

Information item

1 Introduction

- 1.1 There have been a number of planning appeals determined over the last few months which would be useful to reflect upon:

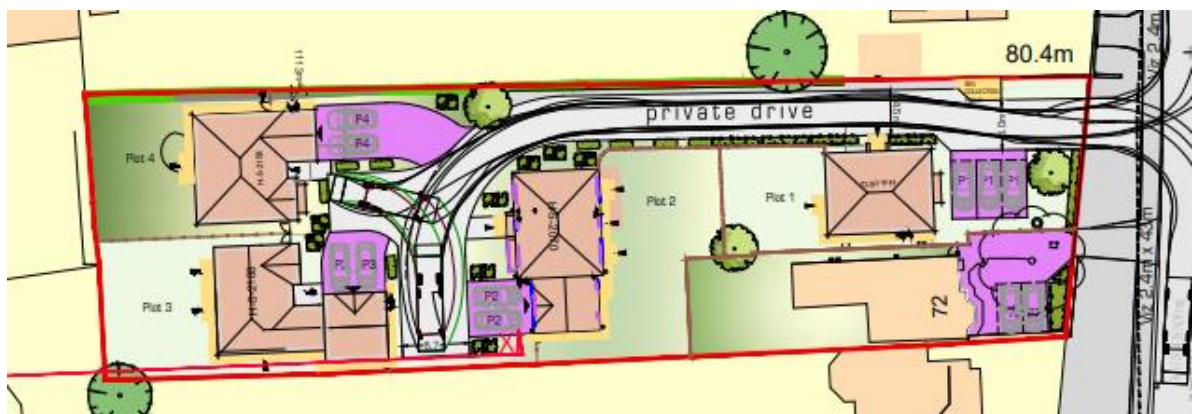
Reference	Address	Description
0022/2022	72 Dosthill Road Tamworth B77 1JB	Erection of No.4 dwellings with associated parking and external amenity space to the side and rear of 72 Dosthill Road.
0159/2022	Kings Gambit Tamworth Staffordshire B77 4AN	Erection of a bungalow and associated parking
0011/2022	3 Mickleton Tamworth B77 4QY	Change of use C3 (Dwellinghouse) to C1 (Guest house accommodation)
0117/2022	16 Wigginton Road Tamworth B79 8RH	Erection of a dwelling and associated parking

The planning Inspectorate has now determined these details and this report identifies the decisions and the key issues that arise from them.

2 Appeals

0022/2022

- 2.1 This application was refused on 25th May 2022. The application was for full planning permission for the erection of four dwellings.



- 2.2 An appeal was submitted to the Planning Inspectorate reference APP/Z3445/W/22/3302539 and was considered by an inspector appointed by the Secretary of State. An appeal decision dated 9th February 2023 was received by the Council confirming that the appeal had been **dismissed**, therefore the application remains refused

- 2.3 The initial reasons for refusal were on the impact on the character of the area, proposing an inappropriate housing mix and not providing a net gain towards ecology.

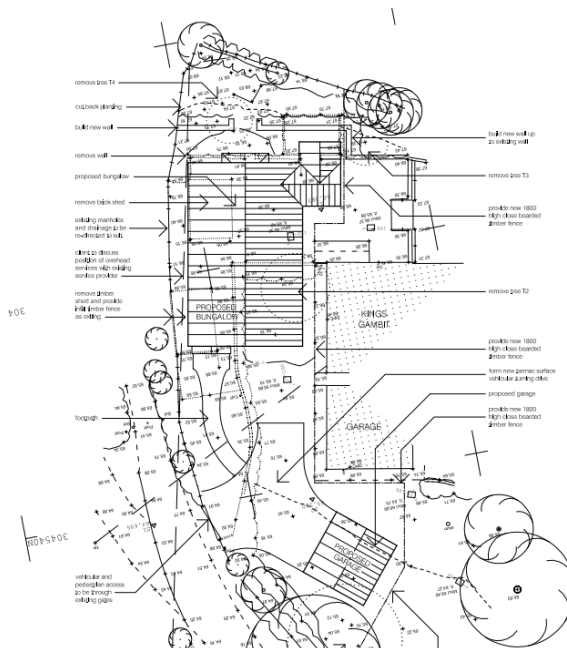
2.4 The application was dismissed on the sole reason that the development would not create the desired mix of housing. The council position was that 42% of new housing should be two bedroom units, 39% should be 3 bedroom units and 15% should be four or more bedroom units. The application comprises entirely four and five bedroom units which would be in stark contrast to what is required locally and therefore the application would conflict with Policy HG5 of the Local Plan which seeks to ensure that the size and type of proposed housing development addresses local needs. Also, although it could be said to make efficient use of the land, it fails to take into account the identified need for different types of housing as required in paragraph 124. a) of the National Planning Policy Framework.

