



BROMSGROVE DISTRICT COUNCIL

MEETING OF THE CABINET

WEDNESDAY 14TH MAY 2014 AT 4.00 P.M.

THE COUNCIL HOUSE, BURCOT LANE, BROMSGROVE

MEMBERS: Councillors R. Hollingworth (Leader), M. A. Sherrey (Deputy Leader), D. W. P. Booth, M. A. Bullivant, C. B. Taylor and M. J. A. Webb

AGENDA

1. To receive apologies for absence

2. Declarations of Interest

To invite Councillors to declare any Disclosable Pecuniary Interests or Other Disclosable Interests they may have in items on the agenda, and to confirm the nature of those interests.

3. Purchase Notice - Land at Meadow Croft, Hagley (Pages 1 - 24)

K. DICKS
Chief Executive

The Council House
Burcot Lane
BROMSGROVE
Worcestershire
B60 1AA

2nd May 2014

This page is intentionally left blank

CABINET

14 May 2014

PURCHASE NOTICE: LAND AT MEADOWCROFT HAGLEY

Relevant Portfolio Holder	Cllr Kit Taylor
Portfolio Holder Consulted	Yes
Relevant Head of Service	Ruth Bamford
Wards Affected	Hagley
Ward Councillor Consulted	Yes
Non-Key Decision	

1. SUMMARY OF PROPOSALS

- 1.1 Members are asked to consider the Purchase Notice which has been served on the Council by owners of a plot of land adjacent to number 73 Meadowcroft, Hagley. The notice requires a response from the Council under section 137 of the Town and Country Planning Act 1990.

2. RECOMMENDATIONS

- 2.1 That the Head of Planning and Regeneration be authorised to serve a Response Notice on the Owners confirming that the Council is not willing to comply with the Purchase Notice for the reasons stated in this report and as she may determine, and send a copy of the Response Notice to the Secretary of State.
- 2.2 That delegated authority be granted to the Head of Planning and Regeneration and the Head of Legal, Equalities and Democratic Services to take any further necessary steps to progress this matter, including arranging for the Council to be represented at any subsequent inquiry.

3. KEY ISSUES**Financial Implications**

- 3.1 If the Council accepts the Purchase Notice the Council will have to purchase the Land and the Owners are entitled to ask for compensation for the loss of the Land. No information as to value has been supplied by the Owners. Officers did consider whether a valuation should be obtained. However, in light of the conclusion reached that the appropriate response would be to reject the notice as set out at 3.20, this was not pursued. In the event that Members take a different view then before considering accepting the notice it would be necessary to obtain a valuation of the land and to give

CABINET

14 May 2014

consideration to the budget implications, namely that the Council has no monies allocated within its approved capital programme for the purchase of the Land.

- 3.2 If the Council rejects the Notice it will be referred along with the Council's response to the Secretary of State. Legal costs would be incurred in defending the Council's position at any Inquiry. The matter would be dealt with in a manner similar to a planning appeal.

Legal Implications

- 3.3 The relevant legislation is section 137 of the Town and Country Planning Act 1990. Guidance for local authorities in relation to Purchase Notices is set out in Planning Circular 13/83.
- 3.4 Given the nature of the subject matter for this report, the legal implications are set out in the main body of the report at 3.5 onwards.

Service / Operational Implications

Legislative framework

- 3.5 A Purchase Notice dated 18th February 2014 was served in respect of land adjacent to number 73 Meadow Croft, Hagley DY9 0LJ ("the Land) on the Council as the Local Planning Authority . The owners of the land who served the notice are Mr James Patrick Martin Flynn and Mr Charles Anthony Windsor Aston (referred to in this report as the Owners) under Section 137 of the Town and Country Planning Act 1990. A copy of the Purchase Notice is attached to this report (Appendix 1) together with a copy of a plan showing the extent of the Land to which the notice applies (Appendix 2).
- 3.6 A Purchase Notice is a mechanism whereby any landowner who believes their land has become incapable of reasonably beneficial use by virtue of a planning decision may seek to have the land acquired by the Local Planning Authority and be paid compensation due to the loss of the use of the land.
- 3.7 This process is not intended to provide a universal remedy where planning permission is refused. It should only be used in cases where the land has become incapable of reasonably beneficial use in its existing state and no development can be carried out to make its use reasonably beneficial.

CABINET

14 May 2014

- 3.8 The Council has a period of 3 months within which to respond to the Notice. The Council can:
- (i) Accept the Purchase Notice and acquire the Land; or
 - (ii) Confirm that another local authority or statutory undertaking has agreed to comply with the Purchase Notice in its place; or
 - (iii) Reject the Purchase Notice and refer it and the Council's response to the Secretary of State.
- 3.9 If the Purchase Notice is rejected a response notice has to be served on the land owner within the three month period. The response notice must set out the reasons why it has been rejected. If the Purchase Notice is rejected the matter may be determined by the Secretary of State. The Secretary of State may:
- (i) Refuse the Purchase Notice;
 - (ii) Confirm the Purchase Notice in whole or in part;
 - (iii) Grant the planning permission, the refusal of which gave rise to the Purchase Notice;
 - (iv) Direct that planning permission is granted for some other purpose; or
 - (v) Substitute another local authority or statutory undertaker, having regard to the ultimate use of the Land.

