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Date: 14th May 2021

Dear Sir/Madam,

A meeting of the **PLANNING APPLICATIONS COMMITTEE** will be held in **Council Chamber of the Town Hall, Nuneaton on Tuesday, 25th May 2021 at 6.00p.m, with a confidential item considered at 5:00pm.**

Public Consultation on planning applications will commence at 6.00 p.m. (see Agenda Item No. 6 for clarification).

Please note that meetings may be recorded for future broadcast.

Yours faithfully,

BRENT DAVIS

Executive Director - Operations

To: All Members of the Planning
Applications Committee

AGENDA

PART I - PUBLIC BUSINESS

1. EVACUATION PROCEDURE

A fire drill is not expected, so if the alarm sounds please evacuate the building quickly and calmly. Please use the stairs and do not use the lifts. Once out of the building, please gather outside the Yorkshire Bank on the opposite side of the road.

Exit by the door by which you entered the room or by the fire exits which are clearly indicated by the standard green fire exit signs.

If you need any assistance in evacuating the building, please make yourself known to a member of staff.

Please also make sure all your mobile phones are turned off or set to silent.

Chair to advise the meeting if all or part of the meeting will be recorded for future broadcast.

2. APOLOGIES - To receive apologies for absence from the meeting.

3. MINUTES - To confirm the minutes of the meeting held on 20th April 2021 (attached). **(Page 5)**

4. DECLARATIONS OF INTEREST

To receive declarations of Disclosable Pecuniary and Other Interests, in accordance with the Members' Code of Conduct.

Declaring interests at meetings

If there is any item of business to be discussed at the meeting in which you have a disclosable pecuniary interest or non-pecuniary interest (Other Interests), you must declare the interest appropriately at the start of the meeting or as soon as you become aware that you have an interest.

Arrangements have been made for interests that are declared regularly by members to be appended to the agenda **(to follow)**. Any interest noted in the Schedule at the back of the agenda papers will be deemed to have been declared and will be minuted as such by the Democratic Services Officer. As a general rule, there will, therefore, be no need for those Members to declare those interests as set out in the schedule.

There are, however, TWO EXCEPTIONS to the general rule:

1. When the interest amounts to a Disclosable Pecuniary Interest that is engaged in connection with any item on the agenda and the member feels that the interest is such that they must leave the room. Prior to leaving the room, the member must inform the meeting that they are doing so, to ensure that it is recorded in the minutes.

2. Where a dispensation has been granted to vote and/or speak on an item where there is a Disclosable Pecuniary Interest, but it is not referred to in the Schedule (where for example, the dispensation was granted by the Monitoring Officer immediately prior to the meeting). The existence and nature of the dispensation needs to be recorded in the minutes and will, therefore, have to be disclosed at an appropriate time to the meeting.

Note: Following the adoption of the new Code of Conduct, Members are reminded that they should declare the existence and nature of their personal interests at the commencement of the relevant item (or as soon as the interest becomes apparent). If that interest is a Disclosable Pecuniary or a Deemed Disclosable Pecuniary Interest, the Member must withdraw from the room.

Where a Member has a Disclosable Pecuniary Interest but has received a dispensation from Standards Committee, that Member may vote and/or speak on the matter (as the case may be) and must disclose the existence of the dispensation and any restrictions placed on it at the time the interest is declared.

Where a Member has a Deemed Disclosable Interest as defined in the Code of Conduct, the Member may address the meeting as a member of the public as set out in the Code.

Note: Council Procedure Rules require Members with Disclosable Pecuniary Interests to withdraw from the meeting unless a dispensation allows them to remain to vote and/or speak on the business giving rise to the interest.

Where a Member has a Deemed Disclosable Interest, the Council's Code of Conduct permits public speaking on the item, after which the Member is required by Council Procedure Rules to withdraw from the meeting.

5. DECLARATIONS OF CONTACT

Members are reminded that contacts about any Planning Applications on this agenda must be declared before the application is considered

6. APPLICATIONS FOR PLANNING PERMISSION ON WHICH THE PUBLIC HAVE INDICATED A DESIRE TO SPEAK. EACH SPEAKER WILL BE ALLOWED 3 MINUTES ONLY TO MAKE THEIR POINTS – the report of the Head of Development Control attached. **(Page)**

7. APPLICATIONS FOR PLANNING PERMISSION ON WHICH NO MEMBER OF THE PUBLIC HAS INDICATED A DESIRE TO SPEAK – the report of the Head of Development Control attached. **(Page)**
8. ANY OTHER ITEMS which in the opinion of the Chair of the meeting should be considered as a matter of urgency because of special circumstances (which must be specified).

NUNEATON AND BEDWORTH BOROUGH COUNCIL

PLANNING APPLICATIONS COMMITTEE

20th April 2021

A meeting of the Planning Applications Committee was held on Tuesday 20th April 2021. Due to Government guidance on social-distancing and the COVID-19 virus this meeting was held virtually and live streamed.

Present

Councillor W. Hancox – Chair

Councillors, K. Evans (substitute for Councillor K. Wilson), S. Gran, I. Lloyd, B. Pandher, N. Phillips, M. Rudkin, A. Sargeant, J. Sheppard, R. Smith, J. Tandy, R. Tromans, and C.M. Watkins.

Apologies: Councillor K. Wilson

PLA76 Chair's Announcements

The Chair requested a one minute silence in memory of HRH Prince Philip, the Duke of Edinburgh.

The Chair welcomed Officers from Warwickshire County Council.

The meeting was being live streamed and recorded for future publication on the Council's website.

The Chair also thanked everyone that has taken part in the Planning Applications Committee over the last 12 months for their contributions. He also thanked those people that will not be with the Council next year.

