

**PLANNING
COMMITTEE**

7th December 2022

Planning Application 22/00817/S73

Variation of Condition 2 of planning permission reference 20/00599/FUL (Development of 2 dwellings) to replace approved drawings with revisions omitting herringbone detailing to brickwork, partial removal of cladding, conversion of approved garage (Plot A) to office / study and associated alterations to fenestration together with the setting back of garage serving Plot B further into the site

Land Adjacent to Lavender Place, Droitwich Road, Feckenham, Worcestershire, B96 6JE

**Applicant: Mr Mark Slater
Ward: Astwood Bank and Feckenham Ward**

(see additional papers for site plan)

The case officer of this application is Steven Edden, Principal Planning Officer (DM), who can be contacted on Tel: 01527 548474 Email: steve.edden@bromsgroveandredditch.gov.uk for more information.

Site Description

The application site relates to a parcel of land which lies to the south of Droitwich Road. Beyond the western boundary is the detached dwelling 'Lavender Place' and beyond the eastern boundary lies the property 'The Juniper Tree', 17 Droitwich Road.

The site abuts the village settlement boundary of Feckenham and is designated as Open Countryside. The site also lies within Feckenham Conservation Area and there are a number of listed buildings in close proximity, most notably the Grade II* listed building, 'The Manor House', 24 Droitwich Road, which lies directly opposite, to the north. Records also show that Public Right of Way (PRoW) 685(C) runs along the western boundary of the site.

Proposal Description

Section 73 of the Town and Country Planning Act 1990 allows an application to be made for permission to develop without complying with a condition previously imposed on a planning permission. A Section 73 application can either seek the removal of a previously imposed condition or it may seek to vary the wording a condition previously imposed. In this case, the application proposes to vary Condition 2 attached to planning permission reference 20/00599/FUL (Development of 2 dwellings). Condition 2 lists the plans which were granted under permission 20/00599/FUL which includes floorplans and elevations for the two dwellings approved (Plots A and B). If successful, relevant plans approved under application 20/00599/FUL would be substituted by plans submitted by the applicant under this application.

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Since acquiring the site, the current developer seeks to make changes to the appearance of the development and has submitted amended floorplans and elevations together with a site layout plan to reflect those changes.

The changes are principally those set out in the description of the development above and include:

- *The removal of the previously approved 'herringbone' panels to be applied to the plots
- *The partial removal of timber cladding elements
- *The conversion of the garage serving Plot A to an office / study
- *The removal of the 'finials' shown to the ridge line of Plot A
- * The change from car-port/store to garage serving Plot B and the setting back of this element further into the site. Increased width to garage proposed.
- *The removal of the two 'false' first floor pitched roofed dormers serving the front elevation of Plot B
- *The introduction of traditional eaves and verge detailing to both plots
- *The use of an English garden wall bond variation to the brick walls on both plots

Development has commenced on site and with respect to the garage serving Plot B, whilst not complete, this has been partially constructed in accordance with plans submitted as part of this application. These plans show that, (aside from being set-back) the proposed garage would be 6.1m in width. The car-port / store as approved under reference 20/00599/FUL was 4.94m in width.

Relevant Policies:

Borough of Redditch Local Plan No. 4

- Policy 1: Presumption in Favour of Sustainable Development
- Policy 9: Open Countryside
- Policy 36: Historic Environment
- Policy 37: Historic Buildings and Structures
- Policy 38: Conservation Areas
- Policy 39: Built Environment
- Policy 40: High Quality Design and Safer Communities

Others

- NPPF National Planning Policy Framework (2021)
- High Quality Design SPD

Relevant Planning History

22/00756/FUL	Proposed garage to Plot A following the grant of permission under ref 20/00599/FUL (erection of 2 dwellings)	Withdrawn	14.07.2022
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REDDITCH BOROUGH COUNCIL

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20/00599/FUL	Development of 2 No. Dwellings	Granted	29.04.2021
19/01588/FUL	Development of 1 No. Dwelling	Refused (Dismissed at Appeal 02.10.2020)	12.03.2020
19/00716/FUL	Development of 2 No. Dwellings	Refused (Dismissed at Appeal 02.10.2020)	30.08.2019

Consultations

Feckenham Parish Council

Comments summarised as follows:

Feckenham Parish Council objected strongly to the application for two dwellings on this land. At the last appeal, the Inspector stated that, whilst he dismissed the appeal, he felt that two properties may be possible "subject to design."

Design is considered to include the whole concept of a proposal not just the elevational treatment.

Neither the approved design nor the proposed design is considered to reflect the character of the village, and we therefore object to the application.

We would draw your attention to the fact that the development as constructed does not comply with the approved documents. In particular, a tree to the rear of Unit B has been removed without consent and Unit B is significantly wider than that approved reducing what we consider to be an important gap between the two dwellings which allows views through the site.