The site and relevant planning history

- 3.10 The Purchase Notice relates to land adjacent 73 Meadow Croft, Hagley. The Land consists of approximately 331 square metres. The land is accessed from a short section of private road at the very end of Meadowcroft itself. The land has three boundaries, to the north with the side of the gardens of number 49 Meadowcroft and part of 45 Meadowcroft, to the south by the sides of the gardens of numbers 51 and 73 Meadowcroft and to the east with the access road. Currently the Land consists of an open grassed area with some conifers growing on it. There is a significant difference in levels (some 1.5 metres) between the Land and the adjoining property at 49 Meadowcroft.
- 3.11 In February 1994 a company ("Whiteline") associated with the Owners submitted a planning application (Ref. 94/0117) for residential development on the former Cross Keys Public House site (which included the Land). The planning application was approved for 18 dwellings subject to conditions in July 1994. A copy of the permission is attached at Appendix 3. The approved plans for the site made provision the Land to be laid out as public open space, and at the time the application was approved this was judged to be necessary in

CABINET

14 May 2014

terms of providing the required amenity space for a development of this scale.

- 3.12 In January 2003 an outline planning application (Ref. B/2002/1372) submitted by Whiteline to develop the Land by the erection of a two bedroomed detached bungalow was refused (Appendix 4).
- 3.13 An appeal against this decision (Ref. APP/P1805/A/03/1117127) was dismissed on 26th August 2003 (Appendix 5).
- 3.14 Land Registry records indicate that the Owners registered title to the Land on 25th August 2005.
- 3.15 A subsequent planning application (Ref. 13/0837) was submitted on 29th October 2013. The description stated that the application was for the erection of a 3 bedroomed detached house with parking. This application was refused on 10th February 2014 and a copy of the Planning Decision Notice is attached at Appendix 6.
- 3.16 The Owners have served the Purchase Notice claiming that:
- (a) the Land has become incapable of reasonably beneficial use in its existing state; and
 - (b) it cannot be rendered capable of reasonably beneficial use by carrying out of the development; and
 - (c) it cannot be rendered capable of reasonably beneficial use by carrying out of any other development for which permission has been granted or is deemed to be granted or for which the local planning authority or the Secretary of State have undertaken to grant permission.

The owners have subsequently confirmed that ground (b) was included by error on their part and is to be disregarded.

- 3.17 Officers are of the view that the Land is not suitable for a separate residential dwelling as such a development would represent an incongruous and cramped form of development which would have an adverse impact on the character, appearance and visual amenities of the area. Further, any such development would result in detriment to and loss of residential amenity to occupiers of nearby properties. In particular due to the difference in levels, number 49 Meadowcroft would be adversely affected by development on the Land. Finally, the use of the Land for residential purposes would severely detract from its original intended purpose of providing amenity space for Meadowcroft.

CABINET

14 May 2014

- 3.18 The land not being suitable for residential use, officers have given consideration to what it could be used for and formed the view that it could be used in association with existing residential dwellings such as an extension to the existing rear gardens. Alternatively, it could be used for domestic garages; this would not involve any element of overlooking and be less intrusive than a dwelling. Other possible uses would include use as a large single allotment or a number of smaller allotments, or finally that the land be used as a communal private open space. This could be achieved by the local residents jointly raising funds to purchase the land and then using it for the benefit of the community.
- 3.19 The Council's Parks and Green Spaces Officer has been consulted and has advised that the Land could not be cost effectively integrated into the Council's Public Open Space portfolio.

Conclusion

- 3.20 The onus is on the owner to show that the land is "incapable of reasonably beneficial use". The application in this instance has been made swiftly following the rejection of planning application 13/0837. The owner has provided no supplementary evidence to show other steps that have been taken to try and dispose of the land. For example, whether the owners of the adjoining properties have been approached.
- 3.20 Having carried out a thorough review of the background to this case and the relevant legislation, officers are of the view that the Purchase Notice should be rejected. The grounds upon which the purchase notice is recommended to be rejected are:-
- a. The Owners have not demonstrated that the land is incapable of reasonable beneficial use.
 - b. There is no evidence of any attempt by the Owners to sell or dispose of the land to other third parties.
 - c. The land is capable of reasonable beneficial use as extensions to the garden areas of the adjacent properties, domestic garages, allotment (s) or communal private open space.

Customer / Equalities and Diversity Implications

- 3.21 The Council is responding to the notice served by the Owners in accordance with the prescribed legislation and guidance. There is no provision requiring the Council to consult with nearby residents.