PLA77 Minutes

RESOLVED that the minutes of the meeting held on the 9th March 2021 be confirmed and signed by the Chair.

PLA78 Declarations of Interest

RESOLVED that the Declarations of Interest for this meeting are as set out in the Schedule attached to these minutes.

PLA79 Declarations of Contact

Councillor Phillips noted that regarding Item 4, 111 Earls Road, Nuneaton, Warwickshire (Planning Application Reference: 037490) he had had conversations with the applicant in reference to planning policy in conservation areas.

It was noted that all Members had received an email from Councillor Clarke about Item 1, Site 64c001 – Golf Drive, Nuneaton (Planning Application Reference 037112.)

IN PUBLIC SESSION

PLA80 **Planning Applications**

(Note: Names of the members of the public who submitted statements or spoke are recorded in the Schedule).

RESOLVED that decisions made on applications for planning permission are as shown in the attached schedule, for the reasons and with the conditions set out in the report and addendum, unless stated otherwise.

SCHEDULE OF APPLICATIONS FOR PLANNING PERMISSION AND
RELATED MATTERS REFERRED TO IN MINUTE PLA80 OF THE
PLANNING APPLICATIONS COMMITTEE ON 20TH APRIL 2021.

037112 – Site 64c001 – Golf Drive, Nuneaton, Warwickshire

Applicant: Taylor Wimpey

Public Statements: Councillor K. Wilson, Councillor J. Gutteridge, Mr D. White, Mr S. Gill, and Mr D. Farmer.

DECISION

The application be approved subject to a legal agreement and conditions as printed on the agenda and addendum.

036656 – Maytrees 4 School Lane, Nuneaton, Warwickshire, CV10 9PA

Applicant: Mr David Flemans

Public Statements: Mr J. Parr and Mr P. Taylor.

DECISION

The application be approved subject to the conditions as printed on the agenda and addendum.

037658 – Site 51A073 – Ex Co-op buildings and car park, Abbey Street, Nuneaton, Warwickshire, CV11 5BU

Applicant: Nuneaton and Bedworth Borough Council

Public Statements: Councillor K. Kondakor and Ms A. Arnall.

DECISION

The application be approved subject to the conditions as printed on the agenda.

037490 – 111 Earls Road, Nuneaton, Warwickshire, CV11 5HP

Applicant: Mr Zakariyya Ahmedabadi

Public Statements: None

DECISION

The application be approved subject to the conditions as printed on the agenda and addendum.

Chair

**Planning Applications Committee
Schedule of Declarations of Interests – 2020/2021**

	Name of Councillor	Disclosable Pecuniary Interest	Other Personal Interest	Dispensation
	General dispensations granted to all members under s.33 of the Localism Act 2011			Granted to all members of the Council in the areas of: <ul style="list-style-type: none"> - Housing matters - Statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992 - An allowance, payment given to members - An indemnity given to members - Any ceremonial honour given to members - Setting council tax or a precept under the Local Government Finance Act 1992 - Planning and Licensing matters - Allotments - Local Enterprise Partnership
	S. Gran		Member of Warwickshire County Council	
	W.J. Hancox		Daughter holds employment position within NBBC Unite the Union Representative on the following Outside Bodies: <ul style="list-style-type: none"> • Building Control Partnership Steering Group • Hammersley Smith & Orton Charity 	
	I. Lloyd		Non Executive Director with Nuneaton and Bedworth Community Enterprises Limited.	Dispensation to speak and vote

	Name of Councillor	Disclosable Pecuniary Interest	Other Personal Interest	Dispensation
			Representative on the following Outside Bodies: <ul style="list-style-type: none"> • Nuneaton & Bedworth Sports Forum • Camp Hill Urban Village and Pride in Camp Hill • Poor's Piece Charity • Committee of Management of Hartshill & Nuneaton Recreation Group • Towns Board 	
	B. Pandher		Member of Warwickshire County Council Treasurer & Trustee of Nanaksar Gurdwara Gursikh Temple; Coordinator of Council of Sikh Temples in Coventry; Secretary of Coventry Indian Community; Trustee of Sikh Monument Trust Vice Chair Exhall Multicultural Group	
	N.J. Phillips		Member of: <ul style="list-style-type: none"> • Nuneaton Labour CLP • The Fabian Society • The George Eliot Society • The PCS Union • Central Credit Union • Stockingford Sports and Allotment Club • Haunchwood Sports and Social Club Non-Executive Director with Nuneaton and Bedworth Community Enterprises Limited.	
	M. Rudkin	Employee of Coventry City Council	Unite the Union Representative on the following Outside Bodies: <ul style="list-style-type: none"> • Bedworth Neighbourhood Watch Committee 	
	A. Sargeant		Member of Warwickshire County Council Chairman of The Nook (Nuneaton) Residents Association. Chair of Attleborough Community Matters group. Chair of Attleborough Neighbourhood Watch Volunteer at Volunteer Friends Bulkington. Member of Nuneaton Carnival Committee Representative on the following Outside Bodies: <ul style="list-style-type: none"> • Advice Rights 	

