

PLANNING COMMITTEE

19th January 2021

APPLICATION FOR CONSIDERATION

0420/2020

REPORT OF ASSISTANT DIRECTOR - GROWTH & REGENERATION



Application Number:	0420/2020
Development:	Proposed erection of outbuilding to facilitate a Cattery
Location:	97 Broadlee, Stonydelph, Tamworth, B77 4PG

1. Introduction

- 1.1.1 The proposal under consideration is for the erection of an outbuilding within the rear garden of 97 Broadlee, for use as a cattery. The application is before the Committee for determination as a result of a Ward Member call-in. The Ward Member cited concerns in relation to residential amenity, highway safety and the appropriateness of operating a business within the proposed location.
- 1.1.2 The application site is situated within a 1980s residential development in the Stonydelph area of Tamworth. The property is located on a main road running through the development. The property comprises one in a row of detached dwellings. To the rear of the dwelling are a number of semi-detached properties, which have their side elevations adjacent to the rear garden boundary of the application site. Land levels progressively reduce as you move further into the estate. The rear garden of the host dwelling is comparatively large, given the properties 'estate' location and comprises of a patio area, lawn, established clusters of planting, (within the centre) along with planted borders to the rear and right-hand side boundaries of the garden. The perimeter is enclosed by boarded fences along all sides. The fence along the right hand boundary comprises a typical 1.8m wooden fence sat above gravel boards, the fence to the rear comprises a horizontally pannelled fence increasing in relative height owing to the decreasing ground level. The fence along the remaining boundary is a wooden fence with wooden posts (in excess of 2.0m in height) . An established Laurel hedge also continues along the length of this boundary, having an overall height in excess of 3.0m. To the front, the site currently has off street parking for 3 vehicles; 2 spaces on the driveway and 1 space within an integral garage.

2. Policies

- 2.1 Tamworth Borough Council Local Plan (2006 – 2031) Adopted Policies

SS1 – The Spatial Strategy for Tamworth
SS2 – Presumption in Favour of Sustainable Development
EN5 – Design and New Development
SU2 – Delivering Sustainable Transport
Appendix C – Car Parking Standards

- 2.2 National Policy

National Planning Policy Framework (2019) Para 8 (a) & (b) and Para 80

- 2.3 Other Guidance

Supplementary Planning Document (SPD) requiring development to avoid significant impacts on surrounding properties in terms of overshadowing, a sense of enclosure, loss of light and loss of privacy. The SPD also requires development to not harm the character and appearance of the property or the street scene.

3. Relevant Site History

N/A

4. Consultation Responses

- 4.1 Whilst every effort has been made to accurately summarise the responses received, full copies of the representations received are available to view at <http://planning.tamworth.gov.uk/northgate/planningexplorer/generalsearch.aspx>

Staffordshire County Council Highways – No objection subject to conditions

Environmental Health – No objection

- 4.2 The consultation responses comments are précised if conditions are proposed these are included within the conditions at the end of the report unless stated otherwise.

5. Additional Representations

- 5.1 As part of the consultation process adjacent residents were notified and a press notice and site notices were erected. Whilst every effort has been made to accurately summarise the responses received, full copies of the representations received are available to view at www.tamworth.gov.uk.
- 5.2 Two objections were received from neighbouring properties which raised a number of concerns relating to the proposed development. The concerns included:
- Inappropriate location within a residential setting – the proposed development accords with saved Policy EMP7 which permits commercial uses within a residential setting provided it meets the requirements set out within the Policy. The application has met the requirements (which will be addressed later in this report) and as such the operation of a commercial business of this type and scale in this location is deemed to be acceptable.
 - Could attract wildlife and vermin – Environmental Health have assessed the application and have expressed no concerns or objections over the proposed development associated with the attraction of wildlife and or vermin.
 - Cats meowing during the night due to being nocturnal – Environmental Health have assessed the application and have expressed no concerns or objections over the proposed development associated with additional noise.
 - Smell in the summer and cat waste – Environmental Health have assessed the application and have expressed no concerns or objections over the proposed development associated with unacceptable smells or waste products.
 - Impact on highway safety due to increased parking – Highways have expressed no objection and conditions will be placed on the application to restrict customers to one at a time and for additional off street parking to be created prior to operation
 - Impact on property values – property values are not a material planning consideration and cannot be taken into account when assessing a planning application.
 - Size of the outbuilding – The size of the garden is such that the proposed outbuilding would not result in overdevelopment of the site. The overall height of the structure would be no higher than a typical summer house or shed and the fences surrounding the outbuilding exceed 2.0m, the outbuilding would also be screened by vegetation from the adjacent property and as such the outbuilding would not result in any impacts associated with being overbearing or lead to overdevelopment of the site.
 - View of the cattery from adjacent property – the impact on views is not a material planning consideration and as such cannot be taken into account when assessing a planning application. The outbuilding will not be visible from the highway and as such the character and appearance of the outbuilding would not generate significant harm and is deemed to be acceptable.
 - Loss of privacy when cats are collected and dropped off – the number of bays within the cattery and therefore potential number of customers would not represent a significant number and as such would not lead to significant harm being generated to the amenity of adjacent properties. In addition the access point leads off from the front of the property, which would not result in a change in the current situation. The property immediately adjacent to the side access has its garage sat next to the path and as such there would be no significant impact associated with loss of privacy to the habitable rooms of the adjacent dwelling.
 - Hours of operation – a condition will be included on the application to restrict hours of operation to ensure that there would be no operation at unsociable times.