CABINET

14 May 2014

4. RISK MANAGEMENT

- 4.1 The risk that the Council fails to respond to the Notice in time is being managed by the preparation of an urgent report and if needed the calling of an urgent meeting of Cabinet to make a decision.
- 4.2 There is a risk that the Council may incur legal costs defending its position at any subsequent appeal. This is being mitigated by the preparation of a thorough report with detailed reasons for refusal which will be included in any Refusal Notice.

5. APPENDICES

Appendix 1 – Purchase Notice
Appendix 2 - Plan
Appendix 3 – Planning permission ref 94/0117
Appendix 4 – Planning refusal ref B/2002/1372
Appendix 5 – Appeal decision ref APP/P1805/A/03/1117127
Appendix 6 – Planning refusal ref 13/0837

6. BACKGROUND PAPERS

Included as appendices.

7. KEY

N/A

AUTHOR(S) OF REPORT

Name: Nina Chana - Planning Officer
E Mail: n.chana@bromsgroveandredditch.gov.uk
Tel: 01527 548241

Name: Sarah Sellers – Principal Solicitor
E Mail: s.sellers@bromsgroveandredditch.gov.uk
Tel: 01527 881397

Appendix 1



Tudor Lodge
High Street,
Belbroughton,
Worcestershire,
DY9 9SU

17th February 2014

Chief Executive and Clerk
Bromsgrove District Council,
The Council House
Burcot Lane,
Bromsgrove,
Worcestershire,
B60 1AA

Re: Land Adjacent 73, Meadow Croft, Hagley. - Purchase Notice (section 137).

Dear Sir/Madam,

Following planning refusal of application 13/0837, with respect to constructing a dwelling on a section of land adjacent to 73, Meadow Croft, Hagley, we attach a 'Purchase Notice' for reasons as detailed below;

A principle point, in refusal of the application was that the land in question, is deemed to be classed as a 'public open space', which is not strictly correct.

In the planning refusal paper under the heading 'Assessment of the Proposal', the planning officer makes reference to planning permission B/1994/0117 indicating that within this application the land in question was set aside for public open space.

We would agree that the land within this earlier application was offered as a public open space, but that Bromsgrove District Council did not take up the offer.

The land remained within the ownership of Mr A Aston and Mr J Flynn, who have maintained the land for the past 20 years, including holding public liability insurance over the property.

It is therefore incorrect to consider the land as a public open space when it is owned and maintained by private individuals.

We hereby request the Council to purchase the land if they wish to offer the site as a public open space.

Yours faithfully,

James Flynn and Tony Aston

Bromsgrove District Council

Town and Country Planning Act 1990

Purchase Notice (section 137)

To the Chief Executive and Clerk of Bromsgrove District Council.

With reference to the land adjacent to 73 Meadow Croft, Hagley, Worcestershire, shown on the attached plan and subject of a planning decision, reference 13/0837 dated 10 February 2014 refusing planning permission.

We serve notice, under section 137 of the Town and Country Planning Act 1990, on the Council of Bromsgrove and we claim that-

- (a) the land has become incapable of reasonably beneficial use in its existing state; and
- X (b) it cannot be rendered capable of reasonably beneficial use by the carrying out of the development .
- (c) it cannot be rendered capable of reasonably beneficial use by carrying out any other development for which permission has been granted or is deemed to be granted, or for which the local planning authority or the secretary of state have undertaken to grant permission;

We hereby require the Council to purchase our interest in the said land, namely the site adjacent to 73 Meadow Croft Hagley, Worcestershire.

Owners;