J. Sheppard		Partnership member of the Hill Top and Caldwell Big Local.	
		Director of Wembrook Community Centre.	Dispensation to speak and vote on any matters of Borough Plan that relate to the Directorship of Wembrook Community Centre
		Member of the Management Committee at the Mental Health Drop in.	
		Champion for Safeguarding (Children & Adults) Representative on the following Outside Bodies: <ul style="list-style-type: none"> • Local Government Superannuation Scheme Consultative Board • Warwickshire Direct Partnership • Warwickshire Waste Partnership • West Midland Employers • Nuneaton Neighbour Watch Committee 	
R. Smith		Chairman of Volunteer Friends, Bulkington; Board of Directors at Bulkington Village Community and Conference Centre Trustee of Bulkington Sports and Social Club	
J. Tandy		Partnership member of the Hill Top and Caldwell Big Local. Member of Unite the union. Representative on the following Outside Bodies: <ul style="list-style-type: none"> • Nuneaton Festival of Arts • Warwickshire Race Equality Partnership • Warwickshire Race Equality Partnership • West Midlands Combined Authority Audit Group 	
R.Tromans		Director of RTC Ltd	
C.M. Watkins	Landlord of a privately rented property	Representative on the following outside bodies: <ul style="list-style-type: none"> • Nuneaton and Bedworth Home Improvement Agency. • Nuneaton and Bedworth Safer and Stronger Communities Partnership. • Safer Warwickshire Partnership Board. • Warwickshire Housing Support Partnership. • Warwickshire Police and Crime Panel. 	
K.D. Wilson	Employee of the Courts Service	Non Executive Director with Nuneaton and Bedworth Community Enterprises Limited	Dispensation to speak and vote
Planning Applications Committee - 25th May 2021			

Applications for Planning Permission etc.
Agenda Item Index

Planning Applications

Item No.	Reference	Address	Page No.
1.	037635/BU	Site 120B005 – Land rear of 71-77 Coventry Road, Bulkington	
2.	037508/BE	Site 95A001 – Land rear of 32-35 Willis Grove, Bedworth	
3.	037389/AB	35 Manor Court Road, Nuneaton	
4.	037402/SN	Anker Service Station, Weddington Road, Nuneaton	

Wards:					
AB	Abbey	AR	Arbury	AT	Attleborough
BA	Barpool	BE	Bede	BU	Bulkington
CH	Camp Hill	EX	Exhall	GC	Galley Common
HE	Heath	KI	Kingswood	PO	Poplar
SL	Slough	SN	St Nicolas	WB	Wembrook
WE	Weddington	WH	Whitestone		

PLANNING APPLICATIONS

Item No. 1

REFERENCE No. 037635

Site Address: Site 120B005 - Land rear of 71-77 Coventry Road, Bulkington

Description of Development: Creation of three residential units (C3) in the form of three static caravans/chalets

Applicant: G Allen

Ward: BU

RECOMMENDATION:

Planning Committee is recommended to refuse planning permission, for the reasons as printed.

INTRODUCTION:

Retrospective planning consent is sought for the creation of three residential units (C3) in the form of three static caravans/chalets on land to the rear of Site 120B005 - Land rear of 71-77 Coventry Road, Bulkington. The submitted application form confirms the proposed development commenced on the 3rd December 2020.

SITE DESCRIPTION:

The site consists of no 69 Coventry Road, Bulkington and its associated curtilage, which includes an area of approximately 0.3553 hectares (0.87796542 acres) to the rear. The site is located to the edge of but outside of the Bulkington Settlement Boundary, within the dedicated Green Belt. The site is generally square in shape, all but for an access drive which turns into a track off Coventry Road between residential property numbers 69 and 71 Coventry Road. The site adjoins a further larger area of land under the ownership of the applicant, which is also outside of the Bulkington Settlement Boundary within the dedicated Green Belt. The Site is currently green open space, being located to the rear of the rear private amenity garden areas of property numbers 71 to 77 Coventry Road, being bounded by well established hedge to the north eastern and south eastern edges and open aspect onto the additional land under the ownership of the applicant to the south west.

BACKGROUND:

On 3rd December 2020 the Council received a complaint that a touring caravan and associated vehicles had been parked on the site, officers made a site visit the same day, where it was noted a touring caravan was located and connected to electricity to

69 Coventry Road. Further information was received on the 3rd of December 2020 that another caravan had been brought onto the land. On visiting the site officers noted that three caravans were located on the site.

On 3rd December 2020 the Council served the owner of the land Mr George Allan with a Section 330 Notice to allow the Council to serve an Enforcement Notice in respect of the breach of planning control, and on 4th December 2020 the Council served Mr Allan with a Temporary Stop Notice as the Council considered that there had been a breach of planning control.

Complaints from residents continued to be made regarding the dumping of waste in the open and in the piggery building. The Council subsequently served George Allen with a Planning Contravention Notice on 18th December 2020 as it appeared that without planning permission there had been a change of use of the land and buildings from agricultural to the storage of material.

An appeal against the enforcement notice was lodged by Mr Allan under reference APP/W3710/C/21/3267362.

RELEVANT PLANNING HISTORY:

- 036859 – Prior notification for the change of use from agricultural buildings to a residential dwelling – Prior approval required and granted – 18/02/2020
- 035180 – Retention of access Road and the proposed erection of stables on land to rear of 69 Coventry Road – Approved – 22/01/2018

RELEVANT PLANNING POLICIES:

- Policies of the Borough Plan 2019:
- DS1 – Presumption in favour of sustainable development
- DS3 – Development principles
- DS7 – Green belt
- H1 – Range and mix of housing
- H2 – Affordable Housing
- BE3 – Sustainable design and construction
- Affordable Housing SPD 2020.
- Sustainable Design and Construction SPD 2020.
- National Policy Planning Framework (NPPF).
- National Planning Practice Guidance (NPPG).

CONSULTEES NOTIFIED:

NBBC Environmental Health, NBBC Local Plans Policy, NBBC Refuse and Cleansing, WCC Highways, Seven Trent Water.

CONSULTATION RESPONSES:

No objection subject to conditions from:

NBBC Environmental Health

NBBC Refuse and Cleansing

NBBC Local Plans Policy

WCC Highways

No response from:

Seven Trent Water

NEIGHBOURS NOTIFIED:

All neighbours consulted 13th January 2021.

