

**PLANNING COMMITTEE**

**7 FEBRUARY 2023**

**APPLICATION FOR CONSIDERATION**

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

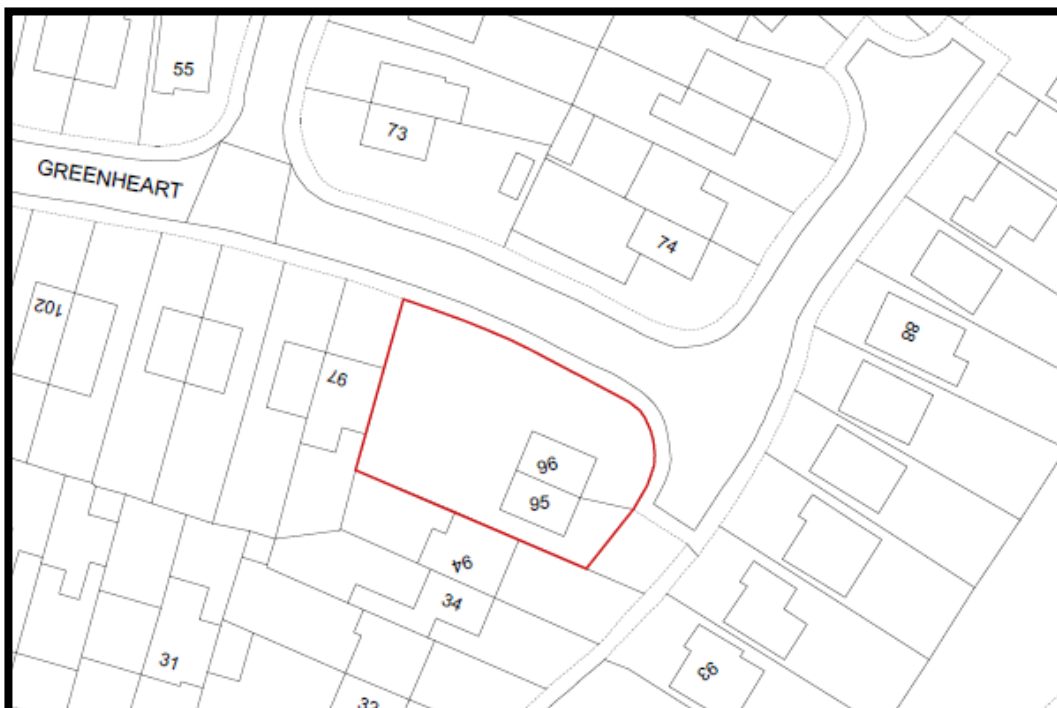


**Application Number:** 0324/2022  
**Development:** Erection of a 2 bedroom detached dwelling (re-submission of 0013/2022)  
**Location:** 96 Greenheart, Amington, Tamworth, B77 4NQ

## 1. Introduction

- 1.1. This application was called in to Planning Committee by Cllr Wade, Ward Councillor for the site on 29 August 2022 following objections raised to him by neighbours regarding parking, character and appearance and potential amenity impacts to 97 Greenheart.
- 1.2. It is for the development of a single two bedroom (originally submitted as a three bedroom) detached dwelling on land currently in use as rear gardens to two adjoining semi detached properties under the same ownership. The proposed dwelling would front onto Greenheart adjacent to number 97.
- 1.3. The application is a resubmission of an earlier delegated application, reference 0013/2022 for a three bedroom dwelling on the site which was refused by virtue of its design, position and orientation relative to adjacent properties would not be in keeping with the overall character and appearance of the streetscene and local area and its location and orientation in relation to 97 Greenheart would impact unduly upon the amenity of this property.
- 1.4. This application is a re-submission to address the previous reasons for refusal and is a significantly different scheme to that which preceded it. Further evolution of the proposal since its submission, saw the scheme being subject of a second consultation exercise between 3rd and 17th November 2022. Following the second consultation period, it was noted that the floor areas proposed were lower than those specified nationally for a three bedroom dwelling and the applicant chose to continue with the application as a two bedroom dwelling. This was considered acceptable without the need for a third consultation exercise due to the external dimensions of the proposed dwelling not having changed since the second consultation and the car parking requirements being the same for both two and three bedroom dwellings.