Mr A Aston,
Orchard End
Holy Cross Lane
Belbroughton
Worcs
DY9 9SH

Signature

Date

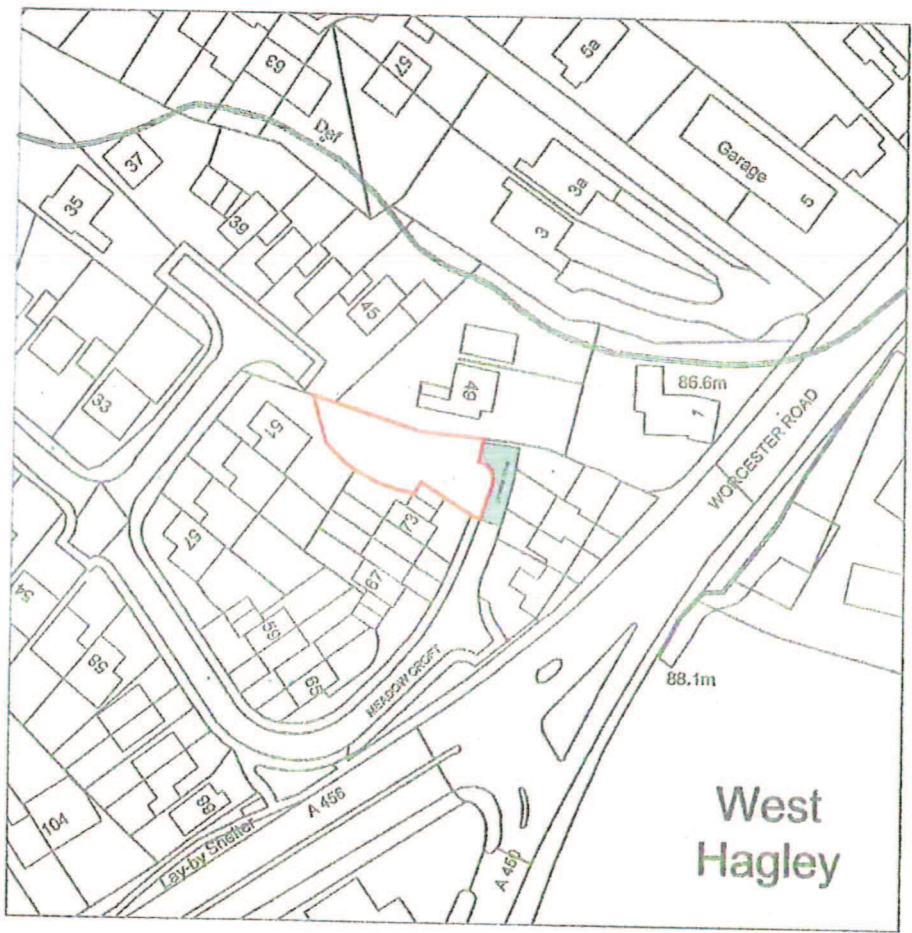
18/2/2014.

Mr J Flynn,
Tudor Lodge
60 High Street,
Belbroughton
Worcs
DY9 9SU

Signature

Date

18. FEB 2014.



KEY :
site boundary edged red
applicant's legal R.O.W
coloured blue

Land adj 73 Meadow Croft, Hagley DY9 0LJ

bpDESIGN 1 Camel Cottages Holy Cross Green Clent Stourbridge DY9 0HG
tel 01562 730161 or 07977 913388 entalf@plantdesign@gmail.com

location plan

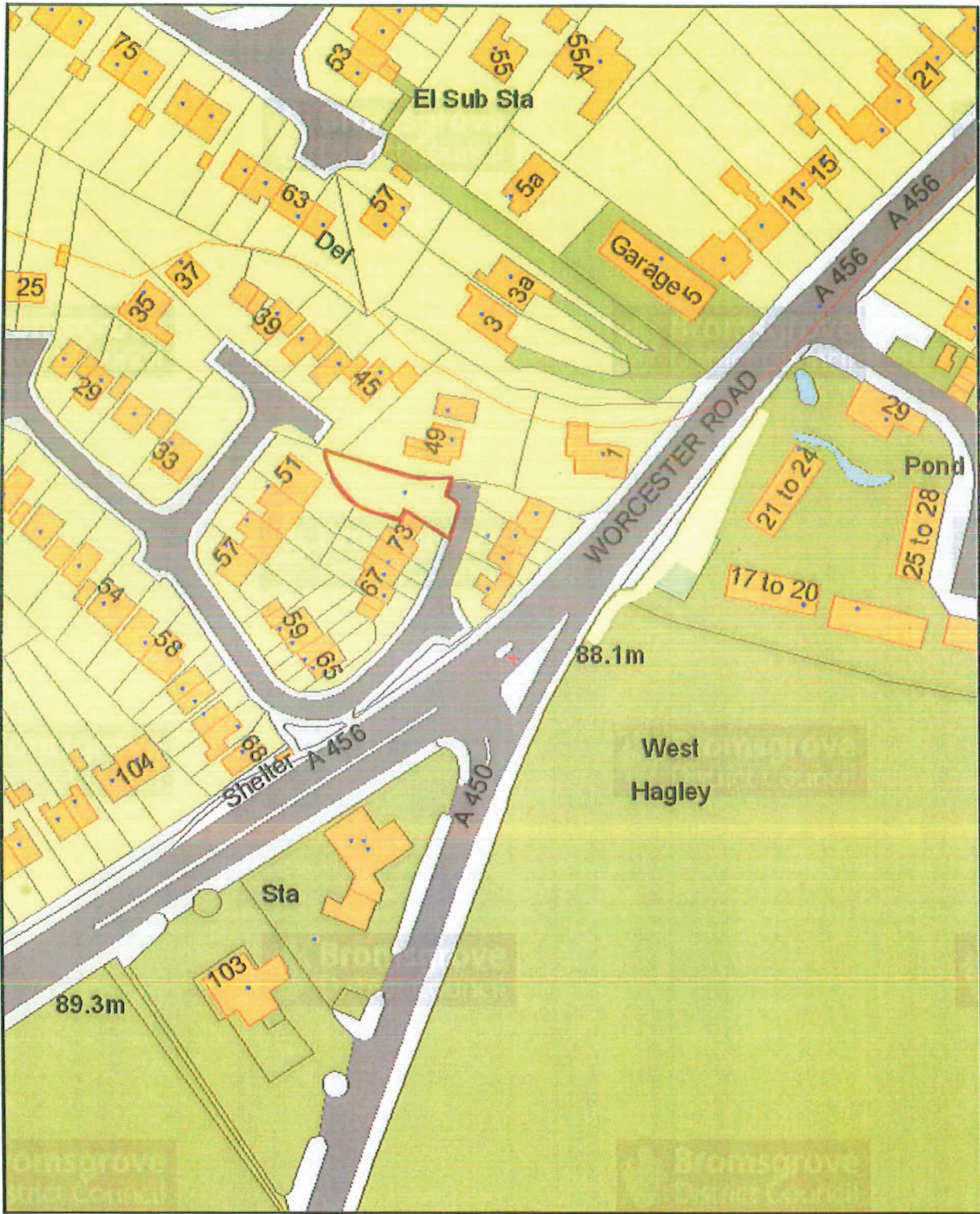
drg no OS1250
scale 1 : 1250 @ A4
0 10 Metres

