Name of Applicant	Proposal	Expiry Date	Plan Ref.

Mr B. Hasnain Demolition of existing house and garage

18/01593/FUL

11 Cherry Hill Avenue, Barnt Green, Birmingham, Worcestershire, B45 8LA

and construction of new dwelling.

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

RECOMMENDATION: That planning permission be **GRANTED**

Consultations

Barnt Green Parish Council

Objects, would like to see the application refused for the following summarised reasons:

- The existing building makes a significant and important contribution to the Conservation Area, contrary to the BDC Conservation Area Policy
- Loss of bungalow
- Increase in height is overbearing, detrimental to the neighbouring properties and the street
- Overdevelopment, particularly detrimental to the area's character because it will reduce the gap between residential properties.
- Proximity to neighbouring properties, cramped, harmful to the character and appearance of the Barnt Green Conservation Area
- Replacing the existing distinctive bungalow with the proposed property, it is not in keeping with the diverse nature of the buildings in the road.
- Concerns over ground conditions as a result of removing large amounts of earth to accommodate the proposed building
- Inadequate parking
- If approved then permitted development rights should be removed.

Conservation Officer

The Conservation Officer has no objection to the most recent revision of the application. It is considered that the revised scheme would have a neutral impact on the character and appearance of the Conservation Area as required by the 1990 Act and the Bromsgrove District Plan. The officer has recommended two conditions:

- 1. External materials
- 2. Joinery details at 1:5 scale.

Arboricultural Officer

No objection subject to conditions

- 1. All trees to be retained within the site and within influencing distance of any development work on any adjoining land are to be given full protection in accordance with BS5837:2012 recommendations throughout any demolition, ground or development work on the site.
- 2. A tree protection plan and method statement should be submitted.

Highways - Bromsgrove

No objection subject to conditions.

- 1. Residential Parking Provision
- 2. Electric vehicle charging point

Relevant Policies

Bromsgrove District Plan

BDP1 Sustainable Development Principles BDP2 Settlement Hierarchy BDP 7 Housing Mix and Density BDP19 High Quality Design BDP20 Managing the Historic Environment BDP21 Natural Environment

Others

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

Publicity

A total of 20 neighbour notification letters were sent on 11.01.19 expired 04.02.2019 A further 35 notifications were sent out as part of a reconsultation on 03.05.2019 expired 20.05.2019

A further 35 notifications were sent out as part of a reconsultation on 30.08.2019 expired 16.09.2019

A site notice was displayed on 18th January 2019 and expired 11th February 2019.

A press notice was published on 18th January 2019 and expired 4th February 2019.

Representations

A total of 32 objections have been received and summarised as below:

Design and Appearance

- Not in keeping with the Conservation Area
- Detrimental impact on character and appearance of the area including the streetscene
- Overdevelopment/ Housing density is too high
- Poor design
- · Footprint, volume, height of the dwelling is too large
- Cramped and contrived design
- Potential to convert roof to increase the number of bedrooms, up to potentially 6

Highways

Parking arrangement unsatisfactory

Inadequate access for emergency vehicles and refuse collection during construction

Amenity

- Loss of amenity and overlooking/separation distances inadequate
- Loss of privacy
- Overshadowing
- Increased sense of enclosure, overbearing and oppressive impact
- Disruption during construction phase including noise and construction traffic

Wildlife and Trees

- Ecological Impact, especially on bats
- Loss of front garden for parking and turning area
- Loss of trees and vegetation
- Impact on root protection areas of existing trees

Housing Mix and Affordable housing

- Loss of bungalow
- · Not an affordable dwelling

Precedent

Precedent for further loss of bungalows

Other

- Concern over the proposed excavations and removal of material
- Added pressure on drainage and sewage systems

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

Councillor Hotham

Councillor Hotham shares the concerns of the local residents regarding the proposed development, including the impact on the Conservation area, character and appearance of the area and impact on neighbours.