### Location Plan



## 2. **Policies**

### 2.1 Local Plan Policies

SS1 - The Spatial Strategy for Tamworth  
SS2 – Presumption in Favour of Sustainable Development  
HG1 – Housing  
EN5 – Design and New Development  
SU1 - Sustainable Transport Network  
SU2 – Delivering Sustainable Transport  
SU5 – Pollution, Ground Conditions and Minerals and Soils  
Appendix A – Housing Trajectory  
Appendix C – Car Parking Standard

## 3. **Relevant Site History**

T02300	Residential development.
T21131	Conservatory
T00862	Erection of 174 detached and semi-detached houses
0013/2022	Erection of a three bedroom detached dwelling and associated works at 95 & 96 Greenheart.

## 3. **Consultation Responses**

3.1 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>

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.

Joint Waste Services – Provision must be made for 3 x 240l wheeled bins and a recycling bag

Staffordshire County Council Highways – no objection subject to conditions

Tamworth Borough Council – Environmental Protection – a contaminated land survey should be undertaken prior to commencement of construction with an approved management plan in the event that land contamination is discovered. Also, that due to the residential nature of the surroundings a construction management plan seeking to minimise noise and disturbance should be agreed prior to commencement.

## 4. **Additional Representations**

4.1 As part of the consultation process adjacent residents were notified by letter. 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).

4.2 There were two periods of public consultation, the original ran from 25 July 2022 to 22 August 2022 and the second following submission of significant revisions to the scheme between 3 November 2022 and 17 November 2022.

4.3 There were in total across the two consultation periods 34 emails of objection received from 29 separate objectors from 22 separate addresses of which four objections came in response to the second round of consultation. The objections generally covered similar themes, with traffic impacts and car parking being the most prevalent topics raised. A frequently cited reason for referring to potential parking and traffic related concerns was parking associated with a nearby school and some dwellings more locally to the site being considered to have inadequate parking at present due to drivers parking vehicles on Greenheart. The concerns raised however were generally not specific to the proposal. Other topics raised were drainage related, stating that there had been drainage problems associated with the site area and nearby gardens in the past and that development could

exacerbate those issues. Some objectors suggested that the site was not large enough for the proposed development and that proximity to other dwellings was an issue.

- 4.4 The closest adjacent neighbour raised numerous issues including all of those previously mentioned, concerns over loss of privacy, the proposal being overbearing, loss of light to a first floor landing window and removal of trees being contrary to tree preservation orders. It was noted that seven of the other objectors made reference to concerns that would otherwise be unique to the closest adjacent neighbour.

## **5. Equality and Human Rights Implications**

- 5.1 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.
- 5.2 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.

## **6. Planning Considerations**

- 6.1 The proposed development of a two bedroom dwelling at 96 Greenheart raises the following key considerations:
- Principle
  - Character and Appearance
  - Neighbour Amenity
  - Highway Safety
  - Other Issues

### **6.1 Principle**

- 6.1.1 The Tamworth Local Plan 2006-2031 (LP) was adopted in February 2016. As well as the local plan there is guidance within the National Planning Policy Framework (NPPF) and the accompanying Planning Practice Guidance (PPG). The starting point in determining the acceptability of development proposals is the Local Plan, where the policies are considered consistent with the NPPF. Policy SS1 The Spatial Strategy for Tamworth is to provide development in the most accessible and sustainable locations and SS2 Presumption in Favour of Sustainable Development, states that proposals that accord with the local plan are sustainable and will be approved without delay. Policy HG1 is the most relevant local policy in assessing residential development within the Borough which supports residential development within the urban area of the Borough. These are considered to reflect the presumption in favour of sustainable development contained within the NPPF because development within the urban area of Tamworth is in general terms sustainable. This is as a result of access to sustainable modes of transport and access to relevant services and amenities within the Borough. Therefore, it is considered that the above policies are consistent with the NPPF. The proposed development located within the urban area of Tamworth, in an existing residential area would be within a reasonable distance of local facilities and as such would in principle be considered to be a sustainable form of development.
- 6.1.2 Tamworth Borough Council Strategic Planning noted in its response that as an individual dwelling upon residential curtilage, which is not allocated for any particular purpose in the Local Plan, that it would have no strategic objection to the residential principle of the proposal. Notwithstanding, the development must be able to demonstrate compliance with the wider policies of the Local Plan in order to be deemed acceptable.
- 6.1.3 Local Plan policy HG4 Affordable Housing makes reference to affordable housing provision/contributions for development of 10 or more houses and 3 to 9 houses. In addition, policy

