

Name of Applicant	Proposal	Expiry Date	Plan Ref.
Mr Peter Norton	Proposed detached dwellinghouse using previously approved access driveway 32 Lickey Square, Lickey, Birmingham, Worcestershire, B45 8HB	26.04.2021	21/00312/FUL

Councillor King has requested that this application be considered by Planning Committee rather than be determined under delegated powers

RECOMMENDATION: That planning permission be Granted

Consultations

Cllr J. E. King Consulted 15.03.2021

Comments summarised as follows:

It comes as no surprise that we are confronted with yet another planning application for a house in the rear garden of a Lickey Square house . This time it is number 32, where an application for a 5 bed detached house in the rear garden was refused in 2014. The present application, again for a large five bed two storey detached house appears to be larger than the refused dwelling. The agent has omitted to give measurements apart from to indicate that the 21 metres rule between the house and the neighbouring property in The Badgers has been observed. The measurement of the height of the proposed building above the neighbouring house (number 16 The Badgers) has been left to our imagination. I call this application in for the consideration of the planning committee on the grounds of non-compliance with the policies of Bromsgrove Local Plan BDP 19 and the Lickey and Blackwell and Cofton Hackett Neighbourhood Development Plan.

Lickey and Blackwell Parish Council Consulted 15.03.2021

Comments summarised as follows:

Lickey and Blackwell Parish Council object strongly to this application. The proposed dwelling is far too large and elevated. It would overlook the neighbouring houses and remove privacy. Trees may be impacted, which would potentially have provided screening from the development. Balconies and large windows will take away privacy. This application is against BDP19 and our Neighbourhood Plan BD3 against back garden development. This application would impact on the character of the local area.

Arboricultural Officer Consulted 15.03.2021

No objections, subject to conditions

Comments summarised as follows:

There is a mature Douglas Fir tree (T903) and Oak tree standing within the grounds of 34 Lickey Square which the driveway access passes between. These trees are subject to protection under Bromsgrove District Council Tree Preservation Order (4) 2011. Due to the size and proximity of these trees to the access driveway and associated parking bays the footprint of these features causes an incursion into the BS5837:2012 recommended

Root Protection Area (RPA) of both trees. Therefore, the access driveway should be installed by use of a No Dig method of construction over the existing ground levels to ensure that the development does not affect the health or stability of these trees. No objections are raised to the slight re-positioning of the hedge line to the front of No.36 in order to achieve the sightline splay required. I agree with the reasoning and comments of the Planning Inspector on earlier cases in that there should be no need to remove any of the TPO protected trees on the site in order to achieve the visibility splay required at the entrance to the site.

Recommended conditions:

1. Any section of the proposed access driveway and parking bays that fall within the BS5837:2012 should be installed by use of a suitable grade of No Dig construction. A plan showing the area to be constructed by the use of No Dig construction and specification of the material to be used should be supplied.
2. All trees to be retained should be afforded protection in accordance with BS5837:2012 recommendations throughout any ground or development work on the site.
3. An Arboricultural Method statement and protection plan should be submitted.

Worcestershire County Highways Consulted 15.03.2021

No objections, subject to conditions
Comments summarised as follows:

I have no highway objections to the proposed detached dwelling subject to the recommended visibility splay condition applied to the earlier consent, and conditions requiring the first 5 metres of access road being surfaced in a bound material; the provision of an Electric Vehicle charging point and sheltered and secure cycle parking provision.

I have noted that the site has had outline permission for 5 dwellings, a separate full planning permission for two dwellings, ref 19/01388/FUL and a full planning permission for a single dwelling ref 19/00477/FUL.

Consents, granted on appeal by the planning inspectorate did not raise any concerns on the ability to deliver the visibility splay subject to a condition. The inspector will have considered the reasonableness of any conditions and clearly has judged that the visibility splay condition meets the relevant tests.

The applicant has provided 4 car parking spaces which are in accordance with WCC car parking standards.

The Highway Authority has undertaken a robust assessment of the planning application. Based on the analysis of the information submitted the Highway Authority concludes that there would not be an unacceptable impact and therefore there are no justifiable grounds on which an objection could be maintained.

