

# **PLANNING COMMITTEE**

**30<sup>th</sup> March 2021**

## **APPLICATION FOR CONSIDERATION**

**0477/2020**

**REPORT OF ASSISTANT DIRECTOR - GROWTH & REGENERATION**



<b>Application Number:</b>	<b>0477/2020</b>
<b>Development:</b>	<b>New disability accessible treatment room with covered link (re-submission of 0238/2020)</b>
<b>Location:</b>	<b>58 Albert Road, TAMWORTH, B79 7JN</b>

## 1. Introduction

- 1.1. The proposed development is for the erection of an outbuilding to act as a treatment room to the rear of 58 Albert Road to serve an existing business. The proposed outbuilding would be located in a position where an original outhouse was situated, which has now been demolished. The building would be significantly larger than the original structure and would sit against a row of existing outbuildings. The proposed outbuilding would be an L- shaped and have a tiled pitched roof. There would be a tiled roof to link the outbuilding to the rear elevation of 58 Albert Road. The application has been called in to be determined by the Planning Committee at the request of a local Ward Member.

## 2. Relevant Site History

0672/2005	Approved	Property change of use from residential to business. Ground floor to be used as a podiatry (chiropody) clinic, first floor to be let as offices
0044/2006	Approved	Property change of use from Residential to Commercial. Business will be Podiatry (Chiropody) and aesthetic medicine
T00800	Approved	Offices
0362/2016	Withdrawn	DEMOLITION OF OUTBUILDING, CONSTRUCTION OF NEW SECURE STORE AND COVERED LINK BETWEEN EXISTING AND PROPOSED BUILDINGS AND INSTALLATION OF 2 NO. VELUX WINDOWS IN REAR ROOF SPACE
0105/2017	Refused – Appeal Dismissed	Demolition of existing outbuilding, construction of new treatment room and associated toilet facilities for disabled customers, with entrance lobby linked to original building and installation of 2 no.velux windows in rear roof space (resubmission 0362/2016)
0248/2018	Approved	Installation of 2no. 'conservation' roof lights/veluxes in rear roof slope of main roof
0280/2018	Approved	Certificate of Lawful Development [proposed] for the demolition of outbuilding to rear of property
0220/2019	Approved	Rear extension with glazed link to allow disabled access to treatment rooms
0238/2020	Refused	Demolition of an existing outbuilding and subsequent replacement with a new disability accessible treatment room with covered link.

0105/2017 – Application was refused by TBC based on the potential harm to the setting of the locally listed buildings and the scale of the development not being appropriate for the residential urban fabric of the run of properties. The decision was appealed by the applicant and the Planning Inspectorate subsequently dismissed the appeal, concurring with the objection from the Conservation Officer and the recommendation of the Planning Officer.

0220/2019 – This application was submitted in a format that was similar to applications 0105/2017 and 0220/2019 both of which were refused, and this current application being considered. A number of revisions were made based on site visits, meetings and dialogue with the applicant. A scheme was presented that was suitable for the applicant and acceptable to both the Conservation and Planning Officers. As such an acceptable design has been reached without the need to return to the previous layout which has been refused a number of times.

0238/2020 – This application was identical to the application being considered within this report. The application was refused as it would lead to the same harm as application 0105/2017 and the original scheme submitted with application 0220/2019. As such the refusal for this scheme and layout has

been determined in separate applications by 2 Planning Officers, 2 Conservation Officers and the Planning Inspectorate.

### **3. Policies**

*Adopted Tamworth Local Plan 2006-2031*

- *SS1 - The Spatial Strategy for Tamworth*
- *SS2 – Presumption in Favour of Sustainable Development*
- *EN5 (Design of New Development)*
- *EN6 – Protecting the Historic Environment*
- *Appendix C – Car Parking Standard*

*National Planning Policy Framework (NPPF)*

*National Planning Policy Guidance (NPPG)*

*Supplementary Planning Document – Design*

### **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>

Conservation Officer – Objection

Environmental Health – No objection

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](http://www.tamworth.gov.uk).

