

**PLANNING  
COMMITTEE**

**14<sup>th</sup> April 2021**

**Planning Application 20/00178/FUL**

**Construction of 3 single-storey extensions, security fence and alterations for a proposed Tier 4, Low Security, Non-Forensic, CAMHS (Children and Mental Health Services) Unit**

**Saltways, Cheshire Home, Church Road, Webheath, Redditch, Worcestershire, B97 5PD**

**Applicant:** Mr Ben Morgan  
**Ward:** West Ward

**(see additional papers for site plan)**

The case officer of this application is Mr David Edmonds, Planning Officer (DM), who can be contacted on Tel: 01527 881345 Email: [david.edmonds@bromsgroveandredditch.gov.uk](mailto:david.edmonds@bromsgroveandredditch.gov.uk), for more information.

**Procedural Update**

- The Borough Council received notification from the appellant on 22<sup>nd</sup> February 2021 that they had exercised their right to appeal against the failure of the Local Planning Authority to decide the application within the statutory period and in the absence of a written agreement of the parties to extend further the decision-making period (this being 28<sup>th</sup> September 2020). The applicant has requested that the appeal be dealt with using the written representation determination method.
- The Borough Council have not yet formally received a 'start date' notification from the Planning Inspectorate and thus the determination method is not yet confirmed. and there is currently no deadline for the Council to submit its statement.
- Because of the applicant's decision to lodge an appeal, the Council is unable to formally determine the planning application and no decision can now be issued.
- As part of the necessary preparations for the appeal it is appropriate for the Planning Committee to decide what the decision would have been if the application had still been in the Council's jurisdiction. Therefore, the views of Members are now sought (i.e. what would be the decision of the Borough Council if the Planning Committee Members were able to determine the application under normal circumstances) and arising from these discussions, a subsequent resolution. This resolution would then be carried forward to form the basis of the Council's case at the forthcoming planning appeal. In the event that members decide to overturn officer's recommendation, it would be necessary for Members to identify justifiable reasons for doing so.

**Site Description**

The application site, the former Saltways Cheshire Homes site, fronts the north east side of Church Road, in Webheath, approximately 3.2 kms from the western edge of Redditch

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Town Centre. The north and north western site boundary lies adjacent to the rear or side gardens of some of the dwellings fronting the south west side of Shirehampton Close, the south east side of Churchfield Court and no. 5 Church Road. The north eastern boundary is adjacent to side/ rear gardens of houses fronting part of the cul-de-sac of Knightsford Close and No. 33 Brotherton Avenue. The south east boundary lies adjacent to rear gardens of some of the houses fronting the north west side of Lordswood Close and no. 76 Church Road. There is an informal path, non-surfaced, crossing the eastern side of the site but separated from the maintained grounds of the former Saltways by a 1.8-metre-high close boundary fence, and the path links Shirehampton Close with Lordswood Close. Also, there are 1.8-metre-high existing fences along the north west and south east sides boundaries.

The 1.03-hectare site is occupied by a single storey building complex which is made up of four interlinked parts and a detached building, all set in landscaped grounds. It is separated from the residential boundaries to the north west, north east and south east by varying degrees of space. The south west elevation of the building facing Church Road and is set back from the back edge of the footway adjacent to the north east side of Church Road by a minimum of 28.4 metres. The building frontage is viewed behind an area of parking and groups of trees and shrubs along the site boundary. There are two vehicular access points and there is an existing vehicular access drive to the main access on the north west elevation which is parallel with Churchfield Court.

In terms of the levels, relatively little information has been submitted with the application. The Church Road frontage of the site appears relatively flat and on similar levels to the adjacent houses. However, it is evident that the north east side (rear) and south east (side) of the building and its surrounding apron is cut into the levels of the rear grounds to varying degrees and the land continues to rise towards the north east and south east boundaries. In contrast, the land falls away, slightly close to the northern (rear/ side) corner of the building with manhole levels information indicating that this would immediately be around 0.2 metres. Also, it is evident from site photos that this part of the site continues to fall away towards parts of the north west boundary. Moreover, the occupant of no. 48 Shirehampton Close states that the rear elevation of his property is approximately 3 metres lower than the bottom of the boundary fence line which indicates a further falling away beyond the site boundary at this point.

### **Proposal Description**

Members may be aware that during the processing of the application that the nature of the proposal and the associated description of the development has evolved. The table below sets out the key events.

<b>Application/ Amendment &amp; date</b>	<b>Descriptions of Development &amp; Amendment of application description</b>	<b>Consultation/ Notifications &amp; Publicity Periods</b>
11/02/20 – Date of Submission and Validation	<u>Original submission</u> - 3 single storey extensions, alterations,	Start – 08/02/20 Expiry – 27/03/20

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	and a change of use from former care home (use class C2) to a CAMHS Facility (use class C2A).	
07/04/ to 18/05/20 – Submission of Planning & Amended Design & Access Statements & Counsels Opinion	<u>Amendment</u> - Security Fencing, Extensions and Alteration for CAMHS Tier 3	Start - 12/06/20 Expiry – 14/08/20 Included Changes Summary
01/09/20 to 26/01/21 Submission of Revised Planning Statement, 2 Counsels Opinions & 2 Supplementary Planning Information Statements	<u>2<sup>nd</sup> Amendment</u> 'Construction of 3 single storey extensions, security fence and alterations for a proposed tier 4 CAMHS' and clarified to be for Tier 4 'Low Secure Non-Forensic'	Start – 08/02/21 Expiry – 14/03/21 Included Changes Summary NB Publicity suspended to secure all info.

The applicant is no longer seeking planning permission for a material change of use of the site and buildings from its lawful Class C2 Residential Use to a proposed Class C2A Secure Residential Use as defined by the Town and Country Planning (Use Classes) Order 1987 (as amended). Indeed, they have submitted various legal opinions concluding that the proposed use as a Tier 4, low secure, non-forensic CAMHS facility is not materially different from the lawful use and therefore the use per se does not require planning permission. The issue of use is discussed further in the Assessment section of this report.

Therefore, since September 2020, the description of the proposed development has focussed on the proposed operational developments: the 2 and 3-metre-high anti climb security fences, the proposed extensions, and the proposed external alterations and ancillary works. The details of which include.

- 3 metre high 'anti climb security fence set on alignments parallel to, and set forward of, part of the north west (side) and the entire north east (rear) Elevations, south east (side) and on a recessed alignment of the south part of the south west (front) elevations of the existing configuration of buildings.
- This would be closely spaced welded mesh in dark colour.
- It would leave a relatively narrow corridor of external hard surfaced space between the fence and these elevations generally varying between 2 and 3.5 metres wide.
- 2-metre-wide new perimeter fence following the hard surface apron and drop off zone on the north west side of the existing buildings. This would be widely spaced welded mesh with a side gated entrance on the alignment of the building frontage.
- Access barrier arm gate in front of the car park
- A 2-metre high 'perimeter' fence adjacent to the front (south-west elevation) of the building and adjoining the rear edge of the existing car park.
- Secure family garden adjacent the side of the outbuilding adjacent and to the rear of the frontage car park
- Single Storey Classroom extension maximum 8.3 x 24.4 metres adjacent to the inward facing elevation of existing detached classroom.

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- Extensions to the main building – to enlarge reception on north side and to facilitate a dual door emergency escape.
- White render and timber clad contrast to brick walls of existing building
- CCTV mounted on the building. No pole mounts.
- Additional wall mounted external lighting.
- Replacement openable windows (clear glazed apart from bathrooms) and possibly additional mechanical ventilation

Although planning permission is not being sought for a material change of use of the building, the applicant's statement and drawings set out the functions and activities to be undertaken within the building. The first section comprised offices, administrative and general service areas accessed upon arrival into the building via the main entrance. Young persons are generally not permitted 'free roam' of this area. The second section where young persons are permitted to have free roam includes lounges, WCs, IT rooms, communal space etc. The third section is the bedroom area.