- Hazardous Substances – Environmental Health have assessed the application and have expressed no concerns or objections over the proposed development. In addition, as the cats would be contained within the pens at all times there would be no significant increase in the risk than the current situation that exists with cats from surrounding properties migrating lose through the gardens.

6. Equality and Human Rights Implications

- 6.1 Due regard, where relevant, has been taken to the Tamworth Borough Council's equality duty as contained within the Equalities Act 2010. The authority has had due regard to the public sector equality duty (PSED). Under section 149 of the Equality Act 2010, a public authority must in the exercised of its functions, have due regard to the interests and needs of those sharing the protected characteristics under the Act, such as age, gender, disability and race. This proposal has no impact on such protected characteristics.
- 6.2 There may be implications under Article 8 and Article 1 of the First Protocol of the Human Rights Act, regarding the right of respect for a person's private and family life and home, and to the peaceful enjoyment of possessions. However, these issues have been taken into account in the determination of this application.

7. Planning Considerations

- 7.1 Taking into account the application made, the documents submitted (and supplemented and/or amended where relevant) and the site and its environs; the main issues central to the determination of this application are:

- Principle
- Character and appearance
- Amenity
- Highway safety

7.2 Principle

- 7.2.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires all planning decisions to be made in accordance with the development plan unless material considerations indicate otherwise. The National Planning Policy Framework (NPPF) is a material planning consideration. Both the Local Plan (LP) and the NPPF contain a presumption in favour of sustainable development. Policy SS2 (presumption in favour of sustainable development) of the LP makes reference to the presumption contained within para 11 of the NPPF, which states:-

Plans and decisions should apply a presumption in favour of sustainable development.

For decision-taking this means:

c) approving development proposals that accord with an up-to-date development plan without delay; or

d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or

ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

- 7.2.2 National policy is heavily weighted towards the promotion of the economy, enterprise and the creation of new jobs, and also encourages the effective use and re-use of land.
- 7.2.3 The application site is located at 97 Broadlee, Stonydelph, defined as being within the urban area of Tamworth and as such, the principle of developing the site through the erection of an additional building to support a new business is considered to be acceptable (Use Class **Sui Generis**). Despite the comments raised within the neighbor's objections regarding the area remaining for residential uses only, the NPPF advocates business uses within a range of locations, including residential settings, with the NPPF specifically stating at para. 81 (d) that *new and flexible work practices (such as live-work) accommodation* should be allowed.

7.3 *Design, Character and Appearance*

- 7.3.1 The importance of design is highlighted in policy EN5 of the LP. This seeks to ensure that high quality buildings and places are achieved across Tamworth and includes specific criteria (a – j) to ensure such. The criteria seeks to specify requirements relating to architectural style, mass, layout and scale, materials and landscaping, the incorporation of active frontages and measures to aid legibility, minimise or mitigate environmental impacts, pay regard to highways safety and secure health benefits.
- 7.3.2 Furthermore, para 124 of the NPPF sets out that: - *The creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.*
- 7.3.3 The application proposes a detached building within the rear garden of the host dwelling to facilitate a cattery business. The building would be of brick and tile construction and would measure 7924mm (length), would have a depth of 3048mm and a height of 2438mm to the ridge. The building would be subdivided into five individual cat bays, along with an entrance area.
- 7.3.4 In terms of views gained from public vantage points, slight views would be available from a passageway adjacent to 97 Broadlee, but these would be confined to views obtained from above the wooden side gate, thus limiting any impact of the building when viewed from this stance. As a result, the proposal would not appear prominent from the highway and would therefore cause no materially harmful impacts in terms of character and appearance in this regard. In terms of other design related considerations, the host property benefits from a sizable plot and as such, whilst the proposed outbuilding would be large, its size and layout are not considered to result in overdevelopment of the site. To further mitigate any impacts, the outbuilding would be partially screened by existing vegetation (positioned centrally within the garden) and the overall height of the outbuilding would be no taller than similar examples of garden buildings. The proposed materials would also be comparable to those used for common outbuildings, further assimilating the building within its setting. On the basis of the above, the proposed development would be compliant with Policy EN5 of the Local Plan and would not result in a significant level of harm in terms of character and appearance of the property or the general street scene.