2.5 **Department Response**

The council is disappointed that the reasons relating to biodiversity and design were not considered to be unacceptable by the inspector. However, on accounts of the mix not being in accordance with local plan policy we are however happy that this is a valid reason to refuse an application and will look to ensure remains a strong requirement of all applications.

0159/2022

2.6 This application was refused on 10th June 2022. The application was for the erection of a single dwelling, in this case a bungalow. A detached garage was also part of the proposals located to the front of the dwelling.



2.7 An appeal was submitted to the Planning Inspectorate reference APP/Z3445/W/22/3306079 and was considered by an inspector appointed by the Secretary of State. An appeal decision dated 23rd February 2023 was received by the Council confirming that the appeal had been **dismissed**, therefore the application remains refused.

2.8 The reason given that the proposal would consequently harm the spacious character of the site and its contribution to the wider street scene along Hodge Lane. It would therefore conflict with Policies EN4 and EN5 of the Tamworth Borough Council Local Plan 2006-2031 (the TLP, February 2016) which, collectively and amongst other matters, expect developments to be of a high quality design that respects local architectural characteristics, they also seek to resist the loss of trees that contribute significantly to their surroundings. The proposal would also conflict with Paragraph 130 of the National Planning Policy Framework which requires developments to be sympathetic to the local character and maintain a strong sense of place. It would also conflict with the guidance set out within the Design Supplementary Planning Document (the DSPD) regarding the protection of trees.

2.9 There was also a secondary reason relating to overlooking of the proposed dwelling and a lack of outlook from its bedrooms. Issues of biodiversity however could be overcome by conditions.

2.9 **Department Response**

For this application, we are very happy that concerns of design and amenity as recommended were agreed by the inspector and ensure a similar view is taken on applications like this where a single dwelling is proposed close to an existing property.

0011/2022

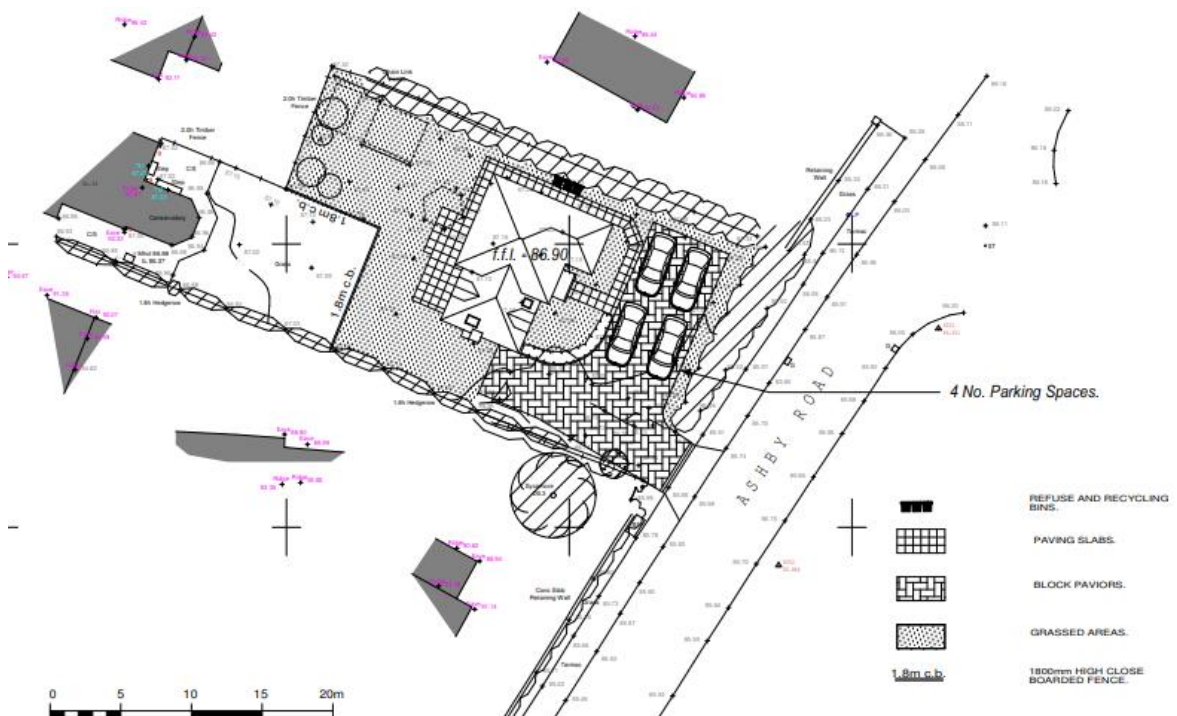
- 2.9 The application was refused on 16th June 2022. The application was for the change of use from a residential property with a use class of C3 to a guest house C2.
- 2.10 Members may recall discussing this application on 7th June 2022 when the proposal was discussed at committee.
- 2.11 An appeal was submitted to the Planning Inspectorate reference APP/Z3445/W/22/3306268 and was considered by an inspector appointed by the Secretary of State. An appeal decision dated 21st February 2023 was received by the Council confirming that the appeal had been **dismissed**, therefore the application remains refused.
- 2.11 The reason was that given the close nature of the dwellings surrounding the appeal site, its use as a holiday home intensifies the potential for unacceptable levels of noise and disturbance. Therefore, the development unacceptably harms the living conditions of neighbouring occupiers and conflicts with Policy EN5 of the Tamworth Borough Council Local Plan 2006-2031, and in particular point (g) which requires developments to minimise or mitigate unacceptable levels of noise for the benefit of neighbouring occupiers. The proposal would also conflict with Paragraph 130(f) of the National Planning Policy Framework which seeks to promote health and well-being, including a high standard of amenity.