© Crown Copyright. All rights reserved. Licence no. 100019980

This page is intentionally left blank

Appendix 2

Land adj 73 Meadow Croft Hagley
DY9 0LJ



DATE TIME
BROMSGROVE\lr.sultana

Scale 1:1250

This product includes mapping data licensed from
Supplier with permission, OS Licence Number 100023519
(2011).
NOTES



This page is intentionally left blank

PLANNING PERMISSION

Name and address of applicant

Name and address of agent (if any)

Whiteline Developments Midlands
Tudor Lodge
60 High Street
Belbroughton

Brian Plant
1 Camel Cottages
Holy Cross Green
Clent
Stourbridge DY9 0HG

Part I - Particulars of application

Date of application

Application No.

14.2.94

94/0117

Particulars and location of development:

Residential development, land at Meadow Croft (formerly Cross Keys P. H. site, Hagley) (As amended by plan received 1.6.94)

Part II - Particulars of decision

The Bromsgrove District Council hereby give notice in pursuance of the provisions of the Town and Country Planning Act 1990 that permission has been granted for the carrying out of the development referred to in Part I hereof in accordance with the application and plans submitted subject to the following conditions:

1. The development must be begun not later than the expiration of five years beginning with the date of this permission.
2. Details of the form, colour and finish of the materials to be used externally on the walls and roofs shall be subject to the approval, in writing, of the local planning authority before any work on the site commences.
3. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the occupation of the buildings or the completion of the development, whichever is the sooner, and 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 a similar size and species, unless the Local Planning Authority gives written consent to any variation.
4. The existing trees other than those shown as being removed on the amended plan received 1.6.94 shall be retained and shall not be felled, lopped, topped, or otherwise removed without the previous written consent of the Local Planning Authority. Any trees/hedges/shrubs removed without such consent or dying or being severely damaged or becoming seriously diseased shall be replaced with trees/hedges/shrubs of such size and species as may be agreed in writing with the Local Planning Authority.
5. Walls/fences at least 1.8 metres high shall be erected in such positions as to be agreed in writing with the Local Planning Authority.
6. The access road, footways and parking arrangements shall be laid out generally in accordance with the amended deposited plan drawing no. LK194/1B received 1.6.94.
7. The layout of the proposed development shall comply in all respects with the current requirements set out in the County Council's Design Guide and Specification for Residential Roads.

Engineering details of the proposed roads and highway drains, which shall comply with the current requirements of all the appropriate Authorities, shall be submitted to and approved by the Planning Authority in consultation with the Highway Authority before any work on the development is commenced.

- 2 -

94/0117 continued.....

8. None of the buildings hereby permitted shall be occupied until the roadworks necessary to provide satisfactory access from the nearest publicly maintained highway have been completed (apart from final surfacing) to the satisfaction of the Planning Authority in consultation with the Highway Authority.
9. The whole of the works including any incidental works within the limits of the public highway required by the above-mentioned conditions Nos. 6 - 8 shall be completed to the specification and satisfaction of the Planning Authority in consultation with the Highway Authority before the development authorised by this permission is first brought into use.

The reasons for the conditions are:

1. Required to be improved pursuant to Section 91 of the Town and Country Planning Act 1990.
2. In order to secure the satisfactory appearance of the development.
- 3, 5 In order to protect the amenity of the area.
4. In order to protect the trees which form an important part of the amenity of the site.
- 6-9 In order to secure safe traffic conditions.

date: 18th July 1994

The Council House,
Burcot Lane,
Bromsgrove, B60 1AA.



