

Name of Applicant	Proposal	Expiry Date	Plan Ref.
Mr Shaun Hussey	Full planning application for the erection of 6 dwellings  Land To The Rear Of 454 Birmingham Road, Marlbrook, Worcestershire, B61 0HR		19/00478/FUL

**This application was requested by Councillor Jones to be considered by Planning Committee rather than being determined under delegated powers.**

**RECOMMENDATION:** That planning permission be **GRANTED**

### **Consultations**

#### **WRS - Contaminated Land**

No adverse comments

#### **WRS - Noise**

No objection subject to a Construction environmental management plan (CEMP) condition.

#### **WRS - Air Quality**

No Adverse Comments

#### **North Worcestershire Water Management**

No objection subject to a site drainage condition.

#### **Highways - Bromsgrove**

The Highways Authority has no objection subject to the conditions relating to;

1. Conformity with Submitted Details
2. Electric vehicle charging point
3. Cycle parking
4. Construction Environmental Management Plan

#### **Waste Management**

No objection

#### **Arboricultural Officer**

No objection subject to conditions

1. Retained trees
2. Replacement of retained trees
3. Protective fencing for retained trees

#### **Worcestershire Wildlife Trust**

We note the contents of the ecological survey by CWS and the fact that there do not appear to be any overriding ecological constraints to the proposed development. With that in mind we do not wish to object to the application but we would recommend that you

append a condition covering biodiversity enhancement to any permission you may be otherwise minded to grant.

## **Relevant Policies**

### **Bromsgrove District Plan**

BDP1 Sustainable Development Principles  
BDP2 Settlement Hierarchy  
BDP7 Housing Mix and Density  
BDP16 Sustainable Transport  
BDP19 High Quality Design  
BDP21 Natural Environment

### **Others**

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

### **Publicity**

A total of 35 neighbour notification letters were sent on 12.04.2019 expired 06.05.2019  
A further 43 notifications were sent out as part of a reconsultation on 09.08.2019 expired 26.08.2019

### **Representations**

20 objections have been received and summarised as below:

#### Highways

- Increase in traffic, resulting in a highways and safety impact on A38
- Un adopted access road contrary to WCC Streetscape Design Guide, no pavement for access road
- Parking arrangement unsatisfactory
- Inadequate access for emergency vehicles and refuse collection

#### Amenity

- Loss of amenity and overlooking/separation distances inadequate
- Increase in fear of crime
- Increase in noise pollution
- Increase in odour
- Increase in light pollution
- Disruption during construction phase

#### Design and Appearance

- Detrimental impact on character and appearance of the area
- Overdevelopment/ Housing density is too high
- Poor design

#### Wildlife and Trees

- Ecological Impact
- Removal of open space and loss of semi-rural feel
- Loss of trees and vegetation

#### Housing Mix and Affordable housing

- Mix of housing does not reflect policy requirement
- Lack of affordable housing

#### Precedent

- The dwelling to the rear of 452 Birmingham Road should not be used as a precedent, the site to the rear was formally a commercial site
- Precedent for further infill/garden development

Other non-material planning considerations have also been raised; these do not form part of the assessment of the proposal.

#### **Councillor Jones**

Councillor Jones shares the concerns of the local residents regarding the proposed development, including the proposed density of the development, loss of privacy and amenity, highways and parking issues, loss of habitat and trees.

#### **Relevant Planning History**

18/01586/FUL	Erection of 7 detached dwellings	Withdrawn	12.02.2019
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#### **Assessment of Proposal**

##### **The Site and its Surroundings**

The site currently comprises of a single residential dwelling fronting Birmingham Road (No. 454) with a single vehicular access, together with land to the rear of 456 and 458 Birmingham Road. The site is located between a number of residential dwellings fronting Birmingham Road with dwellings along Hazelton Road and Belle Vue Close backing onto the site.

##### **Proposal**

The application proposes to retain the existing property at 454 Birmingham Road and for the erection of 6 dwellings to the rear.