The functions and ward division are shaded on the proposed site plan as;

- Reception and Service (coloured yellow on the proposed site plan)
- Admissions Ward (coloured salmon pink)
- Transition Ward (coloured purple)
- School (coloured light blue)

The wider site outside the proposed 3 metre fence would be retained as a green area and not intended for use by the young persons.

### **Relevant Planning History**

Planning permission (reference 19385) granted for '*Erection of Cheshire Home*' in March 1974.

The decision notice did not state that the planning permission related to the wider use within the then class XIV of the Town and Country Planning (Use Classes Order) 1972. There was no planning condition limiting the use to a care or nursing home.

### **Relevant Policies:**

#### **Borough of Redditch Local Plan No. 4**

- Policy 1: Presumption in Favour of Sustainable Development
- Policy 2: Settlement Hierarchy
- Policy 19: Sustainable travel and Accessibility
- Policy 20: Transport Requirements for New Development
- Policy 39: Built Environment
- Policy 40: High Quality Design and Safer Communities
- Policy 44: Health facilities

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## **Others**

Redditch High Quality Design SPD  
NPPF National Planning Policy Framework (2019)  
NPPG National Planning Practice Guidance

## **Consultations**

There have been three periods of consultation as set out above during which the following responses were received. Members are advised that the full responses are available for viewing via the Council's Public Access system and that the content below has been summarised for reporting purposes.

### **West Mercia Constabulary**

No objections but various concerns raised including:

- The area in which this development is proposed is a low crime area and mainly residential.
- A 3-metre-high fence is not required as a deterrent to burglary etc. Its use is obviously to keep the young people in.
- If that level of security is required to keep people in it is questioned if this is an appropriate development for a residential area.
- Based on a comparable building, a major issue might be young people climbing onto the roof, causing damage to the roof and refusing to come down. Guttering needs to be put inside anti-climb enclosures and all down pipes need to be enclosed so that they do not become a climbing aid.
- All internal door hardware should be anti-ligature.
- Need for good internal security to prevent residents going outside at night and gaining access to the roof.
- It is noted that the proposed fence is intended to confine patients to the building to prevent them from coming to any harm and the height and type of fencing proposed is adequate to prevent patients from leaving.
- The design of the building was unsuitable for its intended use, as the roof was too low and could be easily accessed. If patients were to climb onto the roof it would not only put them in danger but would cause considerable disruption to neighbours such that it is not appropriate for a residential area.

### **Community Safety Project Officer Community Safety**

Oppose the application for the following reasons, including the following matters external to the building:

- Concern of a potential conflict within the site relating to security and a potential impact that it will have on the local community to attract crime and anti-social behaviour due to the nature of the residents who will be living in the proposed development.
- Crime prevention and community safety are material considerations, because of the proposed use, design, layout and location of the development.

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- Section 17 of the Crime and Disorder Act 1988 indicates the need to do all it reasonably can to prevent Crime and Disorder in its area
- The National Planning Policy Framework (NPPF) states that "Planning policies and decisions should aim to ensure that developments create: "Safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion."
- Planning Practice Guidance on Design; Para 008 (Planning should promote safe, connected and efficient streets) Para 010 (Planning should address crime prevention) and Para 011 (Planning should promote appropriate security measures).
- Borough of Redditch Local Plan No.4 Para 1.71 Objective; Creating Safe and Attractive Places to Live and Work and Policy 40
- Community Safety - Secured by Design Condition: - A specific condition needed that to achieve the Secured by Design accreditation, for all aspects throughout the build and once the building works have been completed, to future proof the security of the development.
- Concern that high footbridges over the A38 near the site is a suicide risk.

There are various non-material planning issues raised which include:

- Site Security: during the construction phase.
- Planting and Landscaping - must be maintained to ensure natural surveillance.
- Proposed Planting: The use of thorny shrubs planted adjacent to the perimeter fence enhances security by providing a visual deterrent yet soften hard features. E.g. pyracantha, berberis and hawthorn.
- Car Park: anti-theft signage needed.
- Site Perimeter: To ensure site security and privacy to the local residents I recommend the site perimeter be fenced with a 2.4m weld mesh fence.
- CCTV: A suitable CCTV system is advised and shall cover main entrances, communal spaces including car park and waste disposal.
- Lighting positioning including support for CCTV.
- Building design: The design of the building should consider the need to prevent features which aid scaling or climbing.
- Rainwater down pipes can provide a convenient scaling aid onto roofs or to reach windows above ground floor level. Rainwater pipes should be either flush fitting (i.e. square profile) or concealed within the cavity.

Conclusion: Oppose the application on the grounds of lack of information since it is considered the other than the perimeter fences the safety and security points in relation to the building have not been addressed

### **Worcester Regulatory Services - Noise**

Noise: The application does not appear to be proposing any additional external plant / equipment that could adversely impact nearby residential receptors. Potential noise from future residents of the facility is not something that WRS can comment on as this would

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be an amenity matter. WRS can only consider noise from predictable noise sources such as external plant and equipment and transport noise.

It will be the responsibility of the operator of the proposed facility to ensure that potential noise from occupants is monitored, and if necessary mitigated, to ensure that nearby residential receptors are not adversely impacted by noise from the proposed facility. It should be noted that any complaints of noise nuisance from occupants at the proposed facility may not necessarily result in any formal action being taken by WRS under the nuisance provisions of the Environmental Protection Act 1990. However, the proposed 3m security fencing around the perimeter of the building would aid noise mitigation from external areas within the confines of the fence and from within the proposed facility.

**Noise from Mechanical Ventilation:** Full details, including the cumulative predicted assessment level(s) at the nearest noise sensitive receptor(s) in terms of BS4142:2014+A1:2019, of any proposed mechanical ventilation, that requires external plant / equipment, should be submitted for comment and approval.

**Transport Noise:** The applicant has stated that the number of vehicular movements to and from the site would not be significantly different from the current situation although I consider that 'out of hours' vehicle movements may increase. However, the proposed 2m boundary fence adjacent to the residential dwellings to the north west of the site would help to reduce noise impacting those dwellings when vehicles utilise the proposed drop-off zone. I do not consider that noise from the proposed car park would adversely impact the nearest noise sensitive receptor(s).

### **Worcestershire County Highways**

No objection subject to conditions. The reasoning includes the following points:

- The site is in a residential and sustainable location off an unclassified road, the site benefits from 2 existing vehicular access points with good visibility in both directions.
- Church Road benefits from footpaths and street lighting on both sides of the road and no parking restrictions are in force in the vicinity.
- The site is located within walking distance of amenities, bus route and bus stops located approx. 280m from the site.
- It is noted concerns have been raised with regards to the car parking provision, however it should be noted the proposal will be a lower generator of trips than the previous use care home use.
- The proposed development is to contain 18 bedrooms with 20 staff being employed. It is noted the applicant has provided a total of 36 car parking spaces on site. This is acceptable because it is considered that the type of facility would attract the same level of less traffic generation particularly from visitors who are likely to need an appointment.

### **Conditions:**

- Cycle parking.
- The Development hereby approved shall not be occupied until parking facilities have been provided as shown on drawing 190185/110(A).

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## **Arboricultural Officer**

No objections to this proposed application, in relation to any tree related issues, subject to conditions covering the following topics.