NEIGHBOUR RESPONSES:

There have been 4 objections received from 3 addresses and 1 anonymous objection. The comments are summarised below;

1. Inappropriate development
2. Green Belt site
3. Highway safety issues
4. Impact on Medieval Ridge and Furrow system
5. Loss visual outlook into the open Green Belt
6. Environmental issues in the form of burning and rubbish disposal
7. Attraction of vermin

APPRAISAL:

The key issues to assess in the determination of this application are;

1. Principle of the development
2. Green Belt
3. Impact on highway safety
4. Impact on Residential/Visual Amenity and Character of the Area
5. Other material considerations
6. Conclusion

1. The Principle of Development

The key issue in the assessment of the proposal is the principle and appropriateness of the development within the dedicated Green Belt.

Policy DS3 of the Borough Plan 2019 states that development outside of settlement boundaries is limited to agriculture, forestry, leisure and other uses that can be

demonstrated to require a location outside of a settlement boundary. The site is located outside of the Bulkington settlement boundary.

The proposal is for the locating of three residential units (C3) in the form of three static caravans/chalets. Whilst caravans and chalets are not typical traditional residential dwellings, they would still provide residential accommodation. Policy H1 of the Borough Plan 2019 confirms the need for the provision of a mix of housing types, sizes and tenures, which integrate into the characteristics of the surrounding area.

The NPPF sets out a need to significantly boost the supply of housing and therefore requires the Council to fully and objectively assess housing need across the housing market area in co-operation with neighbouring authorities. Paragraph 73 sets out the requirement for the Council to identify a deliverable five-year supply of housing land to meet this identified need. However, to ensure choice and competition in the market for land, a 5% buffer is further required and this increases to 20% where there is a persistent under delivery of new homes. As of the 1st April 2020, the Council has a 5.135 years of housing land supply and therefore it is not considered that the proposed residential units are required in terms of contributing to housing land supply. The calculation is based on the housing requirement of 14,060 dwelling set out in the borough Plan covering the period 2011-2031.

As the application proposes the provision of 3 residential units in the form of caravans/chalets and the site is 0.35 hectares, this is below the threshold required for affordable housing under Policy H2 of the Borough Plan 2019.

Consequently, the site is located outside of the defined Bulkington Settlement Boundary, therefore the proposal is considered inappropriate in principle in this instance, conflicting with policy DS3 of the Borough Plan 2019.

2. Green Belt

The appropriateness of the proposed development within the defined Green Belt

The application site is located within the defined Green Belt, identified in the Joint Green Belt Study 2015 as parcel BU2.

Paragraphs 143 and 145 of the NPPF and Policy DS7 of the Borough Plan 2019 makes it clear that there is a general presumption against inappropriate development which is, by definition, harmful to the Green Belt. Paragraph 143 of the NPPF confirms that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 144 confirms that in considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt, and that very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations. Paragraph 145 sets out certain types of development which are considered acceptable within the Green Belt, and states that new buildings within the Green Belt are inappropriate except in very certain circumstances. None of the exceptional reasons given within paragraph 145 are considered to justify the proposed development in as the proposal is not for agricultural

reasons; is not for the provision of outdoor sport, recreation, cemeteries or allotments; is not for the extension or alteration of a building; is not a replacement building; is not infilling in a village; is not for affordable housing; or limited infilling or the partial or complete redevelopment of previously developed land.

Consequently, the proposal would not constitute acceptable development within the Green Belt. As stated within paragraph 144 of the NPPF, substantial weight should be given to any harm to the Green Belt by reason of inappropriateness.

Impact on Openness of the Green Belt

Paragraph 133 of the NPPF states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open and that the essential characteristics of Green Belts are their openness and permanence.

The site is ultimately an open area of green space/field bounded by mature hedging in part to the rear of existing, established residential rear private amenity areas of properties fronting Coventry Road. The area to the north of Coventry Road and to the south-west of the site is undeveloped and has a very open character. It is considered that the loss of this open gap would have a detrimental impact on the openness of the Green Belt and would introduce permanent development. The surrounding land is predominantly open countryside and the application site is contiguous with that part of the open Green Belt. There are some trees to the boundary with Coventry Road. However, these cannot be relied upon to screen the development in perpetuity. Consequently, it is considered that the proposal would introduce development in an area which currently has an open feel and therefore create significant harm to the openness of the Green Belt.

Purposes of the Green Belt

Paragraph 134 of the NPPF sets out the five purposes of including land in the Green Belt. These are:

- To check the unrestricted sprawl of large built-up areas;
- To prevent neighbouring towns merging into one another;
- To assist in safeguarding the countryside from encroachment;
- To preserve the setting and special character of historic towns
- To assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

As specified above, the site is identified in the Joint Green Belt Study 2015 as parcel BU2. The study found parcel BU2 performed well against most of the Green Belt purposes and was considered a medium performing Green Belt parcel. It is considered that there is conflict with the first purpose of paragraph 134 of the NPPF, which is to check the unrestricted sprawl of built up areas, as the proposal would lead to further built development in the Green Belt and would not contain development to within the recognised settlement boundary. There is also conflict with the third purpose, to assist in safeguarding the countryside from encroachment. The site is currently open as is the surrounding land to the east and south-east, it is considered that the development

would encroach into an open part of the Green Belt and significant weight should be attached to this. In conclusion, it is considered that the significant harm to the openness of the Green Belt and the moderate harm caused by conflict with two of the purposes of including land in the Green Belt add to the substantial harm by reason of inappropriateness and is in conflict with the NPPF and policy DS7 of the Borough Plan 2019.

3. Impact on Highway Safety

Paragraph 109 of the NPPF states that development should only be refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Access to the site is intended to be via the existing drive and track located between residential properties 69 and 71 Coventry Road.

WCC Highways have been consulted on the proposed development and responded with a no objection to the scheme, subject to a condition which related to the widening of the existing access to 5m in width for the first 7.5 metres.