The proposal will comprise one and two storey dwellings and it proposes to deliver a mix of properties consisting of;

- 1 x 3 bedroom dormer bungalow
- 2 x 3 bedroom semi-detached dwellings
- 3 x 4 bedroom detached dwellings

## **Main Issues**

The main issues in this application are:

- Whether the proposal provides an appropriate residential use in accordance with relevant planning policy;
- The effect of the proposal on the character and appearance of the area;
- The effect of the proposal on the living conditions of the occupiers of neighbouring properties and future occupiers;
- The effect of the proposal on highway safety and the free flow of the road network;

### Other Material Considerations

- Landscaping/Trees
- Ecology
- Drainage
- Other Matters

## **Whether the proposal provides an appropriate residential use in accordance with relevant planning policy**

This application site is located in the residential area of Marlbrook where residential development is considered acceptable in principle; subject to ensuring development enhances the character and distinctiveness of the local area having regard to BDP19 of the Bromsgrove District Plan.

The NPPF excludes urban private residential gardens as previously developed land and advises that 'local planning authorities should consider the case for setting out policies to resist inappropriate development of residential gardens, for example where development would cause harm to the local area'. The Bromsgrove District Plan acknowledges that development of garden land will be resisted unless it fully integrates into the residential area, is in keeping with the character and quality of the local environment.

It is noted that these policies do not outrightly preclude development of urban garden land altogether. Instead it should be demonstrated that there would be no harm to the local area.

There are examples in the District of residential developments of similar scale and nature being constructed on urban garden land. Such developments help boost housing numbers and can be an effective use of land. At present, the Council is unable to demonstrate a five year supply of housing and there is a drive at national level to significantly boost the supply of housing.

Applications should be determined in accordance with the policies in the plan unless material considerations indicate otherwise. In the case of residential development, Paragraph 11 of the National Planning Policy Framework 2019 (NPPF) states that:

*"For decision-taking this means:*

*- Approving development proposals that accord with an up-to-date development plan without delay; or*

- Where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting planning permission unless:

*i. The application of policies in this Framework that protect areas of assets of particular importance provides a clear reason for refusing the development proposed; or*

*ii. Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole."*

This includes, for applications involving the provision of housing, where the local planning authority cannot demonstrate a five- year supply of deliverable housing sites.

As of 1<sup>st</sup> April 2019 the Council cannot currently demonstrate a five year housing land supply, being able to demonstrate a 3.45 year supply of deliverable land for housing. The Council falls short of a 5 Year Supply of Land for Housing, this shortfall has increased since April 2018, where the Council was able to demonstrate a 4.02 year supply.

In these circumstances, this application should be considered with regard to the presumption in favour of sustainable development as set out in Paragraph 11d of the NPPF. This means that planning permission should be granted unless the adverse impact of doing so would significantly outweigh the benefits when assessed against the Framework as a whole, or in specific circumstances where development should be restricted. Local Plan policies continue to be relevant to determining site-specific issues and whether a development can be considered 'sustainable'.

This report considers if there would be any adverse impacts (harm) to the local area regarding assessing the impact on the character and local distinctiveness, neighbour amenity, highways, landscape, ecology and drainage. Finally, a tilted balance exercise is applied in the conclusion of the report.

### **The effect of the proposal on the character and appearance of the area**

BDP19 (n) seeks to resist the development of garden land unless it fully integrates into the residential area and is in keeping with the character and quality of the local environment. The Council's High Quality Design SPD provides design guidance to assist with interpreting these policies.

The application site currently forms part of the rear gardens of a number of residential properties fronting onto Birmingham Road. This stretch of Birmingham Road is predominantly residential and comprises detached, semi-detached properties and a small apartment block. The linear pattern of development along Birmingham Road and Hazelton Road is interspersed with a number of cul-de-sacs leading off Birmingham Road that sit behind the linear properties, which is a characteristic feature of the wider area. Other than to the rear of 453, other properties in the area are not characterised as having large open gardens.