- No tree work without Local Planning Authority consent
- Tree protection fencing in accordance with British Standard BS5837:2012 erected before works remain until the development has been completed.
- No works in the Root Protection Areas of trees or hedges on and adjacent to the application site without Local Planning Authority consent including changes in ground levels.
- Any excavations within the root protection areas must be carried out by hand and in accordance with BS5837:2012.

## **North Worcestershire Water Management**

- No problems in principle but are concerned about the extent of roofing and hard surfaces.
- Having reviewed the amendments and further information it appears there is still no drainage details. If this application is approved, we would request a pre commencement condition for LPA approval of a scheme for surface water drainage indicated on a drainage plan and with completed prior to the first use of the development.
- The reasons for the condition are to ensure satisfactory drainage conditions that will not create or exacerbate flood risk on site or within the surrounding local area.

## **Worcestershire County Council – Complex Needs Commissioning Team /Children's Services**

- This is a service that will be commissioned by NHSE and is intended to be used across the region (East and West Midlands) and is not intended for local use – albeit we would be able to access the unit if required via NHSE gatekeeping/approval processes.
- Locally we have lower than average numbers of young people requiring Tier 4 services.
- This service will not be intended for low secure or CAMHS Psychiatric intensive care beds (PICU) therefore the planning details within the application may have changed again – it would be helpful to have clarity from NHS England.
- It may be worth seeking legal advice on deprivation of liberty (DoL's) given the focus appears to be related to fencing.

## **NHS England (NHSE)**

The planning applicant is a provider of NHS specialized commissioning services, notably CAMHS Tier 4 low secure provision for females aged 13-18. This is a hospital-based service for children and young people in need of care and treatment in the context of their mental disorder. NHSE contracts for the commissioning of a service with this provider,

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and the provider is seeking to change the location of the service rather than changing the service provision. The use by NHSE of the placement being planned by the applicant will be dependent upon clinical need, and confirmation that the newly located facility meets the contractual specification for commissioning upon completion. The development applied for is led by Regis Healthcare and is not commissioned by NHSE/I.

They highlight various general points regarding the service specification for low secure. This including defining low secure services and the fact that all young people admitted to low secure services must be subject to the Mental Health Act. They cover the exclusion criteria for low secure including exclusion of young people who present as a grave risk of harm. They state that low secure services have standards and requirements set by various bodies including the CQC

Officers have sought clarification of various matters including what are the NHSE' specific comments on the application and supporting documents, the contract/ commissioning arrangements and the scope for admissions policies to exclude young people with forensic presentations within the Low Secure Service Specification. Addressing both the original consultation and the supplementary questions the NHSE response includes the following points:

- There is a singular national specification for CAMHS Tier 4 Low Secure provision and there is no delineation between forensic or non-forensic patients (complex or otherwise) in relation to what is expected from a low secure service provision.
- NHSE/I specialised commissioning teams commission providers to deliver specialised Tier 4 CAMHS services. For patients to be admitted into specialised services such as a Tier 4 Low Secure provision, the assessment process is clinically led based on the patient's mental health clinical need irrespective of whether there is a forensic or non-forensic presentation. Any low secure provision would be expected to have the physical, procedural and relational security to be able to receive patients with a forensic and non-forensic background.
- Tier 4 Low Secure referrals are also presented to the National Tier 4 CAMHS low secure network. This is a forum chaired and led by clinicians specialising in the field of Tier 4 CAMHS Low Secure and provides a forum to review all low secure CAMHS cases. This informs the clinical recommendation as to the suitability of a patient to be admitted to a Tier 4 low secure service. If the assessment concludes that a patient is appropriate and suitable to be placed in a Tier 4 CAMHS Low Secure placement, the process of sourcing a placement with providers commissioned to deliver Tier 4 CAMHS Low Secure commences.
- As an NHS commissioned provider of Tier 4 CAMHS services, Regis would undertake a review as to whether they are able to support the patient based on the specific needs of the patient and current ward acuity. A provider can decline acceptance of a referral to their specific ward and will be required to provide a clinical rationale.
- NHSE/I is aware that providers have declined admissions to their unit if they assess the level of care and risk is such, they are not able to meet the needs, and alternative providers will be approached to accept. This practice is not in conflict with how a Tier

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- 4 CAMHS Low Secure service operates. Therefore, in this specific case for example, Regis as a provider of Tier 4 CAMHS Low Secure can decline admission of patients who are male as the unit only accepts females as part of its provision. The national service specification does permit such distinction if the care offered complies with national service requirements and national registration compliance e.g. CQC.
- The contractual arrangements between NHSE/I and a Provider do not therefore need to reflect the nature of the patients' history for those being admitted as that is impacted by other factors e.g., CQC registration.
  - Hillside Hospital, Ebbw Vale is registered with the Welsh equivalent of the CQC, the Health Inspectorate for Wales (HIW). It is registered as an independent hospital for child and adolescent mental health patients. The statement of purpose provided by the applicant to HIW, included in the Amended Supplementary Planning Information the statement "To provide assessment and treatment for non-forensic Low Secure CAMHS patients
  - The CQC specifies regulated activities that will be carried out e.g. assessment or medical treatment for persons detained under the Mental Health Act 1983. A hospital submits a statement of purpose. NHSE/I assumes from the documentation viewed to date that the applicant would seek to specify as part of its registration that it is a 'Tier 4 low secure non forensic CAMHS facility' within the statement of purpose with the HIW.
  - Hillside Hospital currently has a statement of purpose with the HIW meaning no 'forensic' patients would be accommodated there. In this regard, the applicant can technically exclude forensic patients for example, as part of their own admission criteria alongside a wider set of factors, such as clinical need, level of risk, environment e.g. access to a seclusion room, sensory area etc. Given the statement of purpose, if Regis wished to accept forensic patients to the Hillside Hospital at present, it would need to amend its statement of purpose with the HIW.
  - In relation to commissioning, NHSE/I has contracts with providers for the provision of care/treatment services. The applicant is an independent healthcare provider, not an NHS provider. The applicant will be funding the capital service development in Redditch, not NHSE/I. Currently, NHSE/I has commissioned 12 beds at Hillside Hospital. What this means is that from a fiscal planning perspective, NHSE/I have funding to pay for 12 beds assuming 100% occupation throughout the year for West Midlands patients.
  - NHSE/I will pay the provider based on actual utilisation i.e. a reconciliation exercise is undertaken based on planned activity and actual. NHSE/I do not pay for 'empty beds' that are not occupied. •
  - NHSE/I has been clear from the outset to the provider that no commissioning decisions for Saltways will be undertaken whilst the planning application process is in place and is yet to conclude. •
  - In relation to the 3m fence, NHSE/I can only comment that all low secure hospitals would be expected to have the same physical, relational and procedural security minimum standards and these are informed by the RCP standard. This applies to adult units and is not specific to CAMHS services but is applied by CAMHS providers as good practice. This would be irrespective of the patient population being 'forensic' or 'non-forensic'.

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- NHSE/I is not expressing a view on the legal position between C2 and C2A referred to in your correspondence. The local authority will need to determine this issue taking account of the above information.

### **Care Quality Commission (CQC)**

Their role as the regulator of health and social care is to ensure that we are satisfied that any application to register or vary registration will comply with the Health and Social Act and its associated regulations. This would also include consideration of the management of any risks associated with the type of service being delivered.

All registration information and inspection reports for providers registered with CQC are available on our website [www.cqc.org.uk](http://www.cqc.org.uk). Please note that Regis Healthcare is not registered with CQC as they do not carry-on services in England and are only registered with the Welsh Inspectorate.

### **NHS Hereford and Worcestershire Clinical Commissioning Group (CCG)**

Comments awaited.