Relevant Planning History

18/00652/FUL	Demolition of existing house and garage and construction of new dwelling. Re-submission of planning ref 17/01199/FUL	Refused	19.07.2018
17/01199/FUL	Demolition of existing house and garage with the construction of new dwelling	Withdrawn	26.03.2018

Assessment of Proposal

Description of the Site and Application

The application site currently comprises a 3 bedroom dormer bungalow and detached garage located within the built up area of Barnt Green. The properties in the area are predominately two storeys, and consist of a mixture in terms of their age and design. The site is within the Barnt Green Conservation Area.

This application seeks planning permission to demolish the existing dormer bungalow and the erection of a replacement, two-storey 4 bedroom dwelling. The proposed development will be located in a similar position to the existing dwelling, as part of the application it proposes to reduce the ground floor level from that of the existing bungalow. The proposal has been amended since the original application submission, with the latest revision reducing the main rear projection of the house by over 2m, and an overall reduction in floor area of 38 sq m.

Main Issues

The key issues to be determined in this case are:

- Principle of Development;
- Character and Appearance;
- Impact upon Conservation Area;
- The effect of the proposal on the living conditions of the occupiers of neighbouring properties;
- Removal of Permitted Development Rights; and
- Other Material Considerations.

Principle of Development

The application site is located within the residential area of Barnt Green as defined in the Bromsgrove District Plan Proposals Map. There is general presumption in favour of residential development in urban areas, however it is necessary to assess whether the proposals meets the specific criteria within the District Plan and Bromsgrove High Quality Design SPD.

Character and Appearance

The site comprises a detached dormer bungalow, garage and associated garden land. This application seeks the demolition of the existing dwelling on the site and its replacement with a two storey dwelling.

Previous planning applications for a replacement dwelling have been withdrawn or refused due to concerns relating to the design, scale and mass of the building on this site.

This proposal shows the scale of the proposed replacement dwelling has been reduced in response to concerns raised by officers. The design of the house also takes more reference from properties in the vicinity.

The application site covers an area of approximately 595 sq m, whilst the replacement dwelling would increase the footprint of built development within the site (from 117 sq m to 156 sq m), it is considered that the replacement dwelling sufficiently respects the size of the plot and does not project forward of the existing building line. The dwelling retains an open site frontage incorporating driveways and a small garden area and there is sufficient spacing between neighbouring dwellings.

11 Cherry Hill Avenue is the only remaining bungalow in the Avenue, so arguably a two storey property would be more in keeping with existing development. Given the proximity to other dwellings and the changes in ground levels, the height of the proposed replacement dwelling has been an important consideration. It is now considered that this revised scheme is of appropriate scale and mass and can be sited in the streetscene in harmony with the building characteristics of the area.

The existing dormer bungalow on site is constructed in the late 1920's or early 1930's, with a garage which possibly dates from the 1950's. It is relatively unaltered and has a projecting pyramidal roof, timber detailing and original windows including a modest dormer.

In terms of design, it is considered that the elevation fronting onto Cherry Hill Avenue is appropriate in terms of design and scale. The dwelling has a two storey appearance on the front elevation, which due to the design features and lead dormer over the single garage not only breaks up the overall bulk of the development but creates a good level of visual interest to the building. Furthermore the use of brick on the ground level and render on the first floor further adds to the visual interest of the building.

The siting, scale and design of the proposed dwelling is therefore considered to be acceptable. It is not considered the proposal would appear visually intrusive, but positively integrates with the denser form of the development along Cherry Hill Avenue and the surrounding area. Nor would it represent a cramped form of development resulting in an over development of the site, which already has a lawful residential use. The rear garden area will be reduced in size, however it is still in excess of 200 sq m in size, which more than meets the requirements of the High Quality Design SPD and the size is still characteristic of the other detached properties along Cherry Hill Avenue. This ensures that there is sufficient amenity space for this family home.

Samples of materials will be sought via condition to ensure a good quality finish to the development.