Thus, cul-de-sac development is prevalent within the settlement, indeed the proposal would be adjacent to one such development, Belle Vue Close and in close proximity to

Cavendish Close. Therefore it is considered that the proposed development of this back land site would not appear out-of-character with the area.

The access for the site would require the demolition of the garage of 453. The loss of the garage would not have a significantly harmful effect on the character of the streetscene.

As the result of the new access, a gap would be created in the existing development opening up views into the site from Birmingham Road. As the frontage of the existing dwellings is not particularly distinctive, the creation of a gap between No 454 and 452 would not result in any significantly harmful disruption to it.

The development of the rear gardens would result in the loss of boundary planting and trees. However, this character is localised and is only really appreciated from within the application site and neighbouring gardens. A detailed tree survey by Cotswold Wildlife Surveys indicates the trees to be retained as part of this development. While some trees and landscaping will be lost, it is considered that that any harm as a result of the loss of the existing planting and trees would not be so severe that it would significantly harm the character and appearance of the area.

Birmingham Road does not lie within a Conservation Area and there are no listed buildings in the vicinity. A great variety of architectural styles are found within the vicinity of the site it is considered that the housing mix surrounding the site is varied with two storey and single storey properties which form no set style of development.

The properties take design cues from neighbouring dwellings in the wider locality, incorporating feature gable walls, oriel windows, bay windows, pitched roofs and a mix of brickwork and render. The cul-de-sac would maintain a degree of landscaping within and would exhibit its own sense of place and coherent design. The external design respects the local character and would contribute to the varied dwelling types already found in the area.

The development plots have attempted to mirror the plots in the adjoining cul-de-sac , it is considered that the properties would not appear overly dominant or unreasonably squeezed in, in this setting.

The Design SPD recommends a minimum garden depth of 10.5m for a two storey dwelling with an absolute minimum area of 70 sq m. The rear gardens of each property would comfortably exceed the Council's minimum requirements, allowing for comfortable living conditions. The plots would maintain a more than adequate degree of spaciousness to allow a satisfactory degree of amenity and privacy levels for occupiers and neighbours from both within and outside of the site.

The density of the proposal, at 22.5 dwellings per hectare (dph), is entirely comparable and compatible with the adjacent Cavendish Close and Belle Vue Close developments, whose densities are higher, at 27.5 dph and 25 dph respectively.

The site would involve the development of garden land. However, Policy BDP19 (n) allows such development providing it fully integrates into the residential area and is in keeping with the character and appearance of the local environment.

Therefore the proposed development would not significantly harm the character and appearance of the area. As such, it would accord with Policies BDP1, BDP7 and BDP19 of the BDP, which, amongst other things, seek to ensure that development respects visual amenity and maintains character and local distinctiveness and is of a high quality design.

Having regard to the above, neutral weight should be attributed to this in the planning balance.

### **The effect of the proposal on the living conditions of the occupiers of neighbouring properties**

Policy BDP 1.4 (e) requires developments to be compatible with adjoining uses and the impact on residential amenity. The Design SPD assists with interpreting this policy.

Concerns have been expressed relating to additional noise disturbances close to neighbouring garden boundaries. The proposed dwellings would be surrounded by existing dwellings. Gardens and the access road would back onto existing gardens. Vehicular movements within the site would be closest to the rear and side of number 452, 456 and to the rear of 458 Birmingham Road. Allocated parking and turning areas within the site would be surrounded by boundary fences, trees and planting, which would minimise noise disturbance.

In addition, whilst the properties would be within proximity of each other, there would be sufficient distance between them to ensure that any activities taking place within them have no increased harmful effect than one would normally expect when living in a built-up residential area. Moreover, the existing site is comprised of domestic gardens. Therefore, they could be used for various domestic activities that would not be materially different to the proposed development.