### **Hereford & Worcester Fire and Rescue**

Hereford & Worcester Fire Rescue Service (HWFRS), Fire Safety Department – have no objections provided the Building Regulations and FSO requirements are satisfied. They state they responded to a Building Regulations Statutory Consultation and to the effects that they need access and facilities for the Fire Service. The character and nature of the residents is the responsibility of the Home to manage, by implementing suitable and sufficient Risk Assessments and appropriate management systems.

### **West Midlands Ambulance**

Comments awaited

### **Public Consultation Response**

This section is set out in a way to reflect the consultation the Local Planning Authority (LPA) has undertaken and is therefore includes three sections.

70 individuals have written to object, with many people submitting more than one letter of objection. This reflects the three rounds of application public participation necessary to address the application amendments and the additional submission of supporting documents. There has been one letter of support.

### **Summary comments related to Initial application description which included - Change of Use from Residential Institution (Class C2) to Secure Residential Institution (Class C2A).**

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- Overshadowing particularly 3-metre-high security fence adjacent to back gardens
- Dominance of 3-metre-high security fence affecting outlook from some residential properties.
- Fear that the children living in the facility might escape and that there might be increase incidents of anti-social behaviour and crime in the community.
- Noise and disturbance and anti-social behaviour within the proposed facility harming the living conditions of the occupants of adjacent residential properties e.g., of youthful residents e.g., screaming, shouting, and swearing
- Reputation concerns of the proposed service provider based on reports of an independent inspection in 2019 which has led to the company being under high scrutiny which included reference to poor security at their site in Wales.
- Concern that any granting of planning permission for a CAHMS facility within class C2A (secure residential institution) would make it difficult to resist any subsequent changes e.g., a facility for young offenders.
- The site which is closely surrounded on three sides by houses is inappropriate as a secure residential facility needs more space around it
- There is existing capacity in Hewell Grange Prison which could be used for such a secure facility.
- There are better uses for the site e.g. a Doctor's surgery
- Risk of people using the wider grounds to throwing things over the security fence for patients.

### **Summary Comments related to proposed Security Fencing, Extensions and Alterations for CAMHS unit – tier 3**

#### For

- We need more mental health support.
- If the plans were in line with a tier 3, as labelled implying an outpatients' facility rather than a tier 4 secure hospital inherent in the detailed proposals it may resolve some concerns

#### Against

- The applicant has not been transparent and honest with the proposals.
- The amended application was labelled tier 3 yet the text of the applicant's supporting reports states that two of the wards would be for inpatients and there is a proposed 3-metre-high security fence which inherently falls in the tier 4 category.
- The Council's Counsel's opinion is based on inaccurate information. For example, comparison has been made with Leeds City Council planning approval of a tier 4 CAMHS facility as falling within the use Class C2. However, the Leeds unit is not a low secure unit within tier 4 whereas the facts of the proposed development point to it being a low secure unit. There are more valid comparisons – e.g. Ardenleigh in Birmingham
- There is no local need for a tier 3 CAMHS unit particularly as there is one in Redditch town centre – 'The Peartree Centre'.
- There are more suitable locations for this type of facility than Webheath e.g. adjacent to Alexandra Hospital or Hewell Grange.

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- Medical infrastructure is likely to be relatively remote since it is likely to be the paediatric services of Worcestershire Royal Hospital and Birmingham Children's Hospital that would be used.
- Noise, disturbance and antisocial behaviour – facility not suitable to quiet residential area and not able to be mitigated by the fence or boundary vegetation. This could include frequent call alarms, assistance from the ambulance service and noise from outdoor recreation areas.
- Unsustainable location for this type of unit
- Fear of crime from the facility. The specific proposals which inherently fall within a Tier 4 CAMHS category would involve patients with a significant history of harm to self, to others and to properties and are likely to present with extremely impulsive and unpredictable behaviour such that they are likely to be detained under the Mental Health Act This would mean that some of the patients would be under the forensic pathway, known to Young Offender Teams.
- Facilities that provide care to vulnerable young people are often a target of criminal activity.
- A 3-metre-high security fence would not be needed for a proposed CAMHS tier 3 unit.
- Loss of privacy and compromised dignity, modesty and confidentiality due to limited separation distance. For example, disrobing is one of the presentations in patients in such facilities which would be distressing to both local residents and patients.
- Security fence would be a heavily engineered and overbearing feature unacceptably harming the outlook from adjoining residential properties and garden and uncharacteristic of the residential area.
- Insufficient space between the proposed security fence and the boundary of the site for meaningful and effective soft landscaping
- Security fence may not be able to keep everyone in
- Local infrastructure cannot cope with yet another development.
- Non -material issues such as Increased house insurance premium and devaluation of property.

**Summary of comments related to current application description (single storey extensions, security fence and alterations for a proposed tier 4 CAMHS' & clarified to be for Tier 4 'Low Secure Non-Forensic' (not adequately covered by comments on previous versions**

### Nature of proposed use

- The claim that patients needing management in a Tier 4 low secure unit ONLY present with risk to themselves is difficult to achieve since they are not necessarily mutually exclusive and frequently overlap.
- Concern regarding future control regarding the preclusion of admission of patients under the forensic pathway
- Concern that there is no separate NHSE service specification for patients with non-forensic and complex non forensic presentations.

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- The reality of the proposal is for young, aggressive, psychiatric patients, sectioned and sometimes incarcerated for years - housed just over garden fences of closely adjacent residential houses.

### Need

- Recognition that there is a needed regionally, but this is not the right place to site.

### Policy

- Contrary to Redditch Local Plan policies 1, 2, 39. It does not improve the economic, social and environment conditions and the proposed development would not accord with the character and local distinctiveness.
- Contrary to NPPF relating to ensuring a safe and accessible environment.

### Fear of Crime

- Any requirement for a 3 metres high security fence around residential institution would mean it would be unsuitable to a low crime area.
- Concern that people absconding, will not just be a threat to themselves - self-harm or suicide and that they could become very hostile and abusive.
- Concern that such facilities might attract criminal gangs.
- Concerns of a risk of a patient climbing the roof and things being thrown into the nearest garden, which has been highlighted by the police.
- Concerns regarding security design e.g., the use of the flat roof of the building as a means of getting over the proposed fence.
- Non forensic patients are equally likely to be capable of the same irresponsible, unpredictable and hostile behaviour, self-harming, violence towards others, arson and attempting to abscond and are sectioned often being held again their will
- The proposed anti climb security fence does not surround the entire property and therefore would be ineffective.
- Care management plans do not necessarily inhibit a patient absconding and attempting to commit a crime e.g., case of Jonty B in 2020.

### Noise and Disturbance:

- Close proximity of dropping off area, Reception and Admissions Ward to adjacent residential properties.
- Related to patients trying to abscond by scaling the fence.
- Noise, Anti-social and aggressive behaviour within the fenced enclosure which cannot not be mitigated.
- Related to comings and goings of ambulances because patients could need daily medical assistance with associated sirens.
- Doors banging
- Noise from patient's music
- Vocalised distress from patients
- From various alarm systems – call/ fire/ door and/or window alarms
- Security fence would be no barrier to noise.
- Prospect of noise and disturbance at all times of the day and nights and every day of the year

### Light pollution

- Including impact on local wildlife e.g., local bat population

### Dominant scale of security fence

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- Overbearing and overshadowing scale and 'prison like' appearance and proximity to residential gardens and houses of 3-metre-high security fence
- Accentuated by a difference in levels between the existing site buildings and the ground floor level of properties in Shirehampton Close estimated to be 3 metres in the case of no.48 Shirehampton Close

### Privacy

- In terms of use of rear gardens of houses and use of habitable roofs particularly first floor rear elevations.
- Poor privacy for patients living at the site – rear of houses can look into proposed bedrooms.
- Inadequate separation distance between the building and fence and the surrounding residential houses
- Absence of information about proposed landscaping to mitigate the loss of privacy.