On balance it is considered that the proposal would reflect the pattern of development along Cherry Hill Avenue in accordance with policies BDP7 and BDP19 of the BDP and High Quality Design SPD.

Impact upon Conservation Area

As this proposal is situated within the Barnt Green Conservation Area, the development must be considered against paragraph 193 of the NPPF in terms of its impact on the significance of designated heritage assets.

This recommendation must also be mindful of the requirements to have special regard to the desirability of preserving or enhancing the character or appearance of the conservation area. The consideration of this issue goes to the heart of the decision making process.

The early development in Barnt Green dates from the late 19th century when land was sold by the Plymouth Estate and large houses were constructed for Birmingham industrialists, largely around the Shepley Road and Fiery Hill Road areas, who commuted into the nearby city from the station constructed by the Windsor family in the mid-19th century. There were further land sales after the First World War, which saw development move eastwards towards Cherry Hill Road. The later houses such as those in Cherry Hill Avenue, were more modest. It was the infilling around Cherry Hill Road, Avenue and Drive in the later part of the 20th Century and the erosion of the spacious character of the area due to the higher density housing, which resulted in the designation of the Conservation Area in 2000.

The general character of this part of the Conservation Area can be summed up as well detailed early 20th century houses, generally constructed with brick and render beneath pitched clay tile roofs, on generous but not large plots, resulting in sense of spaciousness. 11 Cherry Hill Avenue is a good example of the more modest development of the early 20th century, being well detailed on a relatively generous plot. It is one of the smaller houses of this period, but clearly contributes to the character of the area, sitting comfortably with its neighbours in terms of its architectural style.

In considering planning application in respect of properties in conservation areas, Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.

This is supported by policies in the Bromsgrove Local Plan, notably BDP 20.2 which states that the Local Authority will 'support development proposals which sustain and enhance the significance of Heritage Assets including their setting; BDP20.3 'Development affecting Heritage Assets, including alterations or additions as well as development within the setting of Heritage Assets, should not have a detrimental impact on the character, appearance or significance of the Heritage Asset or Heritage Assets'. BDP 20.9 requires that 'Development within or adjacent to a Conservation Area should preserve or enhance the character or appearance of the area.' These clauses are supported by the NPPF, notably Paragraph 193 which states 'When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance'. Paragraph 194 states that any harm to, or loss of, the significance of a designated heritage asset should require clear and convincing justification; Paragraph 196 requires less than substantial harm to designated heritage assets to be weighed against the public benefits of the proposal; and Paragraph 200 'Local planning authorities should look for opportunities for new development within Conservation Areas and World Heritage Sites and within the setting of heritage assets to enhance or better reveal their significance.'

The revised scheme has reduced the height of the proposed replacement house in comparison to the neighbouring properties, although this was to a significant extent achieved by lowering the land levels; the bulk of the elevation has been broken up with a projecting gable and a lower bay over the garage; and in terms of architectural style the applicant has drawn on more on local examples.

The applicant has now reduced the depth of the property by pulling the rear elevation back leaving the central bay on a line with the rear of 15 Cherry Hill Avenue, and the bays either side stepped back further. The central section of the front elevation has also been set further back behind a deeper projecting open porch. Although the proposed new dwelling is still considerably larger than the existing dwelling, it is not so different in depth and width to a number of the other houses in the road. This combined with the previous alterations in terms of the architectural detailing makes it a more acceptable scheme.

It is considered that the revised scheme would have a neutral impact on the character and appearance of the Conservation Area as required by the 1990 Act and Policy BDP20 the Bromsgrove District Plan.

The Conservation Officer notes that the success of the scheme would be dependent on the detailing. The officer recommends that all materials and joinery details at a scale of 1:5 are conditioned, to be approved by the Local Planning Authority prior to their first installation.

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 High Quality Design SPD assists with interpreting this policy. The relationship between the dwelling as proposed and existing dwellings has been examined.