I appreciate the concerns regarding noise and disturbance and I accept that the introduction of six dwellings onto the site would inevitably lead to an increase in noise and light pollution. However, the issue is not whether there would be an increase in noise and light but whether this increase would have a significantly harmful effect on the living conditions of the neighbouring residents. Based upon comments from WRS Noise, the increase in noise would not result in a significantly harmful effect. In terms of light, it is considered that properties are significant distance away not to have a significant harmful impact on nearby residents.

The site is bound on three sides by residential developments. The site abuts 1,3,5,7 and 9 Belle Vue Close. The proposed rear elevations of the proposal would be separated by approximately 23.9m to 26.1m. The site also abuts 456 and 458 Birmingham Road, the proposed front elevations of the proposal would be separated by in excess of approximately 33m. These distances are all in excess of the 21m standard set out in the High Quality Design SPD. Therefore with regards to privacy, there would be sufficient distance between the windows in the proposed dwellings and the existing properties to ensure that any overlooking would not have a significantly harmful effect on the living conditions of the neighbouring occupants.

Concerns have been raised that the development will result in an increase of crime. However, there is no evidence that this would likely result in an increase in crime. It is also worthwhile noting that additional dwellings can provide increased natural surveillance and thus reduce the risk of crime.

WRS Noise have no objection subject to a construction environmental management plan (CEMP) condition. This will protect existing and new occupiers of residential areas from the unreasonable effects of noise, vibration, light and dust nuisance during any construction period.

In summary, the overall resulting separation distances, garden depths and design would ensure amenity and privacy levels would not be harmed between properties and there would be no harm to neighbour amenity by way of overshadowing, overlooking or overbearing impacts. Subject to the imposition of relevant conditions relating to obscure glazing, landscaping and boundary treatment, the proposal is considered to accord with Policies BDP1 and BDP19 of the BDP. Neutral weight should be attributed to this in the planning balance.

### **Housing Mix**

Policy BDP7 states that proposals must take account of identified housing needs in terms of the size and type of dwellings and, to ensure mixed and vibrant communities are created, development proposals need to focus on delivering 2 and 3 bedroom properties. The housing mix as proposed (including a dormer bungalow) is considered to be an appropriate mix having regard to Policy BDP7.

### **Highways**

Policy BDP1: Sustainable Development Principles taken from the Bromsgrove District Plan requires that in considering new development, regard will be had to "Accessibility to public transport options and the ability of the local and strategic road networks to accommodate additional traffic". Policy BDP16 requires that development should comply with Worcestershire County Council's Transport policies, design guide and car parking standards as well as a series of more specific development requirements.

Birmingham Road (A38) is a single carriageway connecting Bromsgrove with the M5 motorway. There is a 40mph speed limit along the highway.

The proposal would result in the creation of a private driveway to serve the existing dwelling at 454 Birmingham Road and proposed dwellings to the rear of 454 Birmingham Road. The drive would run past the side of 454 Birmingham Road leading to the proposed 6 dwellings.

It is acknowledged by Worcestershire County Highways that this application proposes 7 dwellings being served off a private driveway (the existing dwelling at 454 Birmingham Road and the six new dwellings) and this would normally be expected to result in the access being designed as a "street" rather than a driveway. The applicant has suggested that the adopted policy indicates that flexibility is needed through the design process and this is acknowledged. The question therefore is does the provision of 7 dwellings instead



of 6 dwellings being serviced off a shared driveway result in a severe impact on capacity or adversely impact safety.

The footway/margin is intended to serve 2 purposes, firstly to allow services to be installed in an area which prevents the need to excavate the carriageway as far as practical, and secondly to allow pedestrian a comfort space away from vehicles. It is acceptable for pedestrians and vehicles to share the carriageway space so long as an option for refuge in the eventuality of a pedestrian and 2 vehicles meeting together.

Given the likely vehicle speeds will be very slow and the limited number of trips that 7 dwellings generates compared to 6, it is considered in this instance that a variation to the design guide could be accepted. This is on the basis that there are opportunities for pedestrians to seek refuge on an adjoining verge and the carriageway / driveway area has been shown to be functional and capable of allowing the refuse collection vehicle to manoeuvre should it decide to penetrate the site. The Highway Authority concludes that whilst the application exceeds the desired 6 dwellings on a shared private drive there is no detriment to safety or capacity as a result. However, the Highway Authority note that the proposal would not be considered suitable for dedicated as a future highway due to the implications for services.