WRS - Noise Consulted 15.03.2021

No objection

North Worcestershire Water Management Consulted 15.03.2021

Comments summarised as follows:

The site falls within flood zone 1 (low risk of fluvial flooding) and is not shown to be an area susceptible to surface water flooding. Should you be minded to grant permission I would request that a surface water drainage strategy for the proposed development be submitted (via condition)

Publicity

37 Neighbour notifications sent 16.03.2021

Site Notice displayed 19.03.2021

Neighbour Responses

17 letters of objection received

4 letters received in support of the application

Objection summary:

- The proposed development represents 'garden grabbing', contrary to the Lickey and Blackwell and Cofton Hackett Neighbourhood Development Plan and the Bromsgrove District Plan.
- The development would be detrimental to the character and quality of the area
- Detrimental impact on trees
- The proposed dwelling is too large for the plot
- Over-development of the site
- Proposal would overshadow neighbouring dwellings resulting in a loss of light
- The site is elevated from 'The Badgers'. Overlooking would occur resulting in a loss of privacy to existing occupiers
- Proposal would be overbearing, overwhelming and be visually intimidating in nature
- Separation distances between existing dwellings and the proposed dwelling are insufficient having regard to level differences
- Increased traffic to and from the site would be prejudicial to highway safety
- Drainage and flooding concerns due to elevated, steeply sloping nature of the site
- Harm to wildlife would occur
- Noise and light pollution concerns
- Smaller houses are required in this area not large 5 bed roomed detached houses
- Inadequate bin storage facilities

Support summary:

- The dwelling would be well set back from the main road and would be surrounded by mature trees providing privacy for all neighbours. The planned development has taken this into account and will merge into the existing landscape

- The development would be in keeping with the 2 dwellings approved at appeal under ref 19/01388/FUL and would respect the character and architecture of other existing dwellings in the area
- The development would utilise a large plot of land providing additional much needed housing in the district
- There are no highway safety issues. The development would be accessed via the access already considered by the Planning Inspectorate which is deemed to be acceptable by both the Planning Inspectorate and County Highways
- The Council cannot demonstrate a 5 year housing supply. Utilising available land in residential areas is preferable to sacrificing land in the Green Belt

Relevant Policies

Bromsgrove District Plan

BDP1 Sustainable Development Principles
BDP2 Settlement Hierarchy
BDP7 Housing Mix and Density
BDP19 High Quality Design
BDP21 Natural Environment
BDP23 Water Management

Others

Lickey and Blackwell Village Design Statement
Lickey and Blackwell and Cofton Hackett Neighbourhood Plan
Bromsgrove High Quality Design SPD
NPPF National Planning Policy Framework (2019)

Relevant Planning History

14/0166: 1 detached dwelling: rear garden of No.32 Lickey Square. Refused by BDC 11.04.2014

16/0190: 5 detached dwellings on land to the rear of No's 32, 34, and 36 Lickey Square. Refused by BDC, 19.08.2016. Allowed at appeal subject to conditions 06.07.2017. The outline planning permission reserved all matters apart from the proposed access point leading to a private drive between no. 34 and 36 Lickey Square which was allowed

18/01322/FUL: 1 detached dwelling: rear garden of No.34 Lickey Square. Refused by BDC 20.02.2019

19/00477/FUL: 1 detached dwelling: rear garden of No.34 Lickey Square. Granted by BDC 07.08.2019

19/01388/FUL: 2 detached dwellings rear of 34 to 36 Lickey Square. Appeal against the non-determination of the application within prescribed timeframes. Appeal allowed 30.07.2020

20/00759/REM: Reserved Matters Application for five detached dwellings seeking consent for appearance, landscaping, layout and scale following outline consent through appeal (ref 16/0190)

Appeal against the non-determination of the application within prescribed timeframes.

Appeal dismissed 18.12.2020

Assessment of Proposal

The site and its surroundings

The site is located within the settlement of Lickey Hills within a residential area. The site is not within the Green Belt.

The property fronting the application site to the north (No.32 Lickey Square) is a large two storey detached dwelling, facing the southern side of the road. It is set within large grounds containing many mature trees to both the front and rear gardens many of which are protected by Tree Preservation Orders (TPO's). This part of Lickey Square is fronted by other individually designed, large, detached houses set within substantial plots. The site falls steeply from front to back (north to south).

Adjacent to the rear (south) of the site is an end of a cul-de-sac 'The Badgers' a more recent development of detached two storey dwellings with smaller gardens than numbers 32 to 36 Lickey Square. The plot would be accessed via an unclassified road, Lickey Square and benefits from a footpath and street lighting on the opposite (the northern side) of the road. There are no parking restrictions in force in the vicinity. The site is located approximately 340 metres from Lickey Hills Primary School and approximately 140 metres from a bus route and a bus stop.