Adjoining the site to the rear is 20 Oakdene Drive. The proposed replacement dwelling would retain ample separation distances to the rear boundary with 20 Oakdene Drive and as a result of the separation distances it is considered that there would be no significant adverse impacts in respect of dominance, overshadowing, or loss of privacy as the result of the development.

The application site adjoins both 15 and 9 Cherry Hill Avenue. In terms of 15 Cherry Hill Avenue, amended plans have been submitted reducing the two storey element of the proposed north west elevation in length along this boundary and it does not extend beyond the front or the rear elevation of this neighbouring property. There are no windows proposed with the exception of a 1st floor en-suite window, which will be obscured glazed. The proposed dwelling is set in 1.06m from the shared boundary and there is no element that extends beyond the rear of no.15. The proposed first floor indicates two bedroom windows and an en-suite located closet to no.15. While the ensuite is not shown to have obscured glazing on the plan it is considered this can be conditioned.

In relation to 9 Cherry Hill Avenue. The amended plans submitted also reduced the two storey element of the proposed south east elevation in length along this boundary and it does not extend beyond the front or the rear elevation of the neighbouring property. There are no windows proposed with the exception of a 1st floor en-suite window, which will be obscured glazed. The proposed dwelling is set in 1.52m from the shared boundary and there is no element that extends beyond the rear of No.9.

Furthermore, the applicant has also provided information in relation to the 45 degree line and the compliance of the development. The 45 degree line is defined within the High Quality SPD as a line is drawn from the closest edge of the nearest habitable window of the neighbouring property, in the direction of the proposed building or extension. The objective of this rule is to ensure that developments do not have an unacceptable adverse impact upon the amenities of neighbouring residents in terms of overbearance and overshadowing. The siting of the development will ensure that the proposal complies with this standard.

With regards to the impact on other aspects of No. 15 and No. 9, whilst the replacement dwelling is visible in views from both properties and their amenity areas, given the generous curtilages of these properties it is not considered that any significant adverse impacts would occur. Particularly when weight is given to the general arrangement of properties within the area, the general levels of overlooking and visibility of dwellings from others.

Overall, there will be an increase in the amount of overlooking of these properties garden. However, spacing between the properties is sufficient to ensure that the overlooking from the proposal will not be directly into windows of these neighbouring properties and will be to an acceptable degree. Neither is it close enough to have an overbearing impact upon the occupants of neighbouring properties, nor will it cause significant overshadowing or loss of light.

Concern has been raised regarding building works and the disruption that this could case locally. Due to the small scale of the development is not considered necessary to control construction details by condition however building works are subject to other controls under the Environmental Protection Act particularly on hours of operation as to not cause a noise nuisance.

In summary, there will be no significant detrimental impact upon the amenity of the occupants of neighbouring properties in terms of overlooking, being overshadowed or the replacement dwelling being over bearing, as a result of this proposal. In line with Policy BDP1 and the High Quality Design SPD.

Removal of Permitted Development Rights

A large number of objectors have raised concerns that the roof of the replacement dwelling could be converted to increase the number of bedrooms. Objectors are concerned that this would have a knock on effects on the appearance of the property, parking and overlooking. On that basis they have raised the issue of removing permitted development rights.

Paragraph 55 and 56 of the NPPF outlines guidance regarding planning conditions and outlines that planning conditions should be kept to a minimum, and only used where they satisfy relevant tests.

Further guidance regarding the removal of permitted development rights is outlined further within National Planning Practice Guidance. Paragraph: 018 Reference ID: 21a-018-20190723 sets out the six tests for conditions, emphasising that all six must be satisfied each time a decision to grant permission subject to conditions is made.

In terms of the appropriateness of using conditions to restrict the future use of permitted development rights, the NPPG confirms that 'Conditions restricting the future use of permitted development rights or changes of use may not pass the test of reasonableness or necessity Area-wide or blanket removal of freedoms to carry out small scale domestic and non-domestic alterations that would otherwise not require an application for planning permission are unlikely to meet the tests of reasonableness and necessity (Paragraph: 017 Reference ID: 21a-017-20190723).