Consequently it is considered that the impact on highway safety is not severe.

4. Impact on Residential/Visual Amenity and Character of the Area

The NPPF states that planning policies and decisions should ensure that developments are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (paragraph 127). Policy BE3 of the Borough Plan 2019 states that all development proposals must contribute to local distinctiveness and character, providing key characteristics that will be assessed, including, inter alia, street layout, patterns of development; residential amenity; and built form.

The area to which the site is located is to the rear of properties fronting Coventry Road, which is of uniformed linear formation, which would be considered ribbon development. The proposal seeks consent to located three units to the rear of the properties and would therefore constitute backland development. Consequently, it is considered that the proposed development would depart from the existing characteristics of the surrounding area, street scene and built form, contrary to the residential amenity of neighbouring occupiers.

5. Other Material Considerations

Paragraph 144 of the NPPF states that when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations. In this case, no other considerations have been put forward to support the application and it is therefore not

considered that any very special circumstances exist to outweigh the harm by reason of inappropriateness and the impact on the openness of the Green Belt.

6. Conclusion

The proposed scheme would provide additional residential development.

The site is however located outside of the settlement boundary of Bulkington and within the defined Green Belt. It is considered that the proposed scheme would create significant harm to the openness of the Green Belt, causing detriment to the residential amenity and enjoyment of existing neighbouring occupiers through loss of visual amenity and outlook.

In conclusion, the proposed scheme is contrary to policy DS3 and DS7 of the Borough Plan 2019 and guidance contained within the NPPF.

For the reasons cited above, refusal of the proposed application is recommended.

REASONS FOR REFUSAL:

(i) The NPPF paragraph 143 states
“Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.”

(ii) The NPPF at paragraph 144 states
“When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. ‘Very special circumstances’ will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.”

(iii) The NPPF paragraph 145 (in part) states:
“A local planning authority should regard the construction of new buildings as inappropriate in the Green Belt.” as none of the exceptional circumstances are relevant to the proposed scheme.

(iv) Policy DS3 of the Nuneaton and Bedworth Borough Plan 2019 states that development outside of settlement boundaries is limited to agriculture, forestry, leisure and other uses that can be demonstrated to require a location outside of a settlement boundary.

The proposal is contrary to Policy DS3 as the proposed use of the land would not constitute agriculture, forestry, leisure and other uses that can be demonstrated to require a location outside of a settlement boundary.

(v) Policy DS7 of the Nuneaton and Bedworth Borough Plan 2019 makes it clear that there is a general presumption against inappropriate development which is, by definition, harmful to the Green Belt.

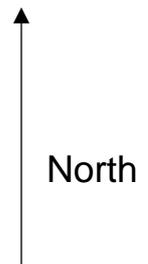
The proposal is contrary to Policy DS7 as it is considered the proposal would introduce inappropriate development into an area which currently benefits from openness, therefore significant harm would occur to the openness of the Green Belt.

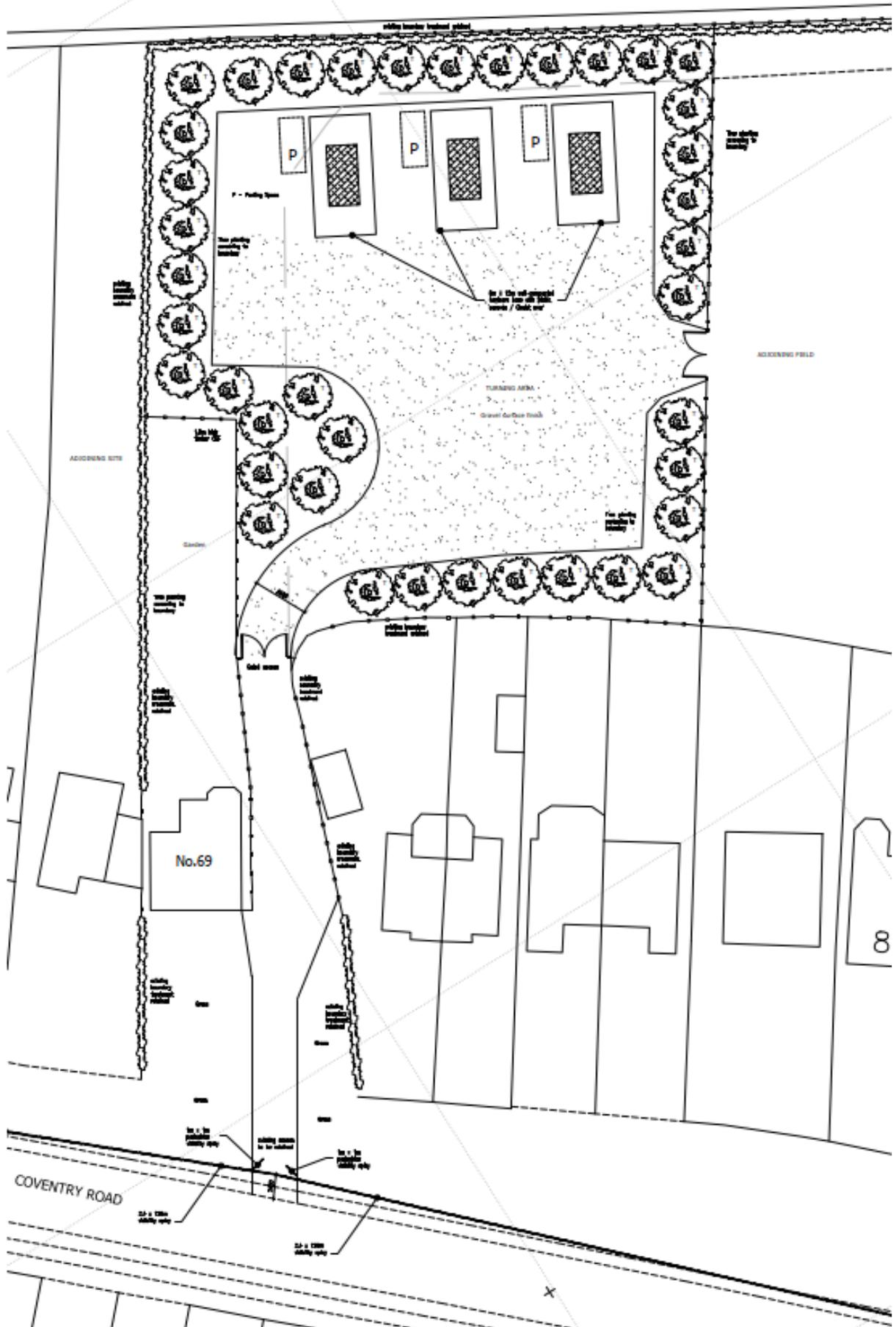
(vi) Policy BE3 of the Nuneaton and Bedworth Borough Plan 2019 states that all development proposals must contribute to local distinctiveness and character, providing key characteristics that will be assessed, including, inter alia, street layout, patterns of development; residential amenity; and built form.