The Highway Authority raises no objection to the proposal subject to the imposition of relevant conditions regarding conformity with submitted details, electric vehicle charging point, cycle parking and construction environmental management plan. Subject to the attachment of these relevant conditions, it is considered the proposed development complies with Policy BDP1 and BDP16. Neutral weight should be attributed to this in the decision making process.

### **Contamination**

WRS Contamination raises no objection to the proposal.

### **Ecology**

The applicant has undertaken surveys to ascertain the presence of protected species on the site. No protected species have been found. WWT have no objection subject to a planning condition covering biodiversity enhancement scheme. The proposal is therefore compliant with Policy BDP21 of the Bromsgrove District Plan

### **Flooding**

The site is located in Flood Zone 1 and is at low risk of flooding. While a site drainage strategy has not been submitted, North Worcestershire Water Management raises no objection, subject to a condition.

### **Other Matters**

A number of comments have been received as a result of this public consultation and many of these concerns have been addressed within this report. In terms of the lack of affordable housing, due to the number of units proposed and the size of the site an

affordable housing contribution could not be required as part of the proposed development.

Concerns have also been raised in respect of the development setting a precedent locally and the fact that other 'similar' applications have been refused in the vicinity of the site and throughout the District. It is important to note that whether other applications have been refused locally or whether the proposal would set a precedent does not justify refusal of this application. Each application is considered on its individual merits and therefore would need to be assessed against the current local and national policies at the point of submission to the Local Planning Authority.

### **The Planning Balance and Conclusion**

The proposal would have an acceptable impact upon residential amenity, highway implications, landscape and ecology, subject to the imposition of relevant planning conditions. As such, neutral weight is attributed to these issues in the decision making process.

The development, with a cohesively designed cul-de-sac which would exhibit a clear design and whilst making an effective use of land, would not appear cramped within its setting. The overall scale, height and design of the proposal would be acceptable in the context of the wider locality and the character of the surrounding area.

The proposal would deliver a net increase of 6 dwellings in an accessible location in an established residential area. The benefits provided by the delivery of 6 dwellings comes at a time when the Council cannot demonstrate a 5 year housing land supply and there is a national drive to boost housing levels.

The NPPF states that where Council's cannot demonstrate a 5 year housing land supply, planning permission should be granted unless any adverse impacts in doing so would significantly and demonstrably outweigh the benefits. In this instance, the scheme is considered to be acceptable in terms of its impact upon the character and appearance of the area, impact on residential amenity, landscapes, ecology and highway safety.

Consequently, there are considered to be no adverse impacts which would significantly and demonstrably outweigh the benefits of providing an additional 6 dwellings. Accordingly, the scheme is recommended for approval.

**RECOMMENDATION:** That planning permission be **GRANTED**.

### **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.

- 2) The development hereby approved shall be carried out in accordance with the following plans, drawings and supporting information:

7679\_100\_LOCATION PLAN  
7679\_160G\_PROPOSED SITE PLAN  
7679\_161B\_PROPOSED CONTEXT PLAN  
7679\_162A\_PROPOSED BLOCK PLAN  
7679\_250A\_PLOT 1  
7679\_251A\_PLOT 2  
7679\_252A\_PLOT 3  
7679\_253A\_PLOTS 4+5  
7679\_254A\_PLOT 6  
7679\_255A\_PROPOSED GARAGES

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

- 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) No works or development shall take place until a site drainage strategy for the proposed development has been submitted to, and approved in writing by the Local Planning Authority. If infiltration techniques are used then the plan shall include the details of field percolation tests.

The surface water drainage measures shall provide an appropriate level of runoff treatment. The development shall be implemented in accordance with the approved strategy prior to the first use of the development and thereafter maintained.