HG5 Housing Mix talks about the percentage of 1, 2, 3 and 4 bedroom sized units which should be provided on a site for housing development unless justified otherwise. Finally, HG6 recommends a housing density of between 30 and 40 dwellings per hectare. As this proposal is for one dwelling it is considered that HG4, 5 and 6 are not applicable.

6.1.4 The proposed application for a single two bedroom dwelling, whilst not necessary to achieve the Borough's housing targets, would make a positive contribution to providing additional housing in a sustainable location of a size that is in demand within Tamworth.

6.1.5 The original planning approval for the development now known as Greenheart had conditions imposed that restrict permitted development rights. The two conditions concerned restrict permitted development under Part 1 Classes A, D, E, F and G of the General Permitted Development (England) Order 2015 and remove the right to construct walls, fences and other structures to the front of properties on Greenheart without planning permission. Should the proposal be approved, it would therefore be appropriate to impose conditions with the same effect to the proposed development.

6.1.6 The proposal would therefore be considered acceptable in principle subject to it complying with other relevant parts of the Tamworth Local Plan 2006-2031, the National Planning Policy Framework and the Design Supplementary Planning Guidance.

## 6.2 Character and Appearance

6.2.1 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.

6.2.2 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.

6.2.3 The appreciation of character and appearance is a significant part of planning reform and, with the introduction of the National Design Guide, remains a very important consideration of planning applications.

6.2.4 The original version of this application for a three bedroom dwelling was significantly different to the preceding application 0013/2022 which had been refused. The principal reasons for refusal of 0013/2022 related to the design not being in keeping with other dwellings in the locality and the positioning and scale of the proposed dwelling having adverse effects upon the adjacent 97 Greenheart.

6.2.5 By contrast this application proposes a dwelling that is of a design that much better accords with the existing dwellings in that portion of Greenheart and shares common features. It must be noted that as a detached dwelling it would be different to the existing properties that are largely of semidetached type, however the commonalities are such that it would not appear out of place. Over the course of the application process the scheme has evolved further, with numerous changes including a reduction in the number of bedrooms.

6.2.6 The amended scheme for this application, now to be determined is for a two bedroom detached dwelling on the same front and rear alignments as 97 and 99 Greenheart. Located in the western part of what is currently garden area to 95 and 96 Greenheart, the proposed dwelling would have a bay window and doorway at ground floor level to the front with a full width mono-pitch porch above. At first floor level there would be two windows serving the front bedroom. There would be no side windows at the ground floor and only a single side window to the eastern elevation at first floor level. The rear elevation would have a centrally located French window with side panels at ground floor level and an obscure glazed bathroom and a clear bedroom window at first floor level. The pitched roof would mimic those of adjacent dwellings.

6.2.7 At 71.6 sqm gross internal floor area, the proposal exceeds the minimum floorspace requirement of 70sqm for a two bedroom, three person two storey dwelling as established by the Department for

Communities and Local Government in the 2015 document Technical Housing Standards – Nationally described space standards.