The proposal departs from the existing linear form of development noted along this area of Coventry Road, the proposal would therefore constitute backland development, departing from the existing characteristics of the surrounding area, street scene and built form, contrary to the residential amenity of neighbouring occupiers.



Block Plan





Item No. 2

REFERENCE No. 037508

Site Address: Site 95A001 - Land rear of 32-35 Willis Grove Bedworth

Description of Development: Erection of a four-storey building to provide 9 No. two bedroom apartments with car parking on the ground floor and associated works. Resubmission of planning application reference 036344

Applicant: Mr Joe DiMarco

Ward: BE

RECOMMENDATION:

Planning Committee is recommended to refuse planning permission, for the reasons as printed.

INTRODUCTION:

Consent is sought for the erection of a four-storey building to provide 9 No. two bedroom apartments with car parking on the ground floor and associated works (Resubmission of previously refused planning application reference 036344) at Site 95A001 - Land rear of 32-35 Willis Grove Bedworth.

The site covers an area of approximately 0.7 hectares (0.17 acres), being located within a residential area. The site is a roughly triangular piece of land which is bounded by a mix of trees/foliage to the western edge beyond which lies a section rail track owned by Network Rail, and to the southern and eastern edges the rear private amenity areas of properties 32-35 Willis Grove and 29-37 Downing Crescent.

Willis Grove is characterised by uniformed blocks of terraced properties in groups of four. The properties are all gabled roofed with concrete tiles and constructed of red/brown rough textures brickwork.

32-35 Willis Grove, which form the southern boundary of the site slope up to the rear, No. 32's by not as much as the others, this does however increase to the other dwellings.

The site itself has a levels difference of approximately 3 metres higher than the road levels of Willis Grove at the point where the properties are proposed to be located, beyond this the land continues to rise. Properties within Downing Crescent form the

eastern boundary of the site at the same levels, these properties have habitable room windows fronting into the site, as do the properties within Willis Grove.

Significant earthworks have taken place on the site to halt the potential for the land to slip. site over the years, with some attempted remedial action also having taken place. The land is now dug in, where a good deal of land has been removed. The previous planning consent for two properties was never implemented and has now expired.

BACKGROUND:

This application is being reported to Planning Applications Committee to gain Member's approval to defend an appeal against the non-determination of the planning application. NBBC are no longer the determining authority since the applicant has appealed the non-determination of the application, within a set timeframe, to the Planning Inspectorate who will now determine the case. In accordance with the scheme of delegation, this application received more than 5 objections and therefore is being reported to Planning Applications Committee so that the Council can then respond to the Planning Inspectorate with whatever outcome the Members decide.

RELEVANT PLANNING HISTORY:

- 036344 – Erection of four storey building to provide 9 no. two bedroom apartments with car parking on the ground floor and associated works – Refused – 12/11/2019
- 032163 – Erection of two two-storey houses – Approved – 17/04/2014
- 030973 – Erection of two two-storey houses – Refused – 19/10/2011
- 030727 – Erection of two two-storey houses – Withdrawn – 27/05/2011

RELEVANT PLANNING POLICIES:

- Policies of the Borough Plan 2019:
 - DS1 – Presumption in favour of sustainable development
 - BE3 – Sustainable design and construction
- Affordable Housing SPD 2020.
- Sustainable Design and Construction SPD 2020.
- National Policy Planning Framework (NPPF).
- National Planning Practice Guidance (NPPG).

CONSULTEES NOTIFIED:

NBBC Environmental Health, NBBC Private Housing, NBBC Planning Policy, NBBC Refuse, Network Rail, NHS, Severn Trent Water, Western Power Distribution, Coal Authority, WCC Highways.

CONSULTATION RESPONSES:

Objection from:

NBBC Planning Policy

No objection subject to conditions from:

NBBC Environmental Health
Coal Authority

No objection from:

Natural England, Environment Agency, NBBC Planning Policy,

Comment from:

Network Rail – Holding Objection

No response from:

Severn Trent Water, Hinckley & Bosworth Borough Council, NBBC Refuse, WCC Highways, NBBC Private Housing, Western Power Distribution.

NEIGHBOURS NOTIFIED:

All neighbours consulted 4th November 2020.