### Highways and Parking

- Traffic generation would include visitors and staff shift changes.
- Insufficient parking for staff and visitors and on road parking outside the site is competitive.
- Cars often drive in excess of 30mph on Church Road.

### Sustainability

- CAMHS units need to be located close to a suitable hospital for the sake of the patients.
- Safety and sustainability implications of distance and drive time from appropriate emergency medical treatment in Worcester and Birmingham since Alexandra Hospital refers under 18's to these hospitals.

### Character

- The proposed security fence is not in keeping with the area would be visible from all sides of the site.

### Safety

- Concern that the site is relatively remote from Ambulance Services.

### Construction

- Upheaval, noise and disturbance during construction phase exacerbating constructional disturbance for nearby housing construction site.

### Procedural

- Concern regarding the misleading and reluctant provision of specific information regarding the 2<sup>nd</sup> version of the application undermining the credibility of the current version of the application.
- Constant changes in the nature of the application designed to beat the system.
- If it is solely for treatment of patients with non-forensic presentations, why is there a need for a 3 metres high security fence.
- All previous individual comment on previous versions of the application ought to be carried forward to this latest amendment.
- Human rights under article 1 of the first protocol: protection of property
- A possible future appeal should not prevent elected members rejecting this proposal.

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- The Council would be held to account if planning permission is granted and if any harm comes to residents.

**Cllr Thain:** Objects on the following grounds:

The Government's current National Planning Policy Framework states that: 'planning policies and decisions should aim to ensure that developments create: "Safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion,"' It must therefore be the duty of each Authority to exercise its various functions and do all it reasonable can to prevent Crime and Disorder in its area. This proposal, if passed, would greatly inhibit the Council's ability to uphold such an environment.

'Fear of Crime' issues remain high on Webheath residents' agendas. Fears about the proposed CAMHS facility are significant, genuine and have been exacerbated by the fact the plan envisages a three meters high security fence around its perimeter. Such a facility should not be in a residential village such as Webheath.

The facility, with its proposed three meters high border fence, would be immediately adjacent to several residents' houses and gardens, causing disquiet, disruption and considerable unease to those residents.

I ask that the experienced Planning Committee reject this proposal.

### **Assessment of Proposal**

This assessment is divided into what is considered to be the main issues arising from the application which are:

- I. Legal issues – Whether the proposed use is a material change of use?
- II. Fear of Crime
- III. Whether the proposed security fence is overly dominant
- IV. Effect on character and appearance of the area
- V. Noise, Disturbance and Privacy
- VI. Highways, Parking and Sustainability
- VII. Other issues – Drainage, Alternative Locations and Procedural

#### **Legal Issues - Whether the proposed use is a material change of use?**

This section of the report is divided into 4 parts:

- Assessment of applicant's Counsel opinion
- Summary of Council's Legal Opinion
- Application of legal opinions to the specific proposed use
- Consideration of prospect of creeping development

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In view of the technical nature of this part of the assessment a Glossary is attached as an appendix to assist with specific terminology.

## *Applicant's Counsels opinion*

The applicant's Counsel's opinions can be summarised as follows:

- Two opinions were provided in respect of the second and third descriptions of development with reasoning and conclusions as to why the proposed use would continue to be a use within Use Class C2 (residential institution) and, accordingly, that no planning permission is required for the proposed use.
- The conclusions of the applicant's original Counsel's opinion resulted in the alteration of the description of development to operational development – security fence, extensions and alterations, rather than a material change of use
- The proposed developments (security fence, extension and alterations) are associated with the provision of secure treatment for vulnerable individuals and the primary purpose it to provide for their care and wellbeing and the security provision is directed at protecting those individuals from themselves and not directed at protecting others.
- The applicant states the proposed development will be for the use of the building for the provision of 'non forensic' rather than 'forensic' mental health services both of which fall within the umbrella of secure mental health in-patient provision.
- NHS England (the body responsible for commissioning Tier 4 services) provides a 'service specification' for 'Tier 4 community-based forensic Child and Adolescent Mental Health Service' models and this is instructive in identifying the clear differences between forensic and non-forensic care.
- The provision of non-forensic care can be contrasted with forensic care where secure provision is made for those 'who present a high risk of harm towards others and about whom there is major family or professional concern' -and/or are in contact with the youth justice system OR about whom advice about the suitability of an appropriate secure setting is being sought because of the complexity of presentation and severe, recurrent self-harm and or challenging behaviour which cannot be managed elsewhere..."
- That contrasts markedly with those individuals whose treatment falls within the category of 'non-forensic' care where care and treatment is provided to, in part, ensure that the individuals propensity to self-harm or engage in self-harming behaviours is addressed.
- The provision of care is provided within a secure setting however that security is provided to ensure that those the subject of care cannot harm themselves – not that they could harm others. That is a critical distinction between Use Class C2 and Use Class C2A wherein the latter is principally concerned with security in the sense of either keeping individuals in (i.e., a prison / YOI) or keeping individuals out (i.e. a military facility).

## *Council's Counsels Opinion*

The Council has sought Counsels Opinions which can be summarised as follows:

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- Definitions in the Town and Country Planning Use Classes Order 1987 (the UCO) at Schedule 1 Part 3. The Class C2 description includes a reference to 'care' whilst the Class C2A description is principally about security. Article 2 of the UCO provides the definition of 'care' as:

*Personal care for people in need of such care by reason of old age, disablement, past or present dependence on alcohol or drugs or past or present mental disorder, and in class C2 also includes the personal care of children and medical care and treatment.*

- There are no 'bright lines' between the concepts of care home, hospital and nursing home and the distinction between each use is fact specific and a matter of planning judgment and the concept of care is all embracing (R (oao Tendring District Council) v SSCLG & Others [2008] EWHC 2122 (Admin)). This means that the line between one use class and the next may be blurred. In contrast, the main purpose of the categories in class 2A is;

*"to keep persons under control, who are a potential danger to society at large"*

(Sullivan J at [13] in R (oao Tendring District Council) v SSCLG & Others [2008] EWHC 2122 (Admin)).

- Whilst use Class C2 may include an element of security the provision of 'care' is likely to be the unit's primary function and

*"security, although strict, is in place more for the safety of the residents, to prevent them from harming themselves, rather than there being a danger to society beyond the boundaries of the site"*

(Sullivan J at [13] oao Tendring District Council) v SSCLG & Others [2008] EWHC 2122 (Admin)).

- In Tendring District Council, the suggestion was that the critical distinction is a distinction between security imposed for the security of residents (who might harm themselves) and security imposed because residents pose a danger to others. It might be expected that where residents pose a danger to others security will be much tighter, more intrusive and more apparent.
- Whilst 'secure hospital' is listed as an example of a Class C2A use, it seems that this must be a use more analogous to a detention centre/ holding centre in terms of the level of security imposed.
- Since the planning application has been limited to the construction of a fence/ building extensions (rather than any material change of use) the issue of drafting a planning condition to control the use has fallen away
- Conclusion – Agreement with applicants Counsel that a CAMHS Tier 4, Low Secure unit for patients with non-forensic presentations would not be a material change of use from the existing lawful use of Class C2

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### *Application of legal advice to the specific facts of the case*

Taking account of these legal concepts and applying them the consideration of whether the specific proposed use constitutes a material change from the previous lawful use, the starting point is the primary purpose of the unit, in this situation it is to provide care and the role of security is to enable that purpose to be undertaken. In such circumstances whilst security would need to be significant, its purpose would not primarily be security, the fence (and other associated measures such as doors locks, restricted access areas) would be to keep patients in for their own safety i.e., so they could continue to be treated and cared for within the unit. Whilst acknowledging there are no bright line boundaries between these Classes, in practice, it is considered that it is reasonable to regard facilities which accommodate patients with a non-forensic and complex non-forensic presentation to have care as their primary purpose and thereby fall within Use Class C2 Residential Institution

In contrast, it is considered that it is reasonable to conclude that the purpose of a unit which would also permanently accommodate patients with forensic presentations, which by definition means that the occupants would be a significant risk to others, and where tight physical security is necessary to stop young people absconding who could endanger people outside, would be a material change of use. This is because the security would be at least an equal purpose to the provision of care and at most the primary purpose of the unit. In these circumstances it is considered that the unit would fall within class C2A i.e., a Secure Residential Institution.