6.4 *Amenity*

- 6.4.1 Criterion g of Policy EN5 of the LP seeks to minimise or mitigate environmental impacts for the benefits of the existing and future occupiers of adjacent land. Notable impacts identified include loss of light, privacy or security, unacceptable noise, pollution and flooding and a sense of enclosure and Criterion e of Para 170 of the NPPF states that LPA's should:- *prevent new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability.*
- 6.4.2 The proposal would not have a significant impact on the amenities of occupiers of neighbouring dwellings for the following reasons:

The proposed outbuilding would be positioned adjacent to a boundary fence which exceeds 2 metres in height. The proposal would have a maximum height of 2.4m (approx.) to the pitch which would be to the front of the building, and thus away from the property boundary. Owing to this, only a small amount of roof would be visible above the fence. This relationship would mitigate and reduce harm on the amenity of the nearby properties on grounds of the development being

overbearing or leading to a sense of enclosure. In addition, there is also a significant amount of existing vegetation that would significantly (if not completely) screen views of the side elevation of the outbuilding from the adjacent property. As such, the proposed outbuilding would not result in any materially harmful impacts associated with it being overbearing, resulting in a sense of enclosure or resulting in a loss of light. The proposed outbuilding would therefore comply with Policy EN5 of the Local Plan and is deemed to be acceptable in this regard.

- 6.4.3 In terms of potential impacts generated on grounds of noise and disturbance and odour and pollution, Environmental Health have been consulted. They have responded with no objection. They have confirmed that the proposed cattery would not lead to significant impacts on the amenity of surrounding properties on grounds of noise, pollution or smells. Accordingly there would be no material harm caused to the health and wellbeing of surrounding residents and the proposal would not result in a level of waste that would generate adverse impacts in terms of odour. In terms of disturbance generated by customers, due to the relatively minor scale of the operation, the proposal would not result in a material level of harm in this regard. Furthermore, the operational requirements of the cattery would be governed by, and subject to a separate licence that would need to be obtained prior to operation.
- 6.4.4 The proposed development would therefore not lead to significant harm on the amenity of surrounding properties and as such would be compliant with Policy EN5 of the Local Plan and would be acceptable in this regard.

6.5 *Highway Safety*

6.5.1 Policy SU2 and EN5 require development proposals to have particular regard to highway safety, service requirements and the capacity of the local road network and the adopted parking standards set out in Appendix C of the Local Plan.

6.5.2 The NPPF at para 108 states that:- *in assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that:*

....b) safe and suitable access to the site can be achieved for all users; and

para 109 continues that:- *Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.*

- 6.5.3 The proposal would not have a significant impact on highway safety for following reasons;
- 6.5.4 The County Highway Authority have been consulted and have responded with no objection on the basis that the proposal would not result in any significant impact in terms of increased traffic or parking issues.
- 6.5.5 Within the letters of representation, concerns have been raised on grounds of increased traffic generation and a lack of parking provision. By virtue of the scale and type of development, it is not considered that the proposal would result in any materially harmful impacts in relation to such. Furthermore, this stance has been confirmed by the Highways Authority. Notwithstanding this however, conditions can be imposed to limit the number of clients permitted to be at the Cattery at one time, along with the creation of an additional parking space to the front of the property (resulting in 3 spaces on the drive and 1 garage space). Subject to the suggested conditions, it is not considered that there would be any materially harmful impacts in terms of highway related issues.
- 6.5.6 The proposed development would therefore result in no material harm in terms of pedestrian or highway safety and as such would be compliant with Policies EN5 and SU2 of the Local Plan, the proposed development is therefore deemed to be acceptable in this regard.

7 Conclusion

7.1.1 The application seeks consent for the erection of an outbuilding to facilitate a cattery business. Both the Local Plan and the NPPF are supportive of economic development in principle within residential areas, subject to them being acceptable on detailed planning grounds. The primary considerations in assessing this proposal therefore relate to impacts on residential amenity and highway safety, along with considerations in terms of character and appearance. As assessed above, the proposal

would not result in any materially harmful impacts in terms of residential amenity, on grounds of noise/disturbance, overshadowing, would not be overbearing or result in adverse impacts in terms of privacy. In addition, on the basis of the scale and type of development proposed and subject to the suggested conditions there would be no material impacts in terms of pedestrian or highway safety. Finally, owing to the siting and design of the proposal there would be no harmful impacts in terms of character or appearance. Consultees have all responded with no objection and the matters raised within the letters of representation have been addressed and are not considered to raise issues that would warrant refusal of the application. Overall, the proposal would be compliant with the requirements of Tamworth Local Plan 2006-2031 policies SU2 and EN5 along with the relevant sections of the NPPF.

8 Recommendation

Approve the application subject to the following condition(s):

9 Conditions / Reasons

1. The development shall be started within three years from the date of this decision. Reason: In compliance with Section 92 of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).
2. The development hereby permitted shall only be carried out in accordance with the application form, the supporting letter and drawings unless otherwise agreed in writing by the Local Planning Authority. Reason: To define the permission.
3. Only one customer is to be booked in at any one time for the dropping off and picking up of cats, and a gap of no less than 30 minutes between customer booking slots will be permitted. Reason: to ensure sufficient parking provision for customers is provided at all times during operating hours and so that on street parking does not occur as a result of the development in accordance with Appendix C: Parking Standards as set out in the adopted Tamworth Local Plan 2006-2031 and paragraph 123 of the National Planning Policy Framework.
4. The outbuilding and cattery business hereby approved shall not be occupied or operated until three car parking spaces have been provided on the driveway of the site. Reason: To comply with policy EN5 of the adopted Local Plan and as set out in Appendix C.