NEIGHBOUR RESPONSES:

There have been 8 objections from 8 addresses. The comments are summarised below;

8. Loss of privacy and increased overlooking
9. Loss of light and amenity for existing neighbours
10. Impact on highway safety and additional traffic
11. Loss of visual amenity
12. Layout and density of large building out of character with surroundings
13. Insufficient off-road car parking
14. Insufficient space for loading and turning of delivery/bin lorries
15. Insufficient access for
16. Odour and rubbish issues due to additional bins
17. Increased noise and air pollution

APPRAISAL:

The key issues to assess in the determination of this application are;

7. The principle of the development
8. Previous refusal 036344
9. Impact on highway safety
10. Impact on visual amenity and character of the area
11. Impact on residential amenity

2. The Principle of Development

The proposed use of the site for residential development has been somewhat established previously by the Inspectors decision back in 2012 which, although the appeal was dismissed, this decision was only on the basis of land instability and therefore by implication the principle was accepted.

Following this appeal decision, further planning applications have been submitted which demonstrated that the land was safe, therefore the matter of land instability was removed. Given the weight applied to that previous Inspectors decision from 2012 the proposal for a pair of semi-detached houses was deemed acceptable and subsequently approved under application reference number 032163 on the 17th April 2014. Permission 032163 has subsequently expired without the development being implemented. The principle of residential development on the site is therefore considered established and acceptable.

The land subject of this application is not designated for any specific land use in the Borough Plan meaning that there is no specific restriction on this land in regard to residential development. The site is therefore considered a windfall site. The Borough Plan allows for, at paragraph 6.22, windfall sites to make up 247 dwellings over the plan period.

2. Previous Refusal Reasons (036344)

The application before you is a resubmission of a previously refused application 036344, which was refused for the following three reasons:

- *(v) The proposal is contrary to these policies in that the proposed windows in the eastern elevation will result in a sense of overlooking and loss of privacy to the rear gardens of 31, 33, 35, 37 and 39 Downing Crescent to the detriment of the enjoyment of these gardens (Contrary to guidance contained in 9.4 of the Residential Design Guide 2004).*
- *(vi) The proposal is contrary to these policies in that it does not create a cohesive group on relation to neighbouring buildings or the local area. It does not follow the existing pattern of development and its isolated backland location exacerbates this to the detriment of the character and visual amenities of the area (Contrary to the guidance contained in 3.1 of the Residential design Guide 2004)*
- *(vii) The proposal is contrary to these policies in that it has not been demonstrated that there would not be a severe detriment to the highway safety of the area.*

In light of the above refusal for an almost identical proposed development, this application should be assessed on its own merits, whilst ensuring that the refusal reasons attached to planning application 036344 are satisfied.

3. Impact on Highway Safety

Access to the site is intended to be via the existing small track to the side elevation of 32 Willis Grove and the land under the ownership of Network Rail as a buffer to the railway lines which run roughly north south past this side of the site. The access is narrow and meets the highway just at the turning head of Willis Grove.

WCC Highways have been consulted on the proposed development and to date have not provided a response.

Nevertheless, WCC Highways provided comments on the almost identical scheme assessed under application reference 036344, raising objection. The applicant commissioned a Highway Consultant to put forward their viewpoint, this was assessed and WCC Highways maintained their stance of objection on the following three grounds:

1. It has not been demonstrated that refuse vehicles can safely access and egress the site or that there is sufficient space to manoeuvre.
2. Insufficient detail provided on how access will be incorporated in to the existing turning head.
3. It has not been demonstrated that sufficient forward visibility can be Achieved in both directions and that further information should be submitted to demonstrate that two vehicles passing each other on the access would have sufficient space.

Consequently, it is considered that the above objection has not been satisfactorily overcome, and that the impact on highway safety could be severe, and without these matters being sufficiently demonstrated by the applicant a refusal on these grounds should be maintained. Paragraph 109 of the NPPF supports this stance, stating that; 'development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.' – in this instance it is considered that it has *not* been demonstrated that the harm to highway safety as a result of the proposed development would not be severe.

4. Impact on Visual Amenity and Character of the Area

The character of the surrounding area is that of a mix two-storey residential properties. Willis Grove is characterised by uniformed blocks of terraced properties in groups of four, and properties within Downing Crescent two-storey uniformed semi-detached properties. The street scene to which the proposed development would be viewed is almost entirely road facing, following the linear formation and turning heads within Willis Grove currently experienced.

The siting of the proposed development would be considered backland, contrived and incongruous, being as it is located on land to the rear of existing dwellings out of keeping with the existing built form of the area.

The site is bounded by properties to two sides of the railway line running along the western edge, being roughly triangular in shape. There would be no dedicated road

frontage, and further to that, the development would be sited so as to be concealed from much of the road with only fleeting glimpse visible from the access road between the existing properties.

In view of the above, it is considered that this backland development would be out of character and not be in keeping with the existing layout of the area, contrary paragraph 10.12 of the Sustainable Design and Construction SPD (2020) which states that backland development 'will need to integrate successfully with surrounding developments' and, 'Designs must be appropriate to an area and only a design of outstanding quality is acceptable where not in harmony with local character.

5. Impact on Residential Amenity

A good deal of land has been excavated from the site and it is the intention of the proposal to site its ground floor car parking area under ground level, with three storeys of residential above the newly formed ground level. The excavated part of the site will be to a lower level than the rear garden amenity areas of the bounding properties on Downing Crescent. Consequently, the three-storey building proposed would be lower than expected, but still appear above the rear boundary fencing of neighbouring properties within Downing Crescent.

The developments proposed elevation fronting the rear amenity garden areas of properties within Downing Crescent will have habitable room windows located within it. The Sustainable Design and Construction SPD (2020) clearly states at paragraph 11.4 that 'where three storey development is proposed a distance of 30 metres will normally be required where such an elevation containing window faces another elevation with windows' to prevent a significant loss of privacy and residential amenity. Furthermore, paragraph 11.6 confirms that 'habitable room windows above ground floor which overlook neighbouring private amenity space shall be at least 7 metres from the boundary.