The applicant has applied for a Non-Forensic use and the Planning Statement (PS) sets out that it is for a “Tier 4 low secure non-forensic” CAMHS facility only. Thus, in terms of security, it advises that those forensic patients – i.e., those who pose harm to others and/or have committed an offence, are to be excluded from admission. The PS states that the proposed facility would be commissioned by NHS England (NHSE) and registered with the Care Quality Commission (CQC) and this would be stated in the ‘commissioning certificate’ as a Tier 4, Low Secure, Non-Forensic CAMHS Facility. Also, it is noteworthy that the applicant accepts (in a paragraph 2.2 of the Supplementary Planning Information dated 9<sup>th</sup> December) that in respect of facilities accommodating patients with forensic presentations, e.g., those with criminal convictions, that this use would fall under use Class C2A. To provide clarity to the scope of the permission and to provide some assurances and comfort to interested parties a suggested informative can highlight this to the applicant.

In terms of the proposed security fence, the guidance in the Royal College of Psychiatrist (RCP) ‘Standards for Forensic Mental Health Service’, on page 24, refers to the need for 3-metre-high fence for Forensic Low Secure Units. However, there is no hard evidence that the proposed 3-metre-high anti climb security fence is excessive, overly engineered or is designed to meet any form of longer-term objective, or that it would be disproportionate for the stated purpose of keeping non-forensic patients in the unit for their own care. Moreover, the comments of the West Mercia Police are in terms of the security purpose of the fence being appropriate in scale and design. Furthermore, it is

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noteworthy that NHSE indicate that the security minimum standards would be informed by the RCP standard for low secure forensic fencing and this would be irrespective of the patient population.

*Local Residents concerns of the potential for the development to evolve.*

The concerns of residents regarding the challenge in practice of ensuring that patients with forensic presentation would not be admitted, particularly as NHSE have confirmed that there is no separate NHSE service specification for patients with non-forensic or complex non forensic presentation, are legitimate. However, should the use materially alter e.g. from a CAMHS Tier 4 low secure in patients facility occupied solely by patients with non-forensic or complex non-forensic presentation to one which is also occupied by significant numbers of patients with forensic presentations and this has clear planning consequences, including the added fear of crime, then the Council will be able to revisit the matter. Powers which may be relevant in those considerations could include a Planning Contravention Notice or consideration of whether it is expedient to use a more formal Enforcement powers. Should that situation arise, such decisions would be made at that time and based on the evidence presented, but that action, or indeed possible inaction, should not be second guessed as part of this application.

In terms of traffic movements and parking the highway authority in general terms concludes that the proposals will not be significantly different to the previous care home use. Whilst the materiality of any change in traffic movement is a matter of planning judgment, it is not evident that this would result in a significantly different character. This conclusion supports and adds weight to the LPA'S view that the 'on the ground planning consequences of the use' are not materially different from the existing C2 Care home use.

In conclusion, Officers consider it would be inappropriate to assess the application based on the harm flowing from a change of use because the proposed change would not be of a scale, nature or degree to be a material change of use from the lawful Class C2 Residential Institution. Accordingly, it is only appropriate to assess the proposed operational developments.

### Fear of Crime

The SPD (6.1.9) and the Borough of Redditch Local Plan No. 4, policy 40 vi) sets out the importance of good design and the fact that new development will be expected to encourage community safety and design out vulnerability to crime by incorporating the principles, concepts, and physical security standards of the 'Secured by Design' award scheme.

It is clear that there is a real and pronounced fear of crime particularly voiced by local residents, particularly those occupying houses adjoining the site arising from the operational developments particularly the proposed security fence. There is appeal case law that indicates that the fear of crime is a material consideration relating to the erection

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of security fences. Moreover, there are clear concerns, reinforced by the views of West Mercia Police, of what a 3-metre-high anti climb fence represents, and this includes fear of crime, particularly of crime from patients absconding who have presentations that may be, or perceived to be, harmful to people outside the site. This is particularly the case since many of the rear gardens of surrounding houses adjoin the site and views from dwellings and rear garden areas enable clear observation of the proposed fencing.

However, given the conclusion that planning permission is not required for the proposed use, *per se*, it is reasonable to conclude the proposed 3-metre-high anti climb fence, would not unacceptably exacerbate the fear of crime which primarily relates to the proposed use, rather than the fence itself. With regards the Worcestershire County Complex Needs comment regarding the legalities of fencing, the applicant maintains the fencing is essential to enable the administration of necessary care plan for each patient. Indeed, since the comments from West Mercia Police indicate that the proposed fence is appropriate and fit for purpose it could eventually result in anxious fears subsiding. Therefore, the proposed security fencing is considered essential, in principle, to enable the administration of necessary care plan for each patient.

The observations and comments made by Community Safety colleagues were shared with the applicant. They indicated they are satisfied the building is fit for purpose and considered many of the comments were non-material planning considerations. Officers note also that some of these matters relate to the management of the unit and the internal arrangement of the facility and would therefore be outside of the control of the Local Planning Authority.

Therefore, in respect of this issue the application would accord with policy 40 of the Borough of Redditch Local Plan No. 4

### Dominance of security fencing

The closest stretches of security fencing to the rear elevation of adjacent properties are 17.8 metres and 21.7 metres in the cases of no's 48 and 46 Shirehampton Close and 16.5 metres and 17.5 metres in the cases of no's 34 and 35 Lordswood Close. The closely spaced welded mesh design of the 3 metres high anti climb security fence would be such that from oblique angles it could appear relatively solid and dark in colour.

The Borough of Redditch High Quality Design Supplementary Planning Document (SPD), paragraph 6.2.18 states that boundary treatments must be appropriately designed and use existing features and existing vegetation, such as hedgerows and mature trees. In terms of guidance and the issue of high fences near dwellings affecting outlook, there is no minimum separation distances for 2 storey dwellings facing security fences. The nearest equivalent comparator in the SPD is the example of 2 storey dwelling facing a flank wall of a two-storey dwelling where the minimum is 12.5 metres for parallel face to face building. In terms of whether the security fencing would be unduly overbearing, the on-site distance separation would be above this comparison minimum separation distance. Moreover, the proposed fence alignment would be set at a slight angle to the

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alignment of the rear elevation and the fence would be lower than the eaves level of a typical two-storey house.

On the other hand, the proposed fence would also be considerably wider than a typical blank wall of a facing house. Furthermore, in the case of the juxtaposition of the 3 metre high fence to certain properties fronting Shirehampton Close, perhaps most notably, no. 48, there is a difference in levels. The lack of levels information on the submitted plans has been explored with the applicant. The occupant of no. 48 Shirehampton Close estimates that the rear elevation of his property is 3 metres lower than base on the proposed fence. If this is the case it would add to the dominance of the fence.