Foundation / sub structure work is being undertaken to the rear of Plot B in advance of possible rear extensions. Permitted development rights for extensions do not apply until the property is complete and occupied. Such extensions must comply with allowed dimensions. If carried out, in advance of occupation then they would require a formal amended consent.

RBC Conservation Officer

Comments summarised as follows:

The applicant is now proposing to construct a garage rather than a car port on Plot B. The position of the garage would be amended, setting it back marginally behind the front elevation of the dwelling. It would also be wider than the approved carport.

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The proposed garage to Plot A has been removed from the scheme and the space converted to a study / office.

The herringbone detail brick work has been removed from the scheme, and the brick bond to be used is a variation of English Garden wall. A dentil detail has been agreed for the eaves and an oversailing verge with a projecting continuous header brick detail.

It is not considered that replacing the approved car port with a garage and setting it back will impact on the character and appearance of the Conservation Area, or the setting of neighbouring listed buildings. It is noted that the proposed garage will be a metre wider than the approved carport. Maintaining a clear gap between the two houses was an important element of the approved scheme, as it maintained views through the site. It is not considered that increasing the width of the garage by 1 metre will impact on these views.

It is not considered that the loss of the integral garage to Plot A and its replacement with a study will have an impact on the Conservation Area or the setting of nearby listed buildings.

It is considered that the proposed amendments to the detailing of the houses which include the removal of the 'false' dormer windows serving Plot B, which were shown on the approved scheme 20/00599/FUL will preserve the character and appearance of the Conservation Area.

There are therefore no conservation objections to the proposed amendments, and it is considered that the revised scheme complies with the requirements of the 1990 Act, the Borough of Redditch Local Plan No.4 and the NPPF.

Arboricultural Officer

Comments summarised as follows:

In regard to the loss of trees that are shown for retention I believe that two trees have been lost, these being the trees labelled TE/48 and TE/55 on the approved plan. As these should have been retained, two suitable stature replacement trees will be required to be planted in mitigation.

I would suggest that 1 x Heavy Standard Grade 12-14cm stem girth *Carpinus Betulus Fastigiata Frans Fontaine* (upright Hornbeam) and 1 x Heavy Standard Grade 12-14 cm stem girth *Betula Pendula Obelisk* (upright Birch) are planted within the landscaped area to the front of Plot (B) between the drive and Northern boundary of the site. This size of tree will give an immediate level of structure to the landscaping and quickly mitigate against the loss of the previous trees.

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Public Consultation Response

One letter objecting to the application has been received. The comments raised the following material planning considerations which are summarised below for reporting purposes. The representations can be viewed using the Council's Public access system by following the link below and searching the reference number 21/00817/S73.

<https://publicaccess.bromsgroveandredditch.gov.uk/online-applications/>

- The proposals do not respect the character and appearance of the Feckenham Conservation area. The Conservation Area Character Appraisal comments that an important component of the setting of the Feckenham Conservation Area is "Views from the street through the spaces between buildings into the open countryside". The proposals fail in this regard.
- Whilst objecting to earlier applications (including application 20/00599/FUL), the eventual consented design was the best and most sympathetic of this design proposals. The herringbone brickwork (which is to be removed) adds value to this development and it is noted that 22/00817/S73 proposes to alter this design, by removing this special brickwork pattern and adjusting the cladding to a very disappointingly utilitarian format.
- The location of the proposed garage (to Plot B) would be in direct view from the Droitwich Road and would be the first thing passers-by would see when walking through this pretty part of Feckenham Conservation Area. The garage would also block views towards the open countryside, which, as mentioned above, would have a small, but significantly negative impact on the Conservation Area. As such, we object to this planning application and request that it be refused.
- We note that the applicant has not included a Heritage Impact Report, as is usual in these circumstances, and would welcome the views of the Conservation Officer.

Planning History of the Site

Two preceding applications relating to the site; one for two dwellings and another for a single dwelling were refused by the Local Planning Authority; the former on heritage grounds and trees, and the latter solely on heritage grounds. The subsequent combined appeal for these decisions was dismissed. The findings of that decision were considered to inform the assessment of application 20/00599/FUL which was granted permission on 29.04.2021.

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Assessment of Proposal

In examining a Section 73 application it is only necessary to assess whether the proposed removal or variation of the Condition in question is acceptable in planning terms. Such an application does not present an opportunity to re-visit the acceptability of the principle of the development as planning permission has already been granted and in this case, construction is underway.

Concerns have been raised regarding the quality of information including supporting documents which have been submitted with this application. Documents submitted to accompany planning applications are required to be sufficiently detailed to assess the merits and impacts arising from that proposed development and proportionate having regard to the extent of the proposals. Amongst other documents, a detailed Heritage Statement was submitted to accompany application 20/00599/FUL.