Therefore the bar is very high in relation to removing permitted development and that planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so. The removal of permitted development rights, in particular removing Class B (additions to a roof) and Class C (other alteration to the roof) are considered the most relevant in this case.

In relation to Class B, it is noted that as the site is within a conservation area, roof extensions are not permitted development and will require an application for planning permission.

In terms of Class C, other alterations to the roof, this would not involve any enlargement of the house, but would include for example a roof light or window. Class C does not have the same restrictions as Class B. However, it is not considered that the removal of this Class is necessary to make the development acceptable, nor is this case an exceptional circumstance.

Other Material Considerations

Highways

The Highways Authority has raised no objection to the proposal, subject to conditions.

Neighbour comments have been received which state that there is inadequate parking proposed. However, three spaces are shown to be provided with additional space for turning so that vehicles may leave in forward gear. The proposed dwelling therefore caters for its own needs with regard to parking provision and meets the required parking standards. There are no outstanding concerns regarding this aspect. It is also noted that the dwelling also proposes a single garage.

Concern has also been raised regarding construction traffic and vehicles blocking Cherry Hill Avenue. As outlined in the amenity section due to the small scale of the development it is not considered necessary to control construction details by condition.

Loss of Bungalow

Paragraph 61 of the NPPF explains that the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies (including, but not limited to, those who require affordable housing, families with children, older people, students, people with disabilities, service families, travellers, people who rent their homes and people wishing to commission or build their own homes).

In relation to the District Plan some of these specific requirements are addressed in separate policies of this Plan including; Affordable Housing (BDP8), Homes for the Elderly (BDP10) and Accommodation for Gypsies, Travellers and Travelling Showpeople (BDP11).

Policy BDP10 Homes for the Elderly does address the needs of elderly people by encouraging the provision of housing for the elderly. However, the policy does not include the retention of single storey dwellings as a means of meeting this need.

Policy BDP7.1 identifies that "proposals for housing must take account of identified housing needs in terms of the size and type of dwellings". However, it is considered that the policy relates to more than one dwelling, therefore in relation to a replacement dwelling it is not considered that this policy is relevant.

Overall, there is no policy statement, either at local or national level that supports the contention that bungalows or dormer bungalows should be retained to meet different needs of the community and in particular the needs of elderly residents.

Trees

The existing trees are afforded a degree of protection owing to the land being situated within a Conservation Area. The Council's Arboricultural Officer has no objection to the scheme being granted planning permission subject to a condition requiring the submission of a tree protection plan and method statement.

The proposal is considered to meet the requirements of Policy BDP19 of the District Plan.

Ecology

In accordance with the relevant legislation the local planning authority has a duty to ensure any proposal will not impact adversely upon protected species. An Ecological Assessment Repot, by AMPA Ecology was submitted with the application which indicated that a small number of brown long eared bats use the house as a summer day roost. Overall there is a risk of adverse impacts on reptiles, breeding birds, badgers and hedgehogs, which can be addressed by following the method statements.

Subject to the imposition of appropriate condition there would be no undue harm to protected species in accordance with the NPPF.

Impact on Stability of Neighbouring Properties

In regard to the concerns of residents regarding disruption and damage to neighbouring properties during construction. It is clear that works will be required on the site regarding reducing the ground level of the site, however there is no evidence to indicate that the excavation work could not be carried out securely or that Building Regulations would not sufficiently secure a safe development. However, given the gradient of the site, proposed extent of excavation and proximity of dwellings, in the interests of public safety it is considered necessary to impose conditions requiring appropriate site investigations into the stability of the land prior to development commencing, and any necessary measures or remediation works to be implemented accordingly.

Precedent

Concerns have also been raised in respect of the development setting a precedent locally. Each application is considered on its individual merits and therefore would need to be assessed against the current local and national polices at the point of submission to the Local Planning Authority.