The proposed development

It is proposed to construct a two-storey dwelling which would be 13 metres high to ridge (excluding chimney), and 7.9 metres high at eaves. The dwelling would be a maximum of 14 metres wide and a maximum of 18.7 metres deep (including the rear 'orangery'). The front elevation would be articulated with two, 2 storey gables, a central doorway with an external brick chimney stack to the side.

The rear elevation would have similar gables and a flat roofed orangery. The main roof would have a 30 degree roof pitch.

The design of the development would be very similar to that of the two dwellings allowed at appeal under reference 19/01388/FUL.

Assessment

Character and appearance

The underlying character of the locality is one of large detached, two storey houses of varying ages and styles. Many are set within substantial and maturely landscaped, verdant plots. However, there is also a clear pattern of rear gardens having been developed along Lickey Square and surrounding streets. There are also several examples of higher density developments than that of the application site as can be seen

on the cul-de-sac estates of Cleveland Drive and Stretton Drive to the east of the site, and The Badgers, a gated two-armed cul-de-sac to the south of the site.

The Lickey and Blackwell Village Design Statement (SPD) states that new housing should generally reflect the character, setting and style of housing in the immediate vicinity.

Given the variety of densities and surrounding layouts it is considered that the application would accord with the mixture of scale and pattern of development in the area and would form a natural extension to the layout of development allowed by the Planning Inspectorate under reference 19/01388/FUL.

The dwelling has been designed to complement the dwellings approved under reference 19/01388/FUL with variations along the front and rear elevations to break up the visual mass of the building and the gap between the proposed dwelling and the nearest dwelling approved under 19/01388/FUL, (being approximately 30 metres) is considered to be ample and would provide visual relief, avoiding cumulative harm.

As noted by the Inspector when considering application 19/01388/FUL, the sloped characteristics of the site limit potential views of the development from the Lickey Square street scene. Further, the proposed positioning of the dwelling together with the location of existing trees to be retained would provide adequate screening.

In allowing the appeal under appeal ref APP/P1805/W/20/3245957 (19/01388/FUL), the Inspector noted that five trees, subject to a Tree Preservation Order (TPO), lining the boundary between Nos 34 and 36 would be removed. Whilst contributing to the verdant character of the site and its surroundings the Inspector noted that there were only limited views of the five trees in question along Lickey Square and from other public vantage points. He noted that most views of the subject trees, from both public and private land, were layered by the other protected trees lining the outer boundaries of the site and along Lickey Square more generally. As such, the Inspector concluded that the removal of the proposed trees would not in itself detrimentally harm the verdant characteristics of the site, nor the visible treelined backdrop along Lickey Square or the surrounding area.

The Councils Tree Officer has raised no objections to this application.

The appeal Inspector under APP/P1805/W/20/3245957 concluded that the risk of future occupiers wanting to prune the protected trees to improve the degree of light experienced to the dwellings was low. Whilst the boundary trees would cause some overshadowing at select times of the day and year, this would not be dissimilar to the levels experienced by existing occupants in the area given the surrounding verdant character.

Under consideration of application 20/00759/REM (Reserved Matters Application for 5 dwellings to the rear of 32 to 36 Lickey Square, the density of development on the site as a whole (5 rather than the 3 which would occur if planning permission were to be granted under this application) was much higher, with gardens serving the dwellings being relatively modest by comparison. Here, occupiers would benefit from a garden area measuring approximately 400 square metres in area which would greatly exceed the Councils minimum requirement as set out in the High-Quality Design SPD which is 70 Square metres and a 10.5m garden length. I am therefore satisfied that the proposed

dwelling would experience acceptable access to light and would not put remaining trees at undue risk of pruning in the future.

In this context, the proposed development would deliver acceptable design and would not harm the overall character and appearance of the surrounding area. It would comply with Policy BDP19 of the Bromsgrove District Plan (adopted January 2017), Policies BD2, BD3 and NE3 of the Lickey and Blackwell and Cofton Hackett Neighbourhood Plan (LBCHNP) (adopted January 2020) and Paragraphs 127 and 170 of the National Planning Policy Framework (the Framework). Collectively, these policies seek, amongst other things, to deliver high quality development that is in keeping with the character and quality of the local environment, whilst retaining and integrating trees where appropriate as part of the overall green infrastructure network.