No responses have been received from neighbouring properties

### **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:

- Character and Appearance
- Impact on the Historic Environment
- Impact on the amenity of surrounding properties
- Design SPD
- Highway Safety

## **7.2 Character and Appearance**

- 7.2.1 The appearance of a development is a material planning consideration and in general terms the design of a proposal should not adversely impact on the character and appearance of the wider street scene
- 7.2.2 Policy EN5 – Design and New Development states that developments should be of a scale, layout form and massing which conserves or enhances the setting of development and utilize materials and overall detailed design which conserves or enhances the context of the development. Proposals should respect and where appropriate reflect existing local architectural and historic characteristics but without ruling out innovative or contemporary design which is still sympathetic to the valued characteristics of an area.
- 7.2.3 The National Planning Policy Framework (NPPF) is a material planning consideration in the determination of planning decisions. One of the core planning principles contained within the NPPF seeks to ensure a high quality design and a good standard of amenity for all existing and future occupants of land and buildings.
- 7.2.4 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.*
- 7.2.5 Paragraph 130 states that “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.”
- 7.2.6 Design is subjective and open to interpretation and is often quoted as the art of making places for people, a process that is reliant on a number of different but mutually reinforcing objectives. Successful places constitute more than good architecture. It is important to understand the function of a place over time as well as the connections and spaces between buildings will affect the way a place ‘feels’.
- 7.2.7 The proposal would have a significant impact on the character and appearance of this locality for the following reasons:
- 7.2.8 The proposed development is for the erection of a single storey annex with linked roof that would join the rear of 58 Albert Road. The building would occupy the position of an historic (now demolished) out- building. The building would have a pitched roof design with gable ends that would mirror the direction of the previous and adjacent (original) out-buildings. The front of the annex would however have a ridge and a pitched roof connecting it to the rear of number 58.
- 7.2.9 The proposed development represents a building that would be significantly larger in scale than the original and adjacent outbuildings. By virtue of the scale and massing of the proposed development it would not be in keeping with its surroundings and would represent overdevelopment of the site. The proposal would occupy approximately 50% of the rear garden area, and whilst the site is operated as a commercial facility the area is still characterised as a traditional residential setting, thus rendering the proposal inappropriate for the setting and location. This is a matter that has been concluded by both the Conservation Officer and the Planning Inspectorate in a previous appeal for a similar scheme. In addition the proposed out-building, by virtue of its scale (and some design elements) would be poorly related to the surviving outbuildings within this run of terraced properties and for this reason would also harm the areas character in this regard.

- 7.2.10 Due to the proposed joining of the out-building to the rear of the existing property, it would not be read as a separate entity, which is a strong characteristic of the area and would instead appear as a large single storey extension. This would in turn increase the visual impact, the bulk and the massing of the proposed development.
- 7.2.11 This particular row of terraces along Albert Road remains relatively unaltered with the majority of their original features and general form/layout intact. For these reasons the row is locally listed. By virtue of this, the properties contribution to the area in terms of its character and history is considerable and positive.
- 7.2.12 On the basis of the above, the proposed development is not considered to preserve or enhance the special historic character of the Conservation Area, the row or locally listed buildings or the specific/defined characteristics of the area. By virtue of its scale and design the proposal would have a detrimental impact in terms of the character and appearance of the application property as well as the visual amenity of the wider area. The proposed development is therefore contrary to Policies EN5 and EN6 of the Local Plan and is not deemed to be acceptable.