However, considering the separation distances involved and the intervening features, it is not considered that this juxtaposition would be unduly overbearing, at ground floor level where the daytime habitable rooms are located because a rising garden with a garden fence at the top would obscure the views of the lower parts of the security fence. Whilst it would be relatively conspicuous at first floor level the fence would mainly be seen with a backdrop of the building and to some extent the solidity of the fence would be softened and broken by existing and any proposed intervening mature soft landscaping. Therefore, whilst the proposed 3 metres anti climb security fence would represent a change of outlook compared with the existing situation, particularly from the first-floor rear windows, it is considered by reason of distance separation, relative juxtaposition, backdrop of buildings and the softening of mature vegetation which can be enhanced by further landscaping secured by condition, that it would not be unduly dominant.

In terms of the proposed 2-metre-high security fencing at the front/side of the unit and visible from the public vantage points of Church Road, the alignment of stretches of fencing are set back behind the car park at the front of the site and minimum of 5.3 metres from the existing north west boundary fence. In both cases it would be disguised to varying degrees by existing trees and shrubs between the proposed fence and the site boundaries. It is noteworthy also that the erection of a 2m high fence in a position not adjacent to a highway would represent a permitted form of development by virtue of Class A Part 2 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015.

### Effect on Character and Appearance

#### *Security Fence*

The views of the proposed operational development; principally the proposed anti climb security fence from public or quasi-public vantage points surrounding the site are largely restricted to the Church Road frontage which is disguised by existing trees and shrubs fronting the site across a frontage car park and seen with a backdrop of the mass of a complex of single storey building with ridged roofs. Moreover, apart from a corridor of 3-metre-high fencing leading into the courtyard, the stretches of 3-metre-high security fence which would enclose part of the courtyard are further back and would be largely surrounded by buildings. In terms of other public views these are restricted to narrow or

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high level, glimpsed views between houses and from the informal footpath through the east of the site. Again, the proposed 3 metre high, anti-climb, security fence and the 2-metre-high security fence would be seen with the relatively close backdrop of substantial buildings and through intervening existing trees and shrubs in the grounds. Appeal case law tends to give little or no weight to the impact of views from private land. Whilst these proposed additional boundary treatments are not typical of the characteristic of the area, they would have a degree of transparency and would be less aggressive than other types of security fence e.g., galvanised palisade fencing. Moreover, given the conclusions on the lawfulness of the proposed use, appropriate security fencing is necessary.

### *Proposed extensions and alterations*

The proposed single storey classroom would be extended from the north western inner face of the existing detached building in the south western part of the grounds. The additional bulk of the proposed classroom would be disguised from the Church Road frontage by both the backdrop of buildings and the existing trees and shrubs which are to be retained. Only the relatively narrow end elevation of the classroom extension would be seen with the backdrop of other buildings.

The proposed two extensions adjoining the north west (side) elevation of the building would be relatively small scale and not prominent from public views and this together with the proposed matching materials would enable them to be assimilated into the form and scale of the existing building without causing visual harm.

In terms of proposed alterations, the feature render and wood cladding provide for a more varied appearance and uses materials often used in the locality. The prospective changes to the car park to accommodate the suggested highway conditions would be relatively modest but would involve some erosion of existing frontage landscaping, all be it that this could be addressed using a suitably worded condition.

The small bin store situated at the back of the car park, which would be an enclosure surrounded by fence panels would be seen with a backdrop of the existing outbuilding. The original proposal for a smoking shelter in the front corner of the were removed from the amended plans address the officer concerns.

Therefore, overall, in in terms of character and appearance the proposed operational development would accord with policies 39 and 40 of the Borough of Redditch Local Plan No. 4

### Noise, Disturbance and Privacy

Given the Officers conclusions that there is no material change of use arising from the proposal, this assessment needs to focus of the implications of the proposed operational developments. The proposed anti climb security fencing, which would leave the corridor around the building, has the potential to be an area in which people may congregate when enjoying outdoor recreation and leisure. Residents congregating in these areas

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would also be visible and audible, to some extent, from surrounding properties, albeit that some intervening features exist in some places. This is not a materially different situation to the use of the site as a nursing home. Regarding the concern expressed with respect to access to the roof area, the applicant has stated that the amenity space to each wing, located in the central courtyard is fenced off away from the building, therefore they consider unauthorised roof access very unlikely. Access to the perimeter of the building, between the fence and the building is only for when patients are leaving/entering the site during which they are accompanied. Therefore, it is reasonable to conclude that with appropriate management techniques and controls, combined with lighting and CCTV would be sufficient to address this and adequately manage this situation.

Similarly, the proposed extensions on the north west side of the existing building, whilst emphasising that this would be the main entrance to the existing building, would not in themselves add to the noise and disturbance that might occur with people and vehicles coming and going to a building with a lawful use. There would be minimal noise implication from the classroom extension given the conclusions on the lawfulness of the proposed use

Since WRS have concerns about the lack of information regarding mechanical ventilation it is appropriate to impose a planning condition

### Parking, Highway Issues, and sustainability

The Borough of Redditch Local Plan, Policy 20, deals with the transport requirement of new developments including incorporating safe and convenience accesses and meeting parking standards. The assessment of this issue needs to be made in the context of the proposed operational developments. These involve some extra floor space which could, in a limited way, have additional highway implications. It is noteworthy that the County Highway Authority have no objections subject to conditions with the reasoning that the extra floorspace would not be significantly different in terms of transport and parking implications than the previous use of the property as a care home.

The applicant has questioned the detailed planning justification for the Highway Authority's suggested conditions. In conclusion on this issue given there would be a limited increase in floorspace and no increase in bedroom numbers it is not considered that the suggested condition for cycle provision is reasonable and appropriate. Therefore, the proposed operational development would accord with policy 20 of the Borough of Redditch Local Plan No. 4

In terms of sustainability, whilst the site would potentially cater for more of a regional rather than local need for CAMHS tier 4 low secure provision, the site is set within the built-up area of Redditch and can therefore be considered a sustainable location.

### Other Issues

#### *Drainage*

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Whilst there is a lack of information about drainage Worcestershire Water Management are satisfied that it is appropriate to remedy this with a pre-commencement condition. The applicant has indicated that the suggested condition and reasoning is acceptable

### *Alternative locations*

Some representations suggest there may be preferential locations for such a development e.g., adjacent to hospital sites. However, it would not be reasonable to recommend refusal of the application for operational development on the basis that the feasibility of alternative sites have not been properly investigated. A decision has to be made on the proposal before Members and in the absence of any material or technical issue that is not capable of being addressed by condition, then Officers are minded to support the application.

### *Procedural*

The public concern about the actual or perceived misleading and reluctant provision of information and allegedly poor record of the applicant's management of another site is not a reasonable reason to recommend refusal of the application as these are not material planning matters. The shortcomings in the original application package of information and design have been adequately rectified by the applicant and this has been the subject of extensive consultation and publicity. There is no specific documented evidence that the proposed use would be different to that applied for in the current amended application. Therefore, there are no procedural grounds for deciding that the application ought to have been refused.

### **Overall Conclusions**

The consensus of the various legal opinions submitted which has been commissioned by both the applicant and the Council is that the proposed use; a CAMHS Tier 4, Low Secure, Non-Forensic unit, is one where the primary function is of providing care for its occupants rather than it being a place principally involved in securing its occupants for the protection of the wider public. The purpose of the security fence for example, is to prevent young people who might abscond and thus avoid receiving the care they need, from leaving the unit. This provision of care is not materially different to the lawful use of the site as a Residential Institution falling within Use Class C2. It is considered that this is a reasonable conclusion given the unit would accommodate patients with non-forensic or complex non- forensic presentations. Therefore, the proposed use, per se would not require planning permission.