- 6.2.8 The proposed dwelling would have an acceptable relationship with the surrounding properties in that its position would not result in significant overlooking of properties nor result in it being overbearing, instead it would take up a position that ties into the existing row of properties from 97 Greenheart westwards.
- 6.2.9 The materials proposed to be used in the development have not been fully identified, with only bricks to match those of the existing numbers 95 and 96 identified. It is appropriate therefore that should the application be approved, an external materials condition is imposed which would require the Council's agreement to all external materials, prior to the commencement of development.
- 6.2.10 The proposed development would undoubtedly reduce some of the sense of openness in the immediate vicinity, however the setback from the road, sharing the existing building line of neighbouring dwellings in that row would in all likelihood not result in a sense of overdevelopment or overcrowding in that part of Greenheart.
- 6.2.11 The external areas of the proposed dwelling and the remaining garden areas of the existing 95 and 96 Greenheart when assessed against the Design Supplementary Planning Guidance indicate that the gardens would comply with that guidance. Paragraph 4.72 of the guidance states that "The Council would encourage applicants to seek to achieve minimum external amenity space standards for new dwellings as follows: 2 person dwelling 45 sqm, 3 person dwelling 60 sqm and 4 person dwelling 75 sqm." The approximate garden areas proposed would be 106 sqm for the new dwelling, 60 sqm for 95 Greenheart and 68sqm for 96 Greenheart, which would exceed the guidance for 3 person dwellings.
- 6.2.12 The amended proposal is considered to respond well to the character of the locality and would comply with the Tamworth Borough Council Design Supplementary Planning Document and therefore comprise an acceptable form of development in terms of its character and appearance.

### 6.3 Neighbour Amenity

- 6.3.1 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.
- 6.3.2 The proposed development would be sited within the area originally set out as rear garden space to 95 and 96 Greenheart. To the rear it would face over the rear gardens of 93 and 94 Greenheart and would sit adjacent to the eastern elevation of 97 Greenheart.
- 6.3.3 Considerations of neighbour amenity include whether a proposal would be overbearing to neighbours, whether it would have an undue impact upon light amenity and whether it would introduce concerns regarding loss of privacy and overlooking. In this particular case the principal neighbour amenity concerns have related to overlooking of the rear gardens of 94 Greenheart and the various aspects of the relationship with 97 Greenheart.
- 6.3.4 With respect to overlooking of 94 Greenheart it is important to note that the only window which would afford any degree of overlooking is a relatively modest bedroom window on the western half of the proposed dwelling which means that views directly from that window would be only across the deepest part of the rear garden to 94 Greenheart and across the gardens beyond. The other first floor rear window would be a bathroom window and therefore of obscured glazing minimising any opportunity for overlooking or loss of privacy. With regard to overlooking of 97 Greenheart from the rear, that would be even less likely as the rear bedroom window would not directly overlook the rear of 97 Greenheart which would be at least two metres to its side.
- 6.3.5 With respect to light amenity the proposed dwelling located to the west of 95 and 96 Greenheart would have minimal impact upon the light amenity enjoyed by those dwellings other than perhaps briefly in winter evenings when they may be shadowed slightly earlier than they would be at present by 97 Greenheart. The relationship with 97 Greenheart is such that located to the east of that property the proposed dwelling would have some impact on any windows to the eastern elevation of 97 Greenheart. There is one such window, a landing window at first floor level which would be

separated from the flank wall of the proposed dwelling by the width of 97 Greenheart's garage plus approximately one metre a total distance of just under four metres. Consequently whilst there would be an impact upon light amenity to that window it would not be very significant. Furthermore, as landings are not considered to be habitable rooms they are excluded from light amenity consideration as set out in the Design Supplementary Planning Document.

#### 6.4 Highway Safety

6.4.1 With respect to this application, the primary aspect of highway safety consideration is that of car parking provision. Appendix C of the Tamworth Borough Council Local Plan 2006-2031 requires that newbuild or extended two and three bedroom dwellings provide two car park spaces of at least 2.4m x 4.8m dimensions. The proposed new dwelling would have two such car park spaces side by side within the front garden and as such would comply with Appendix C. Of the other two dwellings associated with this development, number 95 Greenheart already provides two appropriate car park spaces. 96 Greenheart, which currently has a car park space where the proposed new dwelling's spaces would be is proposed to have two spaces provided facing perpendicular to the northern flank of that house on to the main part of Greenheart. Through those two elements of off street car parking space provision the proposal would comply with Appendix C of the Local Plan