2.12 **Departmental Response**

The department has taken on board the considerations made by the inspector and seek to take a wider view of these proposals as it was our recommendation that permission should be approved.

0117/2022

- 2.6 This application was refused on 11th April 2022. The application was for the erection of a new dwelling and associated parking.



- 2.7 An appeal was submitted to the Planning Inspectorate reference APP/Z3445/W/22/3298280 and was considered by an inspector appointed by the Secretary of State. An appeal decision dated 17th March 2023 was received by the Council confirming that the appeal had been **allowed**, therefore permission has been granted.
- 2.8 This application was determined at planning committee on 5th April 2022 where members refused the application against the advice of planning officers citing the following reason:

The scale, bulk and massing of the proposed dwelling combined with its siting would create harm to the significance of the Grade II* Listed building known as Spital Chapel of St James, and a designated heritage asset. The proposed development would also hinder appreciation of its significance by altering the significant relationship of the chapel to its surroundings and adversely affect its setting. The proposed works would therefore result in substantial harm to the Grade II* listed building and its setting contrary to policy EN6: Protecting the Historic Environment, as set out in the Tamworth Local Plan 2006-2031, the provisions of chapter 16, Conserving and enhancing the historic environment, of the National Planning Policy Framework (NPPF) 2021, and sections 16 and 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

- 2.8 Despite these reasons, the inspector felt that there was no significant issue to these when considering the setting of the Chapel which is constrained to its immediate grounds, as opposed to any of the adjoining residential gardens/dwellings; this relationship would be unaffected by the development proposed. The inspector also reiterated the council's conservation officer's opinion that because of its concealed location, this is a positive element of its current setting and would remain unchanged by the development proposed. Moreover, Historic England, the Government's expert advisor on England's heritage, with a statutory role in the planning system, raised no objections. As a result, the development proposed would not result in any harm to the heritage significance of the listed Chapel, nor to any appreciation thereof. In conclusion, there would be no greater harm as a consequence of the development proposed. There would be no conflict, in this regard, with policy EN6 of the Tamworth Local Plan 2006- 2031, or Section 16 of the Framework, which together seek to protect such interests.
- 2.9 Concerns relating to the amenity of those living at 23 Ashby Road were raised separately but again the inspector felt that no material harm to the living conditions of the occupiers of this house as a consequence of the development proposed. There would be no conflict, in this regard, with policy EN5 of the Local Plan, which seeks to protect such interests, nor with the Council's Design SPD.
- 2.9 **Department Response**
The planning department wish to highlight that whilst members are permitted to go against the recommendation made by planning officers, good justification based on evidence will be required. Ideally this evidence would be the form of independent reports by relevant professionals. This is particularly important when engaged consultees have reported they have no concerns where members do have issues such as the case with this proposal.
- 2.10 As a result of this the inspector saw that this regard, that the development proposed would not result in any harm to the listed building subsequently allowed the appeal.

Recommendation

For Information only.