The proposed operational developments: security fencing, extensions and external alterations which are the only developments for which planning permission is being sought, should be assessed purely on their affects and not because they might facilitate a different use now or in the future. In this context the operational developments, by

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themselves, do not cause unacceptable harm in respect of the aforementioned issues including fear of crime, design & character, living conditions and highway safety.

### **RECOMMENDATION:**

- a) That the LPA would have been minded to **GRANT** full planning permission subject to conditions as listed in the event that an Appeal against non-determination had not been lodged and it had been able to determine the application  
and
- b) That Delegated Powers by given to the Head of Planning, Regeneration and Leisure Services to agree to the proposed method for determining the non-determination appeal.

### **Conditions**

1. The development to which this permission relates must be begun not later than the expiration of three years beginning with the date of the grant of this permission.  
Reason: In accordance with the requirements of Section 91(1) of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

Reason - In accordance with the requirements of Section 91(1) of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The proposed development hereby permitted shall be carried out in accordance with the Approved Plans/ Drawings listed in this notice:

- Location/ block plan – 110A – 11/02/20
- Proposed Site Plan 1:200 denoting areas of use in building – 190185/109(-) – 18/05/20
- Proposed Site Plan 1:500 - 190185/110(B) – 18/05/20
- Proposed NE Wing Rev B -- floorplan ‘Admissions Ward’ – 190185/112(B) – 18/05/20
- Proposed SW Wing floor plan Rev B ‘Transitions Ward’ – 190185/113(B). – 18/05/20
- Existing & Proposed Street Scene Elevations & photomontage & indicative cross section – 18/05/20
- Proposed School floorplan – 114A – 11/02/20
- Proposed Main Elevations – 115A – 11/02/20
- Proposed School Elevations – 116(-) - 11/02/20

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- Planning Statement Ref 190185 Rev B – 28/09/20
- Design & Access Statement Revision B – 18/05/20
- Supplementary Planning Information Rev A - 03/12/20

Reason: For avoidance of doubt to seek compliance with the approved plans

3. Prior to their first installation, details of the form, colour and finish of the materials to be used externally on the walls and roofs shall be submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out in accordance with the approved details.

Reason: To ensure that the development is satisfactory in appearance, to safeguard the visual amenities of the area.

4. Prior to the commencement of any works on site, including any site clearance, demolition, excavations or import of machinery or materials, the trees or hedgerows which are shown retained on the approved plans both on and adjacent to the application site shall be protected with fencing around their Root Protection Areas. This fencing shall be constructed as detailed in Figure 2 and positioned in accordance with Section 4.6 of British Standard BS5837:2012 and shall be maintained as erected until all development has been completed.

Reason: In order to protect the trees, hedges & landscape features which form an important part of the amenity of the site and adjacent properties from damage which would occur if such works were commenced prior to the installation of tree protection fencing

5. No works of any kind shall be permitted within or through the Root Protection Areas of trees or hedges on and adjacent to the application site without the prior specific written permission of the Local Planning Authority. This specifically includes any works such as changes in ground levels, installation of equipment or utility services, the passage or use of machinery, the storage, burning or disposal of materials or waste or the washing out of concrete mixing plants or fuel tanks.

Reason: In order to protect the trees which, form an important part of the amenity of the site

6. No development shall commence until a scheme of landscaping, including details of proposed tree and shrub plantings and treatment of all parts of the site not covered by buildings, shall have been submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of the sizes, numbers, species and grade of all proposed trees/plants; and specifications to ensure successful establishment and survival of new planting. The approved details of landscaping shall be carried out in the first planting season following the occupation of the buildings or the completion of the development, whichever is the sooner. Any trees or plants which within a period of 5 years from the completion of the development die, are

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removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species and in accordance with the approved details.

Reason; To ensure that the designs for and implementation of an approved landscaping scheme would satisfactorily mitigate the proposed large scale and expanse of security fencing and to complement the security of the site, in the interest of character of the area, the living conditions of adjoining residents and site security.

7. Prior to any works above foundation level or surfacing works commencing on site a scheme for surface water drainage will be submitted to and approved in writing by the Local Planning Authority. This scheme should be indicated on a drainage plan and the approved scheme shall be completed prior to the first use of the development hereby approved.

Reason: In order to ensure satisfactory drainage conditions that will not create or exacerbate flood risk on site or within the surrounding local area.

8. Prior to the installation of glazing, details of the specification of glazing and any mechanical ventilation to be installed shall be submitted and approved by the Local Planning Authority. The glazing shall be installed in full accordance with the approved details.

Reason: To safeguard the amenities of the occupiers of the proposed development.

9. Full details, including the cumulative predicted assessment level(s) at the nearest noise sensitive receptor(s) in terms of BS4142:2014+A1:2019, of any proposed mechanical ventilation, that requires external plant / equipment, should be submitted to and approved in writing by the local planning authority before brought into use. The mechanical ventilation shall be installed in accordance with the approved details.

Reason To safeguard the amenities of the occupiers of the proposed development.

10. No development shall be commenced until details of the proposed external lighting and CCTV cameras and system shall be submitted to and approved, in writing, by the Local Planning Authority. The installation of the external lighting and CCTV systems shall be in accordance with the approved details.

Reason: To achieve an acceptable design for and implementation of external lighting and CCTV as an integral part of the development in the interests of site security and residential amenity

11. No development shall take place until a Construction Management Plan has been submitted to and approved in writing by the local planning authority. The Plan shall include details of the location of on-site construction compounds and contractor parking, routes for construction traffic, methods to prevent mud being carried onto the

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highway, noise and dust suppression measures and adherence to construction working hours of 8am-6pm Monday to Friday and 8am-1pm on Saturdays with no construction working on Sundays or Bank holidays or public holidays. The measures set out in the approved Plan shall be carried out and complied with in full during the construction of the development hereby approved.

Reason: To ensure that there would be an acceptable method and provision of adequate on-site facilities and in the interests of highway safety and residential amenity.

12. The development hereby approved shall not be occupied until the parking facilities have been provided as shown on drawing 190185/110(A)

Reason: To ensure conformity with the submitted details

### **Notes to be added to Planning Permission**

1. The application has been defined and described as providing a Tier 4, Low Secure CAMHS facility, for patients with Non-Forensic presentations. This is also the basis on which the facility has been commissioned via NHS England. As a result, the LPA is of the view that a material change of use has not been proposed. However, if the way in which the facility operated were to materially change, or if the facility were also to provide care for on a permanent basis for patients with presentations not defined as Non-Forensic, this may represent a material change of use, for which a further planning permission may be required.
2. In dealing with this application the local planning authority have worked with the applicant in a positive and proactive manner, seeking solutions to problems arising from the application, including the addressing two amendments to the original application, securing of amended plans, supplementary information and legal opinions. This necessitated three rounds of notifications, consultations and site and press publicity and the consideration of the issues arising. This application is considered to accord with the NPPF and Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015. The authority has helped the applicant resolve technical issues such as:
  - The lawfulness of the proposed use and the principle of the development,
  - impact of the operational developments on the street scene and character of the area
  - Effect of the proposed operational development on fear of crime
  - Impact of the proposed operational development upon amenity of neighbours.
  - Improving the design of the proposed developments
  - Consideration of Highway safety and car parking issues

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The proposal is therefore considered to deliver a sustainable form of development that complies with development plan policy.

### **Procedural matters**

This application is reported to Planning Committee for determination because the application is for major development and as such the application falls outside the scheme of delegation to Officers. In addition, this application is being reported to the Planning Committee because two or more objections have been received.