District Planning & Technical Services Officer

RDG

Note: This permission refers only to that required under the Town and Country Planning Acts and does not include any consent or approval under any other enactment, byelaw, order or regulation.

Appendix 4

Town and Country Planning Act 1990

REFUSAL OF OUTLINE PLANNING PERMISSION AW

Part 1 – Particulars of application

Application No. B/2002/1372	Date of application 29.11.02
------------------------------------	------------------------------

Name and address of agent (if any)	Name and address of applicant
Brian Plant 1 Camel Cottages Holy Cross Green Clent Nr Stourbridge DY9 OHG	Whiteline Developments Midlands Tudor Lodge High Street Belbroughton DY9 9SU

Particulars and location of development: Erection of 2-bedroom detached bungalow – Outline application. Land adjacent to 73 Meadowcroft, Hagley, Stourbridge.

Part II – Particulars of decision

The Bromsgrove District Council hereby give notice in pursuance of the provisions of the Town Country Planning Act 1990 that permission has been refused for the carrying out of the development referred to in Part I hereof for the following reasons:

It is considered that the development would appear overdeveloped in terms of its form and layout, to the detriment of the established character of the area. The difference in levels between the proposed site would be to the detriment of neighbouring properties which would be considered contrary to the provisions of policy S7 and S8 of the Draft Bromsgrove District Local Plan and the provisions contained with PPG3 'Housing'.

Date: **20 JAN 2003**

The Council House,
Burcot Lane
Bromsgrove, B60 1AA



Director of Planning Services

1. If the applicant is aggrieved by the decision of the local planning authority to refuse permission or approval for the proposed development or to grant permission or approval subject to conditions, he may appeal to the Secretary of State for the Environment, Transport and Regions (DETR) in accordance with Section 78 of the Town and Country Planning Act 1990 within six months of the date of this notice (Appeals must be made on a form which is obtainable from the Department of the Environment, Transport and Regions (DETR), The Planning Inspectorate, 3/08b Kite Wing, Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 6PN). The Secretary of State has power to allow a longer period for the giving of a notice of appeal but he will not normally be prepared to exercise this power unless there are special circumstances which excuse the delay in giving notice of appeal. The Secretary of State is not required to entertain an appeal if it appears to him that permission for the proposed development could not have been granted by the local planning authority, or could not have been so granted otherwise than subject to the conditions imposed by them having regard to the statutory requirements, to the provisions of the development order, and to any directions given under the order. He does not in practice refuse to entertain appeals solely because the decision of the local planning authority was based on a direction given by him.
2. If permission to develop land is refused or granted subject to conditions, whether by the local planning authority or by the Secretary of State for the Environment, Transport and Regions (DETR) and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by carrying out of any development which has been or would be permitted, he may serve on the Council of the District in which the land is situated a purchase notice requiring that Council to purchase his interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990.
3. In certain circumstances, a claim may be made against the local planning authority for compensation, where permission is refused or granted subject to conditions by the Secretary of State on appeal or on a reference of the application to him. The circumstances in which such compensation is payable are set out in Section 114 of the Town and Country Planning Act 1990.

PPR

Appendix 5

Sarah



Appeal Decision

Unaccompanied Site Visit made on 11 August 2003

by D O Sweeting FRPI

an Inspector appointed by the First Secretary of State

The Planning Inspectorate
4/09 Kite Wing
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN
☎ 0117 372 6372
e-mail: enquiries@planning-
inspectorate.gsi.gov.uk

Date **26 AUG 2003**

Appeal Ref.: APP/P1805/A/03/1117127

Land adjacent to 73 Meadowcroft, Hagley, DY9 0LJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Whiteline Developments Midlands against the decision of Bromsgrove District Council.
- The application (Ref. B2002/1372), dated 28 November 2002, was refused by notice dated 20 January 2003.
- The development proposed is described as 'Erection of 2-bedroom detached bungalow'.

Summary of Decision: The appeal is dismissed.

Procedural Matter

1. The submission is in outline, but with approval sought at this stage of the siting and means of access to the proposed bungalow. The appeal is decided on this basis.

Main Issues

2. The main issues in this appeal are:
 - (a) whether the proposed bungalow would be materially harmful to the character and appearance of the locality, having regard to local and national planning policy frameworks;
 - (b) the likely effect of the proposal on the living conditions of neighbouring properties with particular reference to privacy.

Planning Policy Framework

3. The development plan context is the Worcester County Structure Plan, Policies D1, D2, D3, D4 and D5 of which address strategic housing requirements, and the role of local plans in identifying the phasing of the release of land. Under Policy D11, the requirements are also to be met by way of windfall developments, subject to the maintenance of the character of its surroundings.
4. The emerging Bromsgrove District Local Plan is at a very advanced stage leading to its formal approval. Accordingly, the policies referred to (as intended to be modified) are significant material considerations in this appeal. Policy DS4 confirms that development proposals in Hagley shall, in accordance with Policy DS13, be sustainable and safeguard and improve the quality of life of residents by protecting the setting and form of settlements, and land of recreational and amenity value. Criteria of Policy S7 reinforce these objectives, whilst Policy TR11 requires that the development incorporates a safe means of access and egress, and includes off-street parking.