Conclusion

The NPPF has at its heart the presumption in favour of sustainable development. To be sustainable, development must, as noted in paragraph 8 of the NPPF, strike a satisfactory balance between economic, environmental and social considerations.

In terms of the economic dimension of sustainable development, the proposal would contribute towards economic growth, including job creation - during the construction phase.

In terms of the environmental dimension of sustainable development, the visual impacts of the development are considered to be neutral in view of the existing building.

In terms of the social dimension, the site appears to have no significant constraints and is deliverable.

Having fully assessed all three dimensions of sustainable development; economic, environmental and social within this report it is concluded that the development of this site:

- Is within the built-up area of Barnt Green where a replacement dwelling is acceptable in principle
- Will provide a design of development that is acceptable
- Would not harm the significance of the Conservation Area (having a neutral effect)
- Will not cause significant detrimental impact to residential amenity
- Will provide acceptable parking provision
- Will have no significant adverse impacts on ecological value and trees

For these reasons, the proposal is considered to constitute sustainable development and accords with the District Plan.

There are no overriding material considerations that indicate that permission should not be granted in this instance and the application is therefore recommended for approval subject to the stated planning conditions.

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 and drawings:

Existing Floor Plans & External Elevations Location / Block Plans (20)M-201 Rev A Proposed Floor Plans & External Elevations (20)M-401 Rev C

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) Prior to the insertion or works commencing on windows and doors details of all new joinery at a scale of 1:5 together with details of proposed finishes shall be submitted to and approved in writing by the Local Planning Authority. The development shall 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.

5) The development hereby permitted shall not be first occupied until the proposed dwelling have been fitted with an electric vehicle charging point and thereafter the charging point shall be kept available for the charging of electric vehicles.

Reason: To encourage sustainable travel and healthy communities.

6) All retained trees and their Root Protection Areas must be protected during clearance and construction phase in accordance with BS5837:2012, using suitable protective fencing and/or ground protection as appropriate. No storage of plant/materials within the Root Protection Areas of any retained trees.

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

7) Prior to excavations or import of machinery or materials, a scheme for the protection of the retained trees, including a tree protection plan(s) (TPP) and an arboricultural method statement (AMS) shall be submitted to and approved in writing by the Local Planning Authority. The development thereafter shall be implemented in strict accordance with the approved details.

Reason: In order to protect the trees, hedges & landscaping features which form an important part of the amenity of the site and adjacent properties.

No development shall take place until a site investigation into the stability of the land has been carried out in accordance with a methodology first submitted to and approved in writing by the local planning authority. The results of the site investigation shall be submitted to the local planning authority before any development begins. If any land instability issues are found during the site investigation, a report specifying the measures to be taken to remediate the site to render it suitable for the development shall be submitted to and approved in writing by the local planning authority. Remedial measures shall be carried out prior to the first occupation of the development in accordance with the approved details and retained for as long as the development exists.

Reason: These details are necessary to safeguard existing properties and to ensure that they are suitably protected.

9) If during the course of development, any unexpected land instability issues are found which were not identified in the site investigation referred to in condition 8, additional measures for their remediation in the form of a remediation scheme shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures which shall be retained for as long as the development exists.

Reason: These details are necessary to safeguard existing properties and to ensure that they are suitably protected.

No site clearance, site preparation or development work shall take place until a method statement detailing the measures to be implemented to mitigate the impacts of the development on ecological interests has been submitted to and approved in writing by the Local Planning Authority. The method statement shall include provision for the installation of bat boxes. The development shall be undertaken in accordance with the approved method statement at all times.

Reason: To ensure the creation of wildlife habitat and wildlife corridors within development and minimize impact of the development on the biodiversity.

11) All bathroom and en-suite windows to be installed shall be fitted with obscure glazing and any opening lights shall be at high level and top hinged only. The obscure glass shall be maintained in the said window in perpetuity.

Reason: To protect the amenities of neighbouring residents

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