### **7.3 *Impact on the Historic Environment***

- 7.3.1 Policy EN6 – Protecting the Historic Environment indicates that developments should enhance or preserve the area as a whole.
- 7.3.2 The application site is a terraced property which sits within the Victoria Road / Albert Road Conservation Area and is also identified as a locally listed building as part of the terrace within which it sits. Therefore the Conservation Officer has been consulted. The Officer has objected to the application on the basis of the following assessment:
- 7.3.3 The terrace consists of 6 properties arranged and designed as a repeating series of architectural pairs with a central pitched passageway running through the centre of each pair providing access to the rear. The properties have narrower rearward projecting ranges perpendicular to the street frontage, except for the westernmost property where the rear has been truncated by development to the south. Whilst these rear ranges are set near the centre of each pair, they are not connected, a narrow passage exists between each paired set. A series of outbuildings, again built as pairs spanning the boundary lines, stand separate to the south of the rear ranges parallel with the roofline of the main street frontage. Fewer of these have survived compared to the rear ranges with only one paired example left. The outbuilding at the application site has previously been demolished.
- 7.3.4 The existence of the 2019 application and approval suggests that this represents a workable solution to provide an additional, disabled access treatment room. Nothing within this submission seeks to suggest that this approved scheme, available as a 'fallback' would not be practicable, indeed beyond the 'previously approved building' annotation on the 'as proposed plans' there is no reference to the 2019 approval within this latest submission.
- 7.3.5 Where a proposal results in harm to a heritage asset it is legitimate, as determined in the case of Regina (on behalf of Forge Field Society et.al.) v. Sevenoaks DC, to consider whether the benefits of the scheme could be delivered in an alternative way which would avoid, or reduce, such harm. Following this line of reasoning, the presumption is that if the benefits can be delivered with reduced harm then an approach which results in more harm than is necessary cannot be subject to a 'clear and convincing justification' as required within paragraph 194 of the NPPF.
- 7.3.6 This latest proposal, whilst superior to the refused 2017 scheme, does reintroduce aspects of that proposal which were both harmful and objectionable, and is the same scheme that was also refused via application 0238/2020. The minor step-in, notwithstanding the proposal, would read not as a detached structure linked to the main property but rather as a substantial single storey extension. The change in orientation to run in line with the neighbouring rear outbuilding represents an improvement from the 2017 design, but not to the extent that the proposal would read as a former outbuilding connected by a link or infill. The entrance door passage does not provide an effective break, its width is reflective of the requirement for disabled access and is hardly a substantial break, whilst the roof continues above this section unaffected.

7.3.7 The Conservation Officer has also made reference to specific wording in the former appeal decision in 2017 relating to a previously refused application (0105/2017) and dismissed appeal (APP/Z3445/W/17/3180024), which would apply to this proposal:-

*“The proposal would be considerably larger than the [former] outbuilding. It may only be the minimum required to meet the needs of the business, but the size and massing of the development would dominate the rear garden and would as a result be disproportionate in scale and form to the host property. The linking porch would assist in distinguishing between the old and new parts of the property and would reduce the amount of the rear host building wall that would be lost to development. However, it would do little to reduce the overall massing of the proposal. Although the single storey development would be subsidiary to the 2 storey main building in terms of height, it would lose its domestic scale. The size of the proposal would mean that it would not be viewed as a domestic extension or as an outbuilding that has been joined to the main building by a porch.”*

7.3.8 The existence of the 2019 approval confirms an alternative, less harmful approach which delivers the same benefits in terms of facilities (a single disabled accessible additional treatment room) means that there can be no clear and convincing justification for this needlessly more harmful proposal, and furthermore there is no attempt to provide such a justification within the submitted documents.

7.3.9 The proposal would harm the special architectural and historic character and appearance of the conservation area and lacks a clear and convincing justification. A strong and statutory presumption against granting planning permission exists under section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990. To the extent that wider benefits may exist they are the same as secured via the approved scheme. The proposal would also be harmful to the special character of the terrace as a non-designated heritage asset, a further matter to be weighed in any planning determination which would further add to the reasons for refusal in this case.

7.3.10 A final point of consideration from the planning inspector’s report relates to the potential demolition of the outbuilding. The inspector stated that:-

*“although the rear of the property may be subject to Permitted Development rights if it were still in residential use, this is not the case here and as such I give this argument little weight. Similarly, the appellant states that demolition of the outbuilding would not constitute development because of its size. Be that as it may, its demolition forms part of the appeal proposal and has been assessed accordingly. Even if the fall-back position was taken up and the out building was demolished, it would not alter my findings regarding the harm to the character and appearance of the Conservation Area as a result of the scale and design of the proposal.”*

7.3.11 Therefore taking into account the consultation response from the Conservation Officer as well as the statements made within the Planning Inspectors appeal decision report, it is clear that the proposed development is not compliant with Local or National Policies and would result in harm to the identified heritage assets for which there is no overriding justification. As such the proposed development is not deemed to be acceptable and would be contrary to Policy EN6 of the adopted Local Plan.

#### **7.4 Impact on the amenity of surrounding properties**

7.4.1 Policy EN5 – Design and New Development states that developments will be expected to minimise or mitigate environmental impacts for the benefit of existing and prospective occupants of neighbouring land. Such impacts may include loss of light, privacy or security or unacceptable noise, pollution, flooding or sense of enclosure.