5. Since the Council's Residential Design Guide is in draft, of relevance to its substance is the national advice in Planning Policy Guidance 1 (PPG1). Planning Policy Guidance 3 (PPG3) looks to the efficient use of urban land, but without compromising the quality of the environment.

Inspector's Reasoning

Issue (a) – Character and Appearance

6. Planning permission for Meadowcroft was granted on 18 July 1994 (App. No. 94/0117). The plan attached to the permission produced by the Council shows the appeal site as public open space. The site lies between garages attached to 73 Meadowcroft and, at a lower level, 49 Meadowcroft. Although the public open space is shown as pedestrian link between 31 – 37 Meadowcroft and 67 - 73 Meadowcroft/1 – 4 Crosskeys Mews, because fencing seems to preclude through access.
7. Meadowcroft is a substantial residential estate that around the appeal site consists of 2-storey houses, with many having attached single storey garages. The mature landscape and sky components seen above the garages make important visual contributions to the estate's pleasant setting. Equally important to the built form's civic attributes are the mainly open front gardens and incidental 'green' areas adjacent to the estate's streets and that, for example, between Worcester Road (A458) and 66 Meadowcroft.
8. Having regard to the layout and scale of nearby development, including the terrace known as Crosskeys Mews, I relate to the contention that a bungalow of modest proportions would not amount to an over development within its plot. However, despite the mature trees on and the fencing to the appeal site, it functions as an amenity space and provides contributory vistas without which the compatible relationships between this part of the estate's form and setting would be noticeably and unacceptably eroded. The proposal, despite its relatively modest scale, would irrevocably detract from the reality of the appeal site's undeveloped relevance envisaged in the estate's original design concepts. Also, in that the immediate surroundings are of 2-storey houses, the bungalow would appear somewhat incongruous as to add to the proposal's adverse aesthetic impact.
9. In respect of issue (a), therefore, the proposal would be materially harmful to the established character and appearance of the locality, and thereby would conflict with Structure Plan Policy D3, emerging Local Plan Policies DS13 and S7, and PPG3.

Issue (b) – Residential Amenity

10. In respect of privacy, regard needs to be had to the varying ground levels; the upper side windows to No. 49 are obscure glazed; and boundary enclosures to the appeal site. These factors are, and would be, such that the privacy of Nos. 49, 51 and 73 (including their respective rear gardens) would not be unacceptably affected. However, although the proposed bungalow would be set at an angle to Crosskeys Mews, scaled distances of less than 21 m between it and the Mews suggest that should the bungalow's front elevation contain primary windows, potentially the privacy of some of the Mews dwellings could be unsatisfactorily diminished. Should this prove to be the case, this would lend support to the harm identified under issue (a).

Appeal Decision APP/P1805/A/03/1117127

Conclusions

11. As to the concerns of interested parties regarding the suitability of the private access to the site, the Highway Authority considered it could not sustain an objection, while any obstruction of the access and parking spaces would be for resolution between the respective parties.
12. Notwithstanding my favourable comments regarding over development and privacy (in part), the Highway Authority's position, and having regard to all other matters raised, I find nothing of sufficient substance to change my conclusion, for the reasoning given above, as to the proposal's material harm and resultant conflict with the development plan, the emerging local plan and PPG3 whereby the appeal should be dismissed.

Formal Decision

13. In exercise of the powers transferred to me, I dismiss the appeal.

Information

14. A separate note is attached setting out the circumstances in which the validity of this decision may be challenged by making an application to the High Court.



D O Sweeting FRTPI

This page is intentionally left blank

Appendix 6

PLANNING DECISION NOTICE

Mr A Aston and Mr J Flynn
C/O Mr Brian Plant
bpdesign
1 Camel Cottages
Holy Cross Green
Clent
Stourbridge
DY9 0HG



Bromsgrove
District Council
www.bromsgrove.gov.uk

Refusal of Planning Permission

APPLICATION REFERENCE: 13/0837
LOCATION: Land Adjacent 73, Meadow Croft, Hagley
PROPOSAL: Erection of a 3-bed detached house with parking
DECISION DATE: 10th February 2014

Bromsgrove District Council as the Local Planning Authority refuses planning permission in accordance with the Town and Country Planning Act 1990 and the Town and Country Planning (Development Management Procedure) Order 2010 for the proposal described above. This is for the following reason/s:

The proposed two storey dwelling, by virtue of its siting, form and layout would represent an incongruous and cramped form of development, failing to harmonise with the existing character and appearance of the area. The proposals would fail to respond to local distinctiveness, and would have a harmful, adverse impact upon the visual amenities of the area and would therefore be contrary to the advice of the National Planning Policy Framework (March 2012), the provisions of Policy S7 of the Bromsgrove District Local Plan (Adopted January 2004) and the guidance of Supplementary Planning Guidance Note 1 - Residential Design Guide (Adopted January 2004).