Reason: To allow proper consideration of the proposed surface water drainage systems and to ensure that the development is provided with a satisfactory means of drainage and in accordance with National Planning Policy Framework.

- 5) Notwithstanding the submitted details, prior to above ground works a scheme for biodiversity enhancement, such as incorporation of permanent bat roosting feature(s) and or nesting opportunities for birds, shall be submitted to and agreed in writing with the Local Planning Authority. The approved details thereafter shall be implemented, retained and maintained for their designed purpose in accordance with the approved scheme. The scheme shall include, but not limited to, the following details:

- i. Description, design or specification of the type of feature(s) or measure(s) to be undertaken.
- ii. Materials and construction to ensure long lifespan of the feature/measure

- iii. A drawing(s) showing the location and where appropriate the elevation of the features or measures to be installed or undertaken.
- iv. When the features or measures will be installed and made available.

Reason: To provide net gains for biodiversity to ensure the creation of wildlife habitat and wildlife corridors within development and minimize impact of the development on biodiversity.

- 6) a) No development shall commence until the fences for the protection of the trees to be retained have been erected in accordance with the submitted Tree Report by Cotswold Wildlife Surveys dated July 2019 and shall be retained until the completion of the development. No vehicles, plant or materials shall be driven or placed within the areas enclosed by such fence.
- b) No retained tree shall be cut down, uprooted or destroyed, nor shall any retained tree be topped or lopped other than in accordance with the approved plans and particulars, without the written approval of the local planning authority. Any topping or lopping approved shall be carried out in accordance with British Standard [3998 (Tree Work)].
- c) If any retained tree is removed uprooted or destroyed or dies, within a period of 5 years from the completion of the development another tree shall be planted at the same place and that tree shall be of such size and species, and shall be planted at such time, as may be specified in writing by the Local Planning Authority.

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

- 7) The development hereby permitted shall not be brought into use until one of the new parking spaces to serve each of the new dwellings has been equipped with an electric vehicle charging point and once provided it shall be retained and maintained as such at all times.

Reason: In the interests of sustainability.

- 8) Full details of both hard and soft landscape works shall be submitted to and approved in writing by the Local Planning Authority. These details shall include proposed boundary treatment and other means of enclosure, hard surfacing materials, new planting, trees and shrubs to be retained, together with measures to be taken for their protection while building works are in progress.

All hard and soft landscaping works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with a programme agreed in writing by the local planning authority. Any trees or plants which within a period of 5 years from the completion of the planting 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: To enhance the appearance of the development in the interest of the visual amenities.

9) A construction environmental management plan (CEMP) shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of the development. This shall include but not be limited to the following:

- Working Hours during construction phase;
- Measures to ensure that vehicles leaving the site do not deposit mud or other detritus on the public highway;
- Details of site operative parking areas, material storage areas and the location of site operatives facilities (offices, toilets etc);
- The hours that delivery vehicles will be permitted to arrive and depart, and arrangements for unloading and manoeuvring.
- Details of any temporary construction accesses and their reinstatement.
- A highway condition survey, timescale for re-inspections, and details of any reinstatement.
- Comply with the requirements of Worcestershire regulatory Services Code of Best Practice for demolition and Construction Sites 1st Edition July 2011.

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 protect existing and new occupiers of residential areas from the unreasonable effects of noise, vibration, light and dust nuisance and to ensure the provision of adequate on-site facilities and in the interests of highway safety.

10) Notwithstanding the details on 7679\_160G\_PROPOSED SITE PLAN, the Development hereby permitted shall not be first occupied until sheltered and secure cycle parking to comply with the Council's adopted highway design guide has been provided in accordance with details which shall first be submitted to and approved in writing by the Local Planning Authority and thereafter the approved cycle parking shall be kept available for the parking of bicycles only.

Reason: To comply with the Council's parking standards.

**Case Officer:** Mr Paul Lester Tel: 01527 881323  
Email: paul.lester@bromsgroveandredditch.gov.uk