

Name of Applicant Type of Certificate	Proposal	Map/Plan Policy	Plan Date
Mr. H. Woolridge "B"	Proposed new dwelling (as amended by plans received 12.01.2010) 22 Orchard Croft, Barnt Green, Birmingham B45 8NH	RES	09/0903 01.02.2010

**RECOMMENDATION:** that permission be **GRANTED**.

Councillor Mrs. A. E. Doyle and Councillor R. J. Deeming have requested that this application be considered by the Committee, rather than being determined under delegated powers.

### Consultations

WH	Consulted – view received 17.12.2009. Recommends conditions HC8, HC14, HC16 and HC35 and notes HN4 and HN5.
Strategic Planning (Policy)	Consulted – view received 18.01.2010. The proposed dwelling is within a residential area in the BDLP and therefore PPS1, PPS3, policy S8 of the BDLP and SPG1 apply. The issue of layout, extensions, plot subdivision and backland development, external space, daylight and sunlight, minimum distances and private communal and amenity space in SPG1 are of particular relevance. The views of the Highways Engineer will be of relevance in relation to surrounding highway capacity and sustainability issues. PPG13 is also of relevance together with policy DS13 of the BDLP.
ENG	Consulted – view received 10.01.2010. No objection subject to a condition requiring the submission of storm water drainage details. No flood risk assessment required. Disposal of foul sewerage shall be to the adjacent foul sewer.
Environmental Health (Contaminated Lane)	Consulted – view received 21.01.2010. It is considered that the proposed end-use of residential housing is a sensitive end-use and would be particularly vulnerable to the presence of any contamination. Conditions suggested . Further comments included below.
Environmental Health (Pollution Control)	Consulted – view received 12.01.2010. No comment.
Barnt Green Parish Council	Consulted – view received 21.12.2009. The application should be refused. SPG1 advises that new dwellings designed for family accommodation should be capable of extension without adversely affecting the character of the street. The application site is very cramped. Even without extension the character of the street will be adversely affected. The proximity of the proposal to 23 Orchard Croft gives an unacceptably cramped appearance and represents a considerable increase in density. The cramped house type will be out of keeping with the area. The proposal will not be attractive and will reduce the amount of garden space and lead to a loss of privacy and amenity, especially to numbers 22 and 23. The depth of the rear garden to number 22 will be reduced from approximately 16.25 to 6 metres. The requirement under SPG1 for a reasonable amount

- of private amenity space has not been met.
- Publicity 2 letters sent 14.12.2009 (expired 04.01.2010).  
1 letter sent 21.12.2009 (expired 11.01.2010).  
One response raised no objection to the scheme but requested restrictions be placed on the rooflights facing number 22.  
7 objections received. The concerns raised in these responses are summarised as follows:
- The proposal is not attractive and would harm the character of the site and surroundings. It is over-development of the plot and the proximity of the new dwelling to number 23 would result in a cramped and high density feel.
  - The proposed house type is incongruous in size and character to the neighbourhood. The frontage of the new building would be nearly half the size of the original buildings in this section of Orchard Croft. All existing dwellings in the road have a garage.
  - The dwelling exceeds the building line which would be detrimental to the appearance of the road.
  - This area of Barnt Green was originally planned as an open style area of living. The size of the plot does not reflect the existing development and the open airy appearance of the road would be adversely affected.
  - Room for property expansion must be possible.
  - The proposal would not benefit neighbours and would ultimately affect the overall desirability of Barnt Green.
  - The proposed dwelling and number 22 would have insufficient garden depth and space.
  - Loss of privacy and amenity to numbers 22 and 23.

### The site and its surroundings

This application relates to a piece of land approximately 185 square metres in size, located to the east side of the southern spur of Orchard Croft. The site predominantly consists of part of the enclosed rear garden of 22 Orchard Croft, a detached bungalow. At the front (west side) of the site is an area of grass which slopes down to the garden fence. Although open to the road, this part of the site does fall within the curtilage of number 22. The site is adjoined to the east by the rear garden of number 21 and to the south by number 23. The southern spur of Orchard Croft rises up gently to the south east.

### Proposal

This application proposes a three bedroom detached dwelling. The dwelling will be one and a half storeys height. It is also proposed to create a new vehicular access off Orchard Croft to serve the new dwelling.