Residential amenity considerations

It has been suggested by a number of occupiers from 'The Badgers', notably no's 15, 16, 17, and 18 that the siting and scale of the dwelling proposed would have an unacceptable impact on existing living conditions enjoyed by those occupiers, principally by way of loss of privacy.

The Council's High Quality Design Supplementary Planning Document (SPD) (adopted June 2019) serves as a guide to calculate the appropriate separation distance between habitable windows of properties that directly face each other. It specifies that a minimum separation distance of 21 metres is required where existing and proposed habitable rooms windows directly face each other, and that where there is a gradient difference, further distance may be required, with an additional two metres added for each metre difference in ground level as specified on Figure 4 of the SPD. In this case a cross section has been submitted showing a 5m difference in levels between the rear wall of the proposed dwelling (excluding the proposed ground floor orangery), referred to as 'Section 1', and the southern boundary fence. This shows that there would be a 21.4 metre distance between the proposed rear wall (excluding the proposed ground floor orangery) and the rear boundary fence. A separation distance of 24.3 metres would exist between the first-floor rear wall of the proposed dwelling and the existing flank (blank) wall serving the side elevation to No.16 The Badgers.

Importantly, the proposed rear face of the dwelling would not face towards the rear face of No.16 The Badgers nor any other rear facing habitable windows serving 15, 17 or 18 The Badgers. Nor would the dwelling face directly towards the side (flank) wall serving No.16 The Badgers, rather this would be at an oblique angle. As such, the 21m (or greater) distance set out within Figure 4 of the SPD does not apply in this case because the minimum distance only applies where rear habitable room windows face other, rear habitable room windows. This minimum distance DID apply under consideration of appeal ref APP/P1805/W/20/3245957 where the rear face of those proposed dwellings faced directly towards habitable room windows serving, in particular, No's 17 and 18 The Badgers. In the appeal case the separation distances were greater, at approximately 37 metres from the ground floor level and 40 metres from the first-floor level between the proposed dwellings and the nearest extent of No's 17 and 18.

The Inspector noted, in finding the appeal to be acceptable that the SPD also considers the presence of openings between properties and whether each dwelling is offset or

directly facing each other to determine whether any harmful overlooking may occur. The Inspector considered that neither of the two proposed dwellings directly align with either Nos 17 or 18 The Badgers, creating a more acute line of sight between the respective sets of properties by virtue of their offset positioning. The Inspector also considered that existing and proposed vegetation screening between the properties would further obscure any perceived views between the habitable rooms of the dwellings.

To conclude on the matter of privacy, the proposed dwelling would not face habitable room windows and nor would it directly overlook the dwelling, No.16 The Badgers itself. Whilst partial views of No.16 The Badgers garden would be viewed from the site, there is not considered to be anything particularly unusual or out of the ordinary with such a (90 degree) relationship and views from one property's habitable room window into a neighbouring properties rear garden are commonplace in many residential environments. It is for the decision maker to determine whether a material loss of amenity would occur based on the individual circumstances of the case. I have taken into consideration the substantial existing screening which exists (and which would be retained) to the rear (southern) boundary of the site, and consider that this, together with any additional planting in this area which could be introduced by means of a separate planning condition, would safeguard privacy.

It is not considered that the proposed development would result in a material loss of light to existing dwellings, taking into consideration the orientation of the dwelling, to the north of the nearest existing residential dwelling; separation distances and the presence of existing mature tree screening. Accordingly, the proposed development would not be considered to harm the living conditions of neighbouring occupants in The Badgers. The proposal is therefore considered to comply with the Councils High Quality Design SPD, which seeks to deliver development of a high-quality design which does not adversely affect the living conditions of neighbouring occupiers.

Other matters

The Council cannot currently demonstrate a five-year housing land supply. The presumption in favour of sustainable development therefore applies in accordance with Paragraph 11(d) of the Framework and therefore significant weight should be attributed to the positive contribution the proposal would make towards addressing this current shortfall.

Concerns raised by neighbouring occupiers with respect to the potential increase of flooding and drainage water from the site as a result of the proposed development are noted. However, the site is at low risk of fluvial flooding and drainage can be appropriately dealt with under building regulations. The Councils Drainage Engineer (NWWM) has raised no objection subject to an appropriately worded site drainage strategy condition (as set out below).

Concerns regarding traffic generated by the proposal and the safety of the proposed access to Lickey Square are also noted. However, the Inspectorate have assessed the suitability of the access for a new development utilising the same access and serving 5 dwellings under an earlier application and have found access arrangements to be acceptable. The Inspector in considering APP/P1805/W/20/3245957 similarly raised no concerns on the matter.