The proposed scheme is contrary to the requirements of **both** paragraphs 11.4 and 11.6 of the SPD in regard to its impact on the properties of Downing Crescent.

No habitable room windows are proposed to the elevation facing south towards the rear of properties on Willis Grove.

6. Conclusion

In conclusion, the proposed scheme would provide additional residential development within the urban area of Bedworth, which is considered a positive.

However, the proposed scheme has not overcome the refusal reasons cited within application 036344.

It is considered that the proposed development would introduce an incongruous backland form of development into the area, which would be at odds with the existing built cohesion of the existing pattern of development. In addition, the proposed scheme does not comply with the separation distance standards as set out within the adopted Sustainable Design and Construction SPD (2020), resulting in a negative impact on

residential amenity. Furthermore, it is considered that the proposed development would result in a detrimental impact upon highway safety.

For the reasons cited above, refusal of the proposed application is recommended.

REASONS FOR REFUSAL:

(i) The NPPF paragraph 124 states (in part)

“The creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.”

(ii) The NPPF at paragraph 127 states (in part)

“Planning policies and decisions should ensure that developments:

f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users: and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.”

(iii) The NPPF paragraph 109 states:

“Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.”

(iv) Policy BE3 of the Nuneaton and Bedworth Borough Plan 2019 states (in part) :-

Development proposals must be:

- 1 – Designed to a high standard.
- 2 – Able to accommodate the changing needs of occupants.
- 3 – Adaptable to and minimise the impact of climate change.

Urban Character

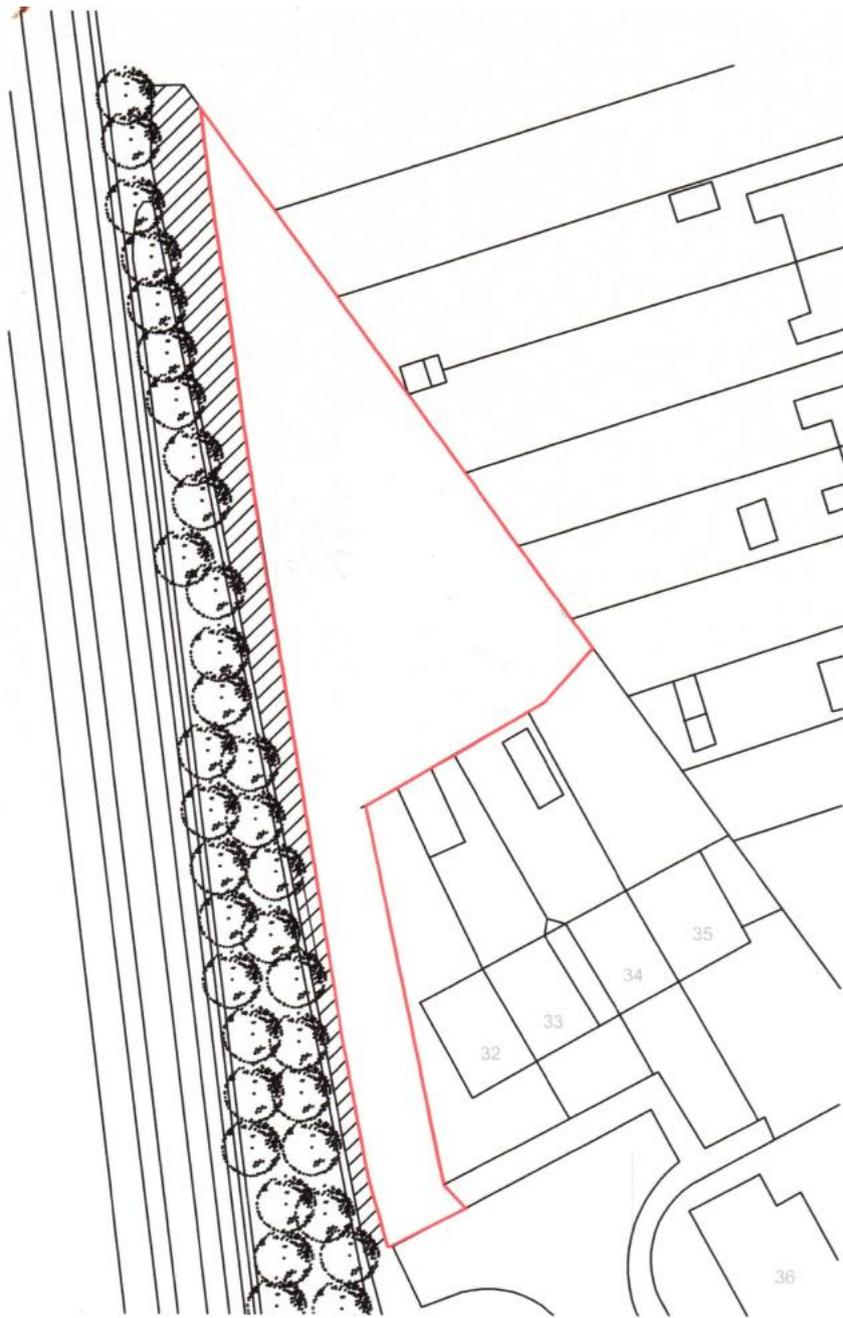
All development proposals must contribute to local distinctiveness and character by reflecting the positive attributes of the neighbouring area, respecting the sensitivity to change of the generic character types within each urban character area. Key characteristics to review include

- 1 Current use of buildings
- 2 Ownership/tenure
- 3 Street layout
- 4 Patterns of development
- 5 Residential amenity
- 6 Plot size and arrangement
- 7 Built form

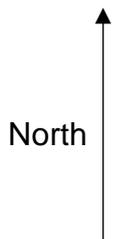
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