### Relevant policies

WMSS CF2, CF3, CF4, CF6, QE3, T2, T7  
WCSP SD.1, SD.2, SD.3, SD.4, SD.5, CTC.1, CTC.5, D.5, T.1, T.3, T.4  
BDLP DS4, DS13, S3, S4, S7, S8, C17, TR8, TR11, ES7

Others PPS1, PPS3, PPG13, PPS23, SPG1

### Relevant Planning History

B6164           Erection of residential building.   Refused 16.07.1979.   Appeal dismissed 18.04.1980.  
BR/1230/72   Erection of house.   Approved 23.01.1973.  
BR/365/72    Erection of detached house.   Refused 26.09.1972.

### Notes

The application site lies within an established residential area and falls within the definition of previously developed land, as defined in Planning Policy Statement 3 (PPS3): Housing. PPS3 states that the priority for development should be previously developed land. I am therefore of the view that principle of residential development on the site is acceptable. The main issues in the consideration of this application are housing supply, the impact the proposal will have on the character and appearance of the locality, the amenities of adjoining occupiers and highway safety issues. I have noted the comments of consultees and third parties arising from the consultation and publicity exercises. Concern has been raised by a third party regarding the accuracy of the plans. This has been resolved through the submission of amended drawings.

### **Housing supply**

As Members will be aware, a moratorium on new housing development was put in place in 2003 through the adoption of Supplementary Planning Guidance Note 10 (SPG10) to manage a situation of housing oversupply. Guidance provided in SPG10 has now been superseded by policies contained in PPS3, the adopted Regional Spatial Strategy and the revised housing figures published by the Inspectorate in response to Phase 2 Revision of the RSS. This revised guidance means that SPG10 is no longer enforceable and windfall development of this scale would not result in an over-supply of housing.

### **Density, form and layout**

PPS3 states that a housing density of 30 dwellings per hectare should be used as a national indicative minimum, where no local policies are in place. The proposed development has a density of 35 dwellings per hectare and is therefore in accordance with national policy guidance. Policy S7 of the Bromsgrove District Local Plan 2004 relates to new dwellings outside the Green Belt and requires such proposals to have a density appropriate for the site and a form and layout appropriate to the area. Policy S8 of the BDLP states that proposals for the sub-division of plots will not be permitted where they would be detrimental to the traditional pattern or amenity of the locality. The Parish Council and a number of local residents have raised concern that the proposal will appear cramped within its context, is of an inappropriate design and would be harmful to the character of the road. The Parish council has drawn attention to paragraph 5.0 of Supplementary Planning Guidance Note 1: Residential Design Guide which encourages new housing to be well related in scale and location to existing development. The

position of the proposed dwelling and its relationship with number 22 reflects the position of number 29 (directly opposite the application site) and its relationship with number 30. The 12m plot width of the application is also the same as the width of number 29. I acknowledge that the depth of the application site is less than the depth of other properties within Orchard Croft, but note that this will not be apparent from the street scene. The proposed dwelling will be positioned 2m from the side wall of number 23 and this gap is comparable with other gaps found in Orchard Croft (for example between numbers 10, 11 and 12). Although the proposed dwelling is positioned further forward in its plot than number 23, it does not extend beyond the side wall of number 22. I therefore consider that the proposal respects the existing pattern of development in Orchard Croft and the open-plan character of the road.

The one and half storey design of the dwelling with front and rear facing gables reflects the original form of numbers 23 to 28. The eaves and ridge height of the building have now been reduced so that they fall marginally below those of number 23 allowing the proposal to sit comfortably within its context and follow the gradient of the land. I am therefore satisfied that the design, siting and density of the proposal are appropriate and will not unduly harm or be out of keeping the appearance and character of the locality.

SPG1 advises that family accommodation should be capable of extension to meet the occupier's changing needs. It is acknowledged that due to the size of the site, there will be limited scope for extending the proposed dwelling. However, in my opinion, this does not in itself warrant the refusal of the application. I recommend that the property's permitted development rights be removed to allow the Council to control any future proposals at the site.

### **Sustainability issues**

Policy SD.4 requires development proposals to be located so as to minimise the need to travel and where there is access to different modes of transport. The application site is located in an established village which provides a small collection of shops, a school and rail and bus links. I am therefore satisfied that the proposal is a sustainable form of development.

### **Residential amenity issues**

Policy S7 states that new housing must not adversely affect the existing amenities of adjoining occupiers. SPG1 advises that as a general guide a minimum distance of 12.5m should be achieved between two storey conventional houses where windows overlook adjacent blank walls. This is to prevent overshadowing and a visually intimidating effect. The side wall of the proposed dwelling will be located approximately 11m away from the rear windows to number 22 and 12m from the rear windows to number 21. Lying to the north of the application site and at a slightly lower level, I acknowledge that these two properties will experience loss of light as a result of the proposal. However, given the one and half storey design of the proposal, I do not consider that the impact will be such to unduly harm the amenities currently enjoyed by the occupiers of both houses. Any loss of light to number 23 will be minimal, given its relationship with the proposal.

To protect the privacy of adjoining occupiers SPG1 suggests that there should be a minimum separation distance of 21m between two storey dwellings and that windows should be set back 5m per storey from the site boundary where it adjoins a private garden. First floor windows at normal eye level to the rear of and side elevations of the proposed dwelling would fail to comply with this guidance. To overcome this, the first floor windows to these elevations have been positioned 1.8m above the internal floor level. To protect the privacy of number 22 from the ground floor windows to the proposal, a new fence will be required along the common boundary by way of condition.

SPG1 states that it is usual for 3 bedroom dwellings to have a minimum garden depth of 10.5 metres with an absolute minimum area of 70 square metres for dwellings with 6 habitable rooms. The proposed dwelling will have a rear garden depth of just 6 metres. However, with a total garden area of some 108 square metres, I am content that the new dwelling will have adequate private garden space. Concern has been raised by third parties regarding the loss of garden space to the existing dwelling at number 22. It is understood that number 22 and the application site are already in separate ownership.

### **Highway safety**

Policy TR11 of the BDLP requires all development to incorporate safe means of access and egress appropriate to the nature of the local highway network and to provide sufficient off-street parking. The proposed vehicular access will lead onto a driveway providing space for two cars. Worcestershire Highways has raised no objection to the proposal and I am therefore satisfied that the proposed access does not present any highway safety issues and that adequate parking has been provided.

### **The development can be properly serviced**

Policy S7 requires a new development to be appropriately serviced. The Drainage Engineer has raised no objection to the proposed scheme subject to a condition relating to the disposal of storm water. I am aware that this matter will be dealt with under Building Regulations and therefore consider the condition unnecessary.

### **Potential land contamination issues**

Planning Policy Statement 23 (PPS23): Planning and Pollution Control requires Local Planning Authorities to pay particular attention to development proposals for sites where there is a reason to suspect contamination and to those for particularly sensitive uses such as housing likely to be used by families with children. In accordance with Annex 2 PPS23, a developer must submit sufficient information to determine the existence or otherwise of contamination, its nature and the risks it may pose and whether these can be reduced to a satisfactory level. As the application has not been accompanied by such information, the Council's Environmental Health Officer has recommended that any permission granted be subject to conditions requiring the submission of a risk assessment and site investigation. Where appropriate, remediation work will be required.

### **Tree issues**

Policy C17 of the BDLP requires development proposals to retain existing trees wherever possible. The proposal will involve the removal of a few small trees. These trees are of limited amenity value and I have no objection to their removal.

### **Other matters**

The proposed development falls below the thresholds for play space and affordable housing provision/contributions and education contributions.

### **Conclusion**

Having considered all material considerations to this application, including the impact of the proposal on the character and appearance of the locality and the amenities of adjoining occupiers, I find the proposed development acceptable.

**RECOMMENDATION:** that permission be **GRANTED**.

1. C99
2. C03
3. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that order with or without modification), no development permitted under Article 3 and described within Classes A, B, C D or E of Part 1 shall take place without the prior written consent of the Local Planning Authority.
4. C10
5. Prior to the commencement of the development hereby approved, details of a screen to be erected along the common boundary with 22 Orchard Croft shall be submitted to and approved in writing by the Local Planning Authority. The screen shall be erected in accordance with the approved details prior to the occupation of the approved dwelling.
6. Prior to the commencement of the development hereby permitted, drawings shall be submitted and approved in writing by the Local Planning Authority, showing existing and proposed ground levels, including finished floor levels for the proposed dwelling. The development shall then be carried out in accordance with the approved drawings.
7. HC8
8. HC14
9. HC16
10. Unless otherwise agreed in writing by the Local Planning Authority, development, other than that required to be carried out as part of an approved scheme of remediation, must not commence until:
  - a. A preliminary risk assessment has been submitted to and approved in writing by the Local Planning Authority. This study shall take the form of a desk top study and site walkover and shall include the identification of previous site uses, potential contaminants that might reasonably be expected given those uses and any other relevant information. The preliminary risk assessment report shall contain a diagrammatical representation (conceptual model) based on the

- information above and shall include all potential contaminants, sources and receptors.
- b. Where necessary, a scheme for detailed site investigation and risk assessment must be submitted to and approved in writing by the Local Planning Authority. The scheme must be designed to assess the nature and extent of any contamination and must be led by the findings of the preliminary risk assessment. The investigation and risk assessment scheme must be compiled by competent persons and must be designed in accordance with DEFRA and the Environment Agency's "Model Procedures for the Management of Contaminated Land, CLR11"
  - c. Where necessary, a detailed site investigation and risk assessment must be undertaken and a written report of the findings produced. This report must be submitted to and approved in writing by the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and must be conducted in accordance with DEFRA and the Environment Agency's "Model Procedures for the Management of Contaminated Land, CLR11"
  - d. Where necessary, a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to identified receptors must be submitted to and approved in writing by the Local Planning Authority. The remediation scheme must ensure that the site will not qualify as Contaminated Land under Part 2A Environmental Protection Act 1990 in relation to the intended use of the land after remediation.
  - e. Where necessary, the approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development, other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority.
  - f. Where necessary, following the completion of the measures identified in the approved remediation scheme a validation report that demonstrates the effectiveness of the remediation carried out must be submitted to and approved in writing by the Local Planning Authority prior to the occupation of any buildings.
11. In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken and where necessary a remediation scheme must be prepared, these will be subject to the approval of the Local Planning Authority. Following the completion of any measures identified in the approved remediation scheme a validation report must be prepared, which is subject to the approval in writing of the Local Planning Authority prior to the occupation of any buildings.

### Reasons

3. To protect the amenities of the locality and residential amenities of adjoining occupiers in accordance with policy S7 of the Bromsgrove District Local Plan and policy CTC.1 of the Worcestershire County Structure Plan 2001.

5. To protect the privacy of adjoining occupiers in accordance with Policy S7 of the Bromsgrove District Local Plan 2004.
6. To protect the amenities of the locality in accordance with policy S7 of the Bromsgrove District Local Plan 2004 and policy CTC.1 of the Worcestershire County Structure Plan 2001. .
10. & 11. To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with policy ES7 of the Bromsgrove District Local Plan 2004.

#### Notes

1. HN4
2. HN5
3. The screen required under condition 5 shall be 2 metres in height above the ground level and shall be designed to form a solid barrier between the two properties. It must not extend forward of the front of the approved dwelling.
4. If the preliminary risk assessment required under condition 10a indicates that land contamination does not exist at the application site, it may not be necessary for the documents required under conditions 10b to 10f to be submitted.
5. New soakaways to serve the new building must be constructed so as not to affect adjacent properties. The disposal of foul sewerage shall be to the adjacent public/private sewer.
6. The granting of planning consent does not supersede the applicant's responsibilities for biodiversity under the Wildlife and Countryside Act 1981 (as amended), the Countryside and Rights of Way Act 2000, the Natural Environment and Rural Communities Act 2006 and the Badgers Act 1992.

This decision has been taken having regard to the policies within the West Midlands Spatial Strategy (WMSS), Worcestershire County Structure Plan (WCSP) June 2001 and the Bromsgrove District Local Plan (BDLP) January 2004 and other material considerations as summarised below:

WMSS	CF2, CF3, CF4, CF6, QE3, T2, T7
WCSP	SD.1, SD.2, SD.3, SD.4, SD.5, CTC.1, CTC.5, D.5, T.1, T.3, T.4
BDLP	DS4, DS13, S3, S4, S7, S8, C17, TR8, TR11, ES7
Others	PPS1, PPS3, PPG13, PPS23, SPG1

It is the Council's view that the proposed development complies with the provisions of the development plan and that, on balance, there are no justifiable reasons to refuse planning permission.