6.4.2 Staffordshire County Council Highways have been consulted upon the proposal and commented as follows:

"The proposal includes parking for the existing dwellings which are located within the existing curtilages of those properties. The access to the parking for number 96 is accessed from a proposed access that is closer to the junction than would normally be acceptable however on its own it is my understanding that the construction of this access would not normally require planning permission and it would therefore seem unreasonable to object to the development on those grounds. The issue with the access is with vehicles turning left into the road with restricted visibility of vehicles using the access but as that is a short cul-de-sac it would add to the unreasonableness of any objection. The parking for the proposed dwelling would appear to be from an existing access but in any event its construction would not result in a reduction in highway safety. It is therefore recommended that if the application is to be approved it be subject to the following condition:"

*Before any part of the development hereby authorised is brought into beneficial use the car parking spaces shown on the approved plans shall be laid out, constructed, hard surfaced and drained to ensure no surface water runs onto the highway and once occupied shall be maintained as such thereafter."*

6.4.3 Multiple objections have cited car parking as a major issue of concern to residents, however in most cases the concern has referenced short term car parking associated with a school which is located some 250m away from the proposed site. The proposal would introduce additional car parking demand, however it would also provide the required amount of off street car parking provision to satisfy that demand and in the case of the existing 96 Greenheart would provide one additional car park space than is provided today.

6.4.4 In light of the additional off street car parking provision, the fact that the majority of objections to car parking in the street were based on activity not associated with the proposed dwelling and the conditional acceptance of Staffordshire County Council Highways of the proposal, it is considered to be compliant with the Local Plan 2006-2031 and acceptable in highway safety terms.

#### 6.5 Other Issues

6.5.1 Concerns were raised over drainage issues experienced with persistent damp problems to the side of number 97's garage wall that partly forms the boundary between 96 and 97 Greenheart. It is considered that the proposed dwelling having suitable drainage associated with it to remove surface water on that part of the site, combined with the installation of additional soakaway provision elsewhere on the site could result in a marked improvement of the current drainage situation that would actually be to the advantage of neighbouring properties.

6.5.2 A further concern raised was that there are two trees on the site which would have to be removed for the development to go ahead. It was suggested that the tree to the front of the site, facing onto Greenheart was protected by a Tree Preservation Order. Upon investigation, it was noted that the

site does indeed fall within an area identified under Tree Preservation Order Number 1 of 1972 as Area 11 in which Oak and Thorn trees are to be protected. The Tamworth Borough Council Tree Officer visited the site on 21 November and has advised that the trees on the site are of the species Hornbeam and Silver Birch and are therefore not covered by the Tree Preservation Order. Consequently, their removal would be acceptable.

## **7 Conclusion**

- 7.1 The proposed development has been amended to reflect compliance as far as is possible with all aspects of the Design SPD and exceeds minimum requirements for internal space standards. Its external character and appearance is such that whilst it is not identical to the existing dwellings within Greenheart it can be considered to be in accordance with Policy EN5 Design of New Development which requires that new developments respect and where appropriate reflect local architectural and historic characteristics.
- 7.2 Notwithstanding the objections received, the proposal would be largely in character with the locality and would not be expected to be detrimental to neighbour amenity, nor would it be expected to adversely affect highway safety.
- 7.4 In conclusion therefore it is considered that the proposed development would be an acceptable form of development that would comply with the Tamworth Local Plan 2006-2031 and the NPPF and is recommended for approval with conditions.

## **8 Recommendation**

**Approval with conditions**

### **Conditions / Reasons**

1. The development shall be started within three years of the date of this permission.  
  
Reason: To comply with Section 91 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 and drawings: 003 submitted 25 July 2022, 001 (submitted 11 January 2023) 002 (submitted 11 January 2022) and 004 (submitted 11 January 2023) unless otherwise agreed in writing by the Local Planning Authority.  
  