7.4.2 The proposed development would be likely to lead to some harmful impacts on the amenity of neighbouring properties. The scale and massing of the proposed development would mean that the proposed out-building would be overbearing and would lead to a sense of enclosure to the rear gardens of adjacent properties. Some of the properties within the row may be commercial in nature, however one of the adjacent properties is residential in use and would suffer some harmful overbearing and overshadowing impacts. However, as a result of the scale and design of the proposal, such impacts would not on balance warrant the refusal of the application on such grounds.

7.4.3 The proposed annex does not contain any windows and the door would not directly face onto the rear elevation of adjacent properties. Therefore there would be no significant impact associated with loss of privacy or overlooking.

7.4.4 On balance, although an element of harm would be caused to the residential amenity of the adjacent dwelling, the impacts would not be so significant as to warrant refusal of the application on such grounds.

## **7.5. Design SPD**

7.5.1 Tamworth Borough Council has a Supplementary Planning Document (SPD) titled Tamworth Design Guidance which can be viewed on our website:

<http://www.tamworth.gov.uk/supplementary-planning-documents>

7.5.2 The Design Guidance was adopted in July 2019 and substantial weight is now attributed to it in accordance with paragraph 48 of the National Planning Policy Framework. Supplementary planning documents are capable of being a material consideration in planning decisions but are not part of the development plan.

7.5.3 In relation to this application the following elements would not be in accordance with the guidance set out:

- 4.11 – The proposed development would lead to an unacceptable impact on the character of the wider and surrounding area.
- 4.12 – The proposed development is not informed by the character of the original building in terms of scale and massing, leading to over development of the site and also would not enhance the area as a whole.
- 4.21 – The development would not respect the character of the original building or the row of historic houses. This is of particular importance given the properties are situated within a Conservation Area and are locally listed.

7.5.4 As such the proposed development would not be consistent with the requirements as set out within the Design SPD and therefore harm would be caused in this regard.

## **7.6 Highway Safety**

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

7.6.2 The proposal would not have a significant impact on highway safety for the following reasons:-

7.6.3 The site does not benefit from off street parking, however it is located on a street with existing TRO's in place in the form of double yellow lines and so there is not a risk associated with the development leading to an increase in on street parking directly outside on the adopted highway. The site is located close to the Town Centre and as such is within walking distance of a number of public carparks, as well as good public transport links. Notwithstanding that the proposal would result in additional treatment rooms and so may not be in complete accordance with the defined parking standards, as the site is situated within a sustainable location and as there are existing measures to restrict on-street parking, the development would not result in significant harm to pedestrian or highway safety and is therefore compliant with Policy SU2 of the Local Plan.

## **8. Conclusion**

8.1 The proposed development is not considered to be acceptable in terms of design, scale and massing. It does not relate well to its surroundings and would result in significant harm the Conservation Area and locally listed buildings. The existence of the 2019 approval confirms an alternative, less harmful approach which delivers the same benefits in terms of facilities (a single disabled accessible additional treatment room) meaning that there can be no clear and convincing justification for this needlessly more harmful proposal, and I note that no attempt to provide such a

justification is made within the submitted documents. The proposal would harm the special architectural and historic character and appearance of the conservation area and lacks a clear and convincing justification. A strong and statutory presumption against granting planning permission exists under section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990. To the extent that wider benefits may exist they are the same as secured via the approved scheme. The proposal would also be harmful to the special character of the terrace as a non-designated heritage asset, a further matter to be weighed in any planning determination which would further add to the reasons for refusal in this case. The proposed development is not compliant with Policies EN5 or EN6 of the Local Plan. Consequently the application is recommended for refusal for the reason outlined below.

**9. Recommendation**

1. Refuse for the following reasons:-
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**Reasons**

1. The development is considered to be of a scale, siting and appearance which fails to adequately respect its context and would have a significant detrimental impact upon the character and appearance of the host dwelling and of the wider Conservation Area. The development fails to preserve or enhance the Conservation Area or the locally listed buildings and the proposal is considered to be contrary to Policies EN5 and EN6 of the adopted Local Plan 2006-2031.