The information submitted in support of the current application is considered to be acceptable having regard to the extent of the proposed changes and a second Heritage Statement has not been sought in this case.

The current owner of the site has argued that the use of herringbone panels to the dwellings (as approved under ref 20/00599/FUL) would be alien to the area and has also commented that there are practical difficulties associated with implementing the herringbone panel arrangement. Both the case officer and the Councils Conservation Officer have engaged positively and proactively with the applicant as per legislative requirements which have included meetings on site to discuss the merits of this application. In design terms, members will note that the Councils Conservation Officer believes that the variation to condition 2 which would result in what are considered to be relatively minor changes to the design of the development, would, cumulatively, respect the character of the Conservation Area. Whilst it is conceded that the partially constructed garage serving Plot B is wider than that approved, a significant gap between the two plots would remain if planning permission were to be granted. An application received to narrow the gap further between the plots (application 22/00756/FUL referred to within the planning history) was withdrawn by the applicant following concerns by the Council where officers considered that the (more significant) narrowing of the gap between the two houses would be harmful to the character of the Conservation Area.

Concerns have been raised regarding the extent of below ground development works to the rear of Plot B. The works which have been carried out here are not considered to harm the character and appearance of the Conservation Area. Permitted development rights afforded to householders under the terms of the Town and Country Planning (General Permitted Development) (England) Order 2015: Schedule 2, Part 1, Classes A to E (the GPDO) have not been removed / restricted by means of a planning condition under permission 20/00599/FUL. Because the site is within a designated Conservation Area, the provisions of the GPDO are such that any future single storey extension to the side elevation of either dwelling or any two-storey extension to the rear of any dwelling would require a separate application for planning permission. However, single storey

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extensions, subject to compliance with other limitations set out under the GPDO would not require future planning permission. Whilst no above ground development works have taken place, recent site inspections have revealed that any extensions in the areas referred to in the representations received are likely to benefit from permitted development rights.

As stated by the Council's Tree Officer, two trees which were shown for retention on the approved plans and which were in relatively close proximity to the rear face of Plot B no longer exist. The Tree Officer has suggested that two heavy standard grade trees should be planted to the frontage in mitigation. Your officers are of the view that such planting is, long term, likely to provide significant enhancement to the site having regard to views of the site from Droitwich Road.

In conclusion, the proposed amendments are not considered to harm the character and visual amenities of the area. The proposals are considered to be policy compliant in the context of the relevant policies of the Borough of Redditch Local Plan No.4 as listed above, and as such are supported.

Under Section 73 applications, conditions attached to the original consent are carried across to the new Section 73 application where those conditions continue to have effect. The recommendation below together with conditions, where they are required to be amended, reflects this.

RECOMMENDATION:

That having regard to the development plan and to all other material considerations, planning permission be GRANTED subject to the following conditions:

Conditions:

- 1) The development hereby approved shall be carried out in accordance with the following plans and drawings:

Site Location Plan dated 15 June 2022
Plot A Proposed Front Elevation dated 17 June 2022
Plot A Proposed Rear Elevation dated 17 June 2022
Plot A Proposed GF Plan dated 17 June 2022
Plot A Proposed First Floor Plan dated 18 June 2022
Plot A Proposed Side Elevation 1 dated 17 June 2022
Plot A Proposed Side Elevation 2 dated 18 June 2022
Plot B Proposed First Floor Plan dated 17 June 2022
Plot B Proposed Side Elevation 1 dated 17 June 2022
Plot B Proposed Side Elevation 2 dated 17 June 2022
Plot B Proposed Front and Rear Elevations dated 14 Oct 2022
Plot B Proposed GF Plan dated 14 Oct 2022
Site Layout Plan 1:200 dated 14 Oct 2022

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Proposed Eaves and Verge Details dated 14 Oct 2022

Reason: To provide certainty to the extent of the development hereby approved in the interests of proper planning

- 2) The development shall be carried out in accordance with the details agreed for use on walls and roofs

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

- 3) The development shall be carried out in accordance with agreed joinery details

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

- 4) Within two months of the date of this decision, a scheme for surface water drainage will be submitted to and approved in writing by the Local Planning Authority. 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.

- 5) The Development hereby approved shall not be occupied until the first 5 metres of the access into the development, measured from the edge of the carriageway, has been surfaced in a bound material.

Reason: In the interests of highway safety.

- 6) The Development hereby permitted shall not be first occupied until both of the proposed dwellings have been fitted with an electric vehicle charging point. The charging points shall comply with BS EN 62196 Mode 3 or 4 charging and BS EN 61851 and the Worcestershire County Council Streetscape Design Guide. The electric vehicle charging points shall be retained for the lifetime of the development unless they need to be replaced in which case the replacement charging point(s) shall be of the same specification or a higher specification in terms of charging performance.