The County Highway Authority have again reviewed the proposed development and have raised no objection to the proposal subject to the same conditions applied to earlier consents and I have concluded that a single dwelling would likely generate a small amount of additional traffic and as such I am similarly satisfied that the proposal would not amount to any harmful effects to the highway network, subject to conditions.

There are no protected species concerns arising from the development although Paragraph 175 of the NPPF comments that opportunities to incorporate biodiversity in and around developments should be encouraged. To enhance ecological biodiversity, permanent bat and bird nesting opportunities should be integrated within the scheme. An appropriately worded planning condition is recommended to be imposed.

Conclusion

The proposed development would not cause unacceptable harm in respect of the main issues: the character and appearance of the area, or the living conditions of existing and future occupants. Moreover, the proposals are acceptable in terms of the other issues which include drainage considerations and highway safety. The proposal would make a contribution to the Councils housing land supply where a 5-year supply cannot be demonstrated, and the application is supported.

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:

32 Lickey Square location plan dated 28 Feb 2021
32 Lickey Square site plan dated 28 Feb 2021
Levels Plan dated 28 Feb 2021
32 Lickey Square house plans dated 28 Feb 2021
Ecological report dated 28 Feb 2021
Tree report dated 28 Feb 2021
Section dated 21 June 2021

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, shown on proposed elevation drawings, 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 and residential amenities of the area.

- 4) No development shall commence until a written Arboricultural Method Statement (AMS) and Tree Protection Plan is submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved document.

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

- 5) All trees to be retained within the site shall be given full protection in accordance BS5837:2012 recommendations throughout any ground or development work on the site

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

- 6) Any section of the proposed access driveway and parking bays that fall within the BS5837:2012 should be installed by use of a suitable grade of No Dig construction. A plan showing the area to be constructed by the use of No Dig construction and specification of the material to be used should be supplied and any works shall be carried out in accordance with the approved document.

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

- 7) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order) no development included within Schedule 2, Part 1, Classes A to E including any alterations at roof level, and including the creating of balconies shall be carried out without express planning permission first being obtained from the Local Planning Authority.

Reason: To protect the living conditions of the occupants of adjacent properties, and the adjacent protected trees from root disturbance and additional pressure from future occupants to undertake tree works

- 8) No development above foundation level of the scheme hereby approved shall take place until a site drainage strategy has been submitted to, and approved in writing by the Local Planning Authority. The scheme shall include the results of an assessment into the potential of disposing of surface water by means of a sustainable drainage system (SuDS) and shall provide an appropriate level of

runoff attenuation and treatment. The approved scheme shall be completed prior to the first use of the development hereby approved.

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

- 9) No development above foundation level of the scheme hereby approved shall take place until a scheme of landscaping, including details of proposed tree and shrub plantings and treatment of all parts of the site not covered by buildings, shall have been submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of the sizes, numbers, species and grade of all proposed trees/plants; and specifications to ensure successful establishment and survival of new planting.

The approved details of landscaping shall be carried out in the first planting season following the occupation of the buildings or the completion of the development, whichever is the sooner.

Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species and in accordance with the approved details.

Reason: In the interests of the visual amenity of the area

- 10) Prior to the first occupation of the development hereby approved, a scheme for the provision of bat roost opportunities and bird nest boxes within the site shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented by suitably qualified personnel to the satisfaction of the Local Planning Authority prior to the first use of the development approved.

Reason: In the interests of biodiversity and in accordance with the provisions of National Planning Policy Framework

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

Reason: In the interests of highway safety.

- 12) Prior to the construction of the vehicular access, visibility splays shall be provided 43 metres from a point 0.6 metres above ground level at the centre of the access to the application site and 2.4 metres back from the nearside edge of the adjoining carriageway. No shrubs, trees or other vegetation shall be allowed to grow above 0.6 metres in height, and no structure or erection exceeding 0.6m in height shall be placed, within the visibility splays.

Reason: In the interests of highway safety.

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

Reason: To encourage sustainable travel and healthy communities

- 14) 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

- 15) The development hereby approved shall not be first occupied until a refuse and bin collection facilities shall be constructed in accordance with details first submitted to and approved, in writing, by the Local Planning Authority.

Reason To ensure an appropriate bin collection area is installed in the interest of visual amenity and highway safety.

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