The proposed development would result in detriment to and loss of residential amenity to occupiers of nearby properties by reason of an overbearing impact and loss of privacy. The proposal would therefore be contrary to the advice of the National Planning Policy Framework (March 2012), the provisions of Policy S7 of the Bromsgrove District Local Plan (Adopted January 2004) and the guidance of Supplementary Planning Guidance Note 1 - Residential Design Guide (Adopted January 2004).



Ruth Barnford
Head of Planning and Regeneration

How this decision was reached

This proposal has been assessed against the following documents:

Bromsgrove District Local Plan 2004

DS4 – Other Locations For growth
DS13 – Sustainable Development
S7 – New Dwellings outside the Green Belt
TR11 – Access and Off Site Street Parking

Others

National Planning Policy Framework
SPG – Note 1 – Residential Design Guide

Assessment of the proposal

The main consideration of this development is whether the development is appropriate as per the guidance and policy terms and the impact and effects of the development in relation to the neighbouring properties and the surrounding area.

It has to be noted that as part of the planning permission B/1994/0117 for residential development on this part of Meadow Croft, this parcel of land was originally set aside for public open space. So therefore, this proposal would sit on a parcel of land which currently is an open grassed area with some conifers growing on, and therefore it contributes highly to the harmony and character of the area. Such a proposal would therefore be harmful and be of detriment to the open feel of this part of the cul-de-sac.

It is to be noted that this proposal sits within a residential area and this proposal is for residential development therefore it is considered to be appropriate and respects the requirements of Policy DS13 of the District's local plan in terms of sustainable development.

Affect on Neighbouring Properties

Consideration has to be given to the effect of the proposal on the adjoining properties. No 49 Meadow Croft sits at least 1.5 metres lower than the varying ground levels of the application site and has a side and rear single storey extension which lies almost on the boundary with the application site. This development, in terms of the scale and massing would have an overbearing impact on the adjoining property and would therefore be

contrary to the requirements in Policy S7 which guides us to give regard to adverse affect on the existing amenities of adjoining occupiers.

The privacy of the row of Crosskeys Mews on the eastern side of the proposal would be unsatisfactorily diminished due to the fact that the distance between the proposed windows to the front elevation of the proposal and the existing cottages would be less than 21 metres, in fact the shortest distance would be approximately 16 metres. This conflicts with the guidance in the Supplementary Planning Guidance – Residential Design Guide (Privacy) and policy S7 of the Bromsgrove Local District Plan.

Loss of Open Space

The site in question, whilst it is located at the end of the cul-de-sac, provides an open area which helps to soften the edge of that part of the street and contributes to the amenities enjoyed by the current residents of the area. This is a desirable open area the loss of which would be harmful to the residential and physical amenities of the area.

Trees and Landscape

Whilst there will be a loss of 5 conifer trees, the tree officer has raised no objections. Conifer trees are fast growing and a common species and do not hold much merit in terms of value.

Highways

The Highways Officer has raised no objections. He feels the scheme is complying with the requirements of parking. He requests a contribution of £2935.04 to mitigate for the additional demands on the wider transport network that the development will generate.

Conclusion

Having given regard to the Policies and guidance this scheme is unacceptable as such a development would appear overdevelopment in terms of its form and layout and be detrimental to the established character of the area. It would also have a detrimental effect on the residential amenity and privacy of the Crossways Mews and have an overbearing effect on the residential amenity of 49 Meadow Croft.

For your information

Appealing the decision

If you feel aggrieved by the decision of Bromsgrove District Council to refuse permission you can appeal to the Secretary of State through the Planning Inspectorate. This appeal should be made by 9th August 2014 unless supported by special circumstances. The appropriate form and further information on how to appeal can be found online at www.planningportal.gov.uk/pes or by contacting the Planning Inspectorate Customer Services Team on 0303 444 5000.

If an enforcement notice is served relating to the same or substantially the same land and development as in your application and if you want to appeal against the decision of your local planning authority, the you must do so within: 28 days from when the enforcement notice is served, or within 6 months of the date of this decision, whichever expires earlier.

Purchase notices

If Bromsgrove District Council or the Secretary of State has refused planning permission or granted it conditionally, the landowner may claim that the land is incapable of reasonable beneficial use, and for this reason may serve the District Council a purchase notice requiring them to purchase the land. In certain circumstances, a claim may be made against Bromsgrove District Council for compensation. Further information about purchase notices can be found at: <http://www.legislation.gov.uk/ukpga/1990/8/part/VI>