Reason: To define the permission
3. Prior to the commencement of the development hereby approved details of all materials to be used in the construction of the external surfaces of the development shall be submitted to and approved by the Local Planning Authority in writing. Reason: To ensure a satisfactory external appearance to the development in accordance with policy EN5: Design of New Development as set out in the Tamworth Local Plan 2006-2031.
4. Prior to the commencement of development a scheme to deal with contamination of land, controlled waters and/or ground gas has been submitted to and approved in writing by the local planning authority. The scheme shall include all of the following measures, unless the local planning authority dispenses with any such requirement specifically in writing:  
  
A Phase I site investigation report carried out by a competent person to include a desk study, site walkover, the production of a site conceptual model and a human health and environmental risk assessment, undertaken in accordance with BS 10175: 2011 Investigation of Potentially Contaminated Sites – Code of Practice.



A Phase II intrusive investigation report detailing all investigative works and sampling on site, together with the results of the analysis, undertaken in accordance with BS 10175:2011 Investigation of Potentially Contaminated Sites – Code of Practice. The report should include a detailed quantitative human health and environmental risk assessment.

A remediation scheme detailing how the remediation will be undertaken, what methods will be used and what is to be achieved. A clear end point of the remediation should be stated, such as site contaminant levels or a risk management action, and how this will be validated. Any ongoing monitoring should also be outlined.

If during the works contamination is encountered which has not previously been identified, then the additional contamination shall be fully assessed and an appropriate remediation scheme submitted to and approved in writing by the local planning authority.

A validation report detailing the proposed remediation works and quality assurance certificates to show that the works have been carried out in full accordance with the approved methodology shall be submitted prior to first occupation of the development/the development being brought into use. Details of any post-remedial sampling and analysis to show that the site has reached the required clean-up criteria shall be included, together with the necessary documentation detailing what waste materials have been removed from the site.

Reason: To protect the health of future occupiers of the site from any possible effects of contaminated land, in accordance with Policy SU5 x of the Tamworth Local Plan 2006-2031

5. The windows in the flank walls and the bathroom window shall be glazed only in obscure glass of at least Pilkington Scale Level 3.

Reason: To preserve the privacy of the occupiers of the adjacent properties in accordance with policy EN5: Design of New developments as set out in the Tamworth Local Plan 2006-2031.

6. Before any part of the development hereby authorised is brought into beneficial use the car parking spaces shown on the approved plans shall be laid out, constructed, hard surfaced and drained to ensure no surface water runs onto the highway and once occupied shall be maintained as such thereafter.

Reason: In the interests of highway safety and in accordance with Policy SU2 Sustainable Transport of the Tamworth Local Plan 2006-2031.

7. No work completed, no construction site machinery or plant shall be operated, no process shall be carried out and no construction related deliveries taken at or dispatched from the site except between the hours of 8am-6pm Monday to Friday and 8am-1pm Saturday and not at any time on Sundays, Bank or Public Holidays

8. Reason: To protect the amenity of the locality, especially for people living and/or working nearby, in accordance with local planning policy and in accordance with the provisions of Circular 11/95 and in accordance with Policy EN5 Design of New Development of The Tamworth Local Plan 2006-2031.

9. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any statutory instrument amending, revoking and/or replacing that Order, the dwelling hereby permitted shall not be enlarged, extended or altered, and no buildings, gates, walls, fences or other means of enclosure (except as authorised by this permission or allowed by any condition attached thereto) shall be erected on the site without the prior grant of planning permission pursuant to an application made to the Local Planning Authority in that regard.

Reason: To maintain control in the interest of the character and amenity of the area, having regard to the setting and size of the development, the proximity to existing features on or adjacent to the site, and the effect upon neighbouring properties and/or the street scene in accordance with Policy EN5 Design of New Development of the Tamworth Local Plan 2006-2031.

10. Appropriate provision must be made for the storage of 3 x 240l wheeled bins and a recycling bag.  
Reason: to ensure compliance with waste management requirements and Policy EN5 Design of New Development of the Tamworth Local Plan 2006-2031.

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