Reason: To encourage sustainable travel and healthy communities.

- 7) The Development hereby approved shall not be first occupied until the existing vehicular access fronting the gates is cleared of any overgrown vegetation. This area shall thereafter be maintained free of obstruction exceeding a height of 0.6m above the adjacent ground level at all times. Any overgrown vegetation that

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overhangs the existing wall fronting the verge / carriageway shall also be cut back and maintained in perpetuity.

Reason: To ensure vehicular visibility is not obstructed; in the interests of highway safety.

- 8) The Development hereby approved shall not be occupied parking and turning facilities have been provided as shown on the submitted site layout plan

Reason: To ensure conformity with submitted details.

- 9) The Development hereby permitted shall not be first occupied until sheltered, safe and secure and accessible cycle parking for two cycles has been provided for each dwelling, details of which shall first be submitted and approved in writing by the Local Planning Authority. Thereafter the approved cycle parking shall be kept available for the parking of bicycles only.

Reason: To comply with the standards within Worcestershire County Council's adopted highway design guide.

- 10) The Development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation discharged under Condition 11 attached to permission 20/00599/FUL and provision has been made for analysis, publication and dissemination of results and archive deposition has been secured.

Reason: In accordance with the requirements of Paragraph 199 of the National Planning Policy Framework.

- 11) The development hereby approved shall be carried out in accordance with the protection, mitigation and enhancement measures outlined within section 4.1-4.5 inclusive and appendix 3 of the report 'Predevelopment Tree Survey BS5837: 2012' submitted to accompany planning application 20/00599/FUL.

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

- 12) Prior to the first occupation of the development hereby approved, the hard and soft landscaping shall be implemented in accordance with details shown on the approved landscaping plan approved under application 20/00599/FUL. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar sizes or species unless the local planning authority gives written approval to any variation

Reason: In the interests of visual amenity and biodiversity.

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- 13) In addition to the requirements of Condition 12, within two months of the date of this decision, full details specifying two heavy standard trees, to be planted to the frontage of Plot B shall be submitted and approved in writing by the Local Planning Authority. This planting shall be implemented in accordance with the approved details prior to the first occupation of the development. Any trees which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar sizes or species unless the local planning authority gives written approval to any variation.

Reason: In the interests of visual amenity and biodiversity.

- 14) The two sets of first floor windows on 'Gable Elevation Plot A', as shown on drawing Plot A Proposed Side Elevation 2, shall be fitted with obscure glazing as shall remain as such for the lifetime of the development.

Reason: To protect the privacy of adjacent neighbouring occupiers to the east of the site.

Informatives

- 1) **Alteration of highway to provide new or amended vehicle crossover**
This permission does not authorise the applicant to carry out works within the publicly maintained highway since such works can only be carried out by the County Council's Approved Contractor, Ringway Infrastructure Service who can be contacted by email worcestershirevehicle.crossing@ringway.co.uk. The applicant is solely responsible for all costs associated with construction of the access.

No Drainage to Discharge to Highway

Drainage arrangements shall be provided to ensure that surface water from the driveway and/or vehicular turning area does not discharge onto the public highway. No drainage or effluent from the proposed development shall be allowed to discharge into any highway drain or over any part of the public highway.

- 2) The applicant should be aware they have a responsibility to keep the definitive line of the Public Right of Way FH 685 clear where it crosses their property and should adhere to the following obligations:
- No disturbance of, or change to, the surface of the path or part thereof should be carried out without our written consent.
 - No diminution in the width of the right of way available for use by the public.
 - Buildings materials must not be stored on the right of way.

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- Vehicle movements and parking to be arranged so as not to unreasonably interfere with the public's use of the right of way.

- No additional barriers are placed across the right of way. No stile, gate, fence or other structure should be created on, or across, a public right of way without written consent of the Highway Authority.
- The safety of the public using the right of way is to be ensured at all times.
- The developer should also be aware of the Department of Environment Circular 1/09 (part 7) which explains that the effect of development on a public right of way is a material consideration in the determination of applications for planning permission and that the grant of planning consent does not entitle developers to obstruct a public right of way.
- The applicant should note the National Planning Policy Framework published in July 2018 by the Ministry of Housing, Communities and Local Government, particularly paragraph 98, to ensure that planning policies protect and enhance public rights of way and access.
- The Definitive Map is a minimum record of public rights of way and does not preclude the possibility that unrecorded public rights may exist, nor that higher rights may exist than those shown.

Procedural matters

This application is being reported to the Planning Committee because an objection has been received from a consultee which has not been resolved through the course of dealing with the application.