceed the thresholds to be refused using delegated powers and to allow for reserved matters applications that exceed the thresholds to be delegated where the layout is policy compliant and there are only a limited number of objections.
 5. Committee often deals with straightforward applications just because it is Council land and Category 9(l) is amended to allow any minor Council application to be

dealt with under delegated powers and to allow BMHT applications that would otherwise be delegated to be determined using delegated powers.

New provisions are coming in in August to ensure that proposals for new public service buildings are dealt with promptly and a shortened target date of 10 weeks will be set for proposals relating to schools, hospitals and prison buildings. School applications are currently referred to Committee automatically unless they are minor applications, but the proposed change will enable larger, non-contentious applications to be determined using delegated powers as well which will make it easier dealing with these applications within the new 10 week deadline. Contentious applications will still be able to be referred to Committee.

6. Category 9(m) is amended to include the renewal or resubmission of outline applications as well as full applications and to enable applications that would otherwise be delegated to include a S106 agreements that is either policy compliant or supported by a viability assessment.

Ian J. MacLeod

Ian MacLeod
Director of Inclusive Growth (Acting)

Contact Officer: Sean Hannaby Interim Assistant Director Planning
E-Mail: sean.hannaby@birmingham.gov.uk

APPENDIX 1

PROPOSED REVISIONS TO THE OFFICERS SCHEME OF DELEGATION:

Planning & Development Matters:

The following table sets out the proposed new wording and the comments explain what the change means. Amended categories are in **Bold**. Deletions are shown as ~~strikethrough text~~:

| | Planning & Development Matters (new wording in bold & deletions struck through) | Proposed Changes |
|-----|---|---|
| 9 | Deal with, make, issue, review, approve, grant, allocate, refuse and decline applications, notifications and certificates in relation to the Council's planning and development function, EXCEPT applications or notifications: | . |
| (a) | That any member of the Council requests be determined by the Planning Committee (such request to be made by email to the Director Inclusive Growth specifying the planning grounds on which the request is made and received by the Director Inclusive Growth within the specified consultation period for the application or notification) with the agreement of the Director Inclusive Growth in consultation with the Chair of the Planning Committee. Note: The referral process does not apply to applications for Lawful Development Certificates or Lawful Use Certificates as they involve a legal determination based on the evidence submitted. | No Change but note added for clarification that Lawful Development/Use Certificates are not subject to call in. |
| (b) | Where there is substantial local public opposition to the officer's recommendation. 'Substantial' shall be considered as 20 or more representations against the recommendation or where a valid petition of more than 20 signatories has been submitted in accordance with the Council's Rules | No Change |
| (c) | Where the Director Inclusive Growth is informed that a member of the Council or an officer in the Planning Service has an interest in the property or land which is the subject of the application or notification, save for applications for householder developments where: <ul style="list-style-type: none"> • All other criteria within the Scheme of Delegation are met | Wording amended to make it clearer |

| | | |
|-----|--|--|
| | <ul style="list-style-type: none"> • There are no public or consultee representations received contrary to the officer's recommendation. • The applicant is not a planning officer, a Director, an Assistant Director in Inclusive Growth, or a member of the Planning Committee or Cabinet. <p>Note: This does not include applications where the applicant is a relative of an officer or member but no member or officer has an interest in the land.</p> | |
| (d) | Where there is significant objection from a statutory consultee and the decision is to approve; unless the objection has been specifically addressed by a condition or where other matters are considered to over-ride the objection in the planning balance. | No Change |
| (e) | Where it is proposed to approve the application or notification and the proposed development involves a significant breach of planning guidelines or Development Plan policy which would be required to be notified to the DCLG if the Committee were minded to approve the application planning policy and, but. | Amalgamated with 9i. |
| (f) | Which is likely to have, in the Director Inclusive Growth's opinion, a significant impact on the environment or to be particularly controversial or contentious. | No Change |
| (g) | Which relate to Major developments where the officer's recommendation is to approve comprising: <ul style="list-style-type: none"> i. 40 or more dwellings or outline residential development of 1 hectare or more ii. Any other development with floor space of 5000 square metres or more. iii. Outline applications where the site area is 1 hectare or more, <p>EXCEPT for:</p> <ul style="list-style-type: none"> • a variation or removal of condition, • the renewal of an extant permission • a minor material amendment, where the change is not substantial, and no significant objections have been received. • reserved matters applications where the layout is policy compliant, no significant objections from consultees and the number of 3rd party objections is not substantial. | Amended to allow delegated refusal of major residential applications and allow for reserved matters applications to be delegated where the layout is policy compliant and there are only a limited number of objections. |
| (h) | Relating to Grade I and Grade II* Listed Buildings, other than minor works (including those applications or notifications relating to Grade II Listed Buildings where objection has been made through the Conservation Area | No Change |

| | | |
|-----|---|---|
| | Advisory process, and those applications where the relevant Secretary of State has decided to amend or alter the decision of the Planning Committee). | |
| (i) | Recommended for approval where there is a departure from the Development Plan policy and which would be required to be the subject of a notification to the DCLG if the Committee were minded to approve the application or notification. | See 9e. |
| (j) | Relating to major mineral workings | No Change |
| (k) | The approval of Telecoms development involving the erection or installation of new masts where there is no ICNIRP Certificate issued (proposals for additional antennae or dishes or existing telecom structures falls within the scheme for delegation) | No Change |
| (l) | Any application where the Council has a land interest Submitted by the Director Inclusive Growth or by any other officer acting on his behalf under delegated powers, save for BMHT applications that comply with category 9(g) or applications for minor developments at City Council Schools where: <ul style="list-style-type: none"> • All other criteria within the scheme of delegation are met • There are no public or consultee representations received contrary to the officer's recommendation; and the Chair of Planning Committee agrees with the officer's recommendation. | Amended to allow any minor Council application to be dealt with under delegated powers and BMHT applications that would otherwise be delegated. |
| (m) | requiring authorisation to enter into a S106 planning obligation (or accept a Unilateral Undertakings) except: <ul style="list-style-type: none"> • as a result of a section 73 application; • applications for up to 40 residential units which are either policy compliant or are justified by a viability assessment • renewal or resubmission other than in the instance of a full planning application where the principle has been established by a previously approved application; and • where the proposed development is substantially the same as that previously considered and approved. | Amended to make it clearer, to include all outline applications as well as full applications and S106 agreements supported by a viability assessment. |
| 10 | (Council applications) | No Change |

| | | |
|----|--|-----------|
| 11 | (making of Orders) | No Change |
| 12 | (Tree works) | No Change |
| 13 | (Screening & scoping opinions) | No Change |
| 14 | (Powers of entry) | No Change |
| 15 | (Inadequate information received) | No Change |
| 16 | (Failure to sign a S106) | No Change |
| 17 | (Extensions of time to sign a S106 and Deeds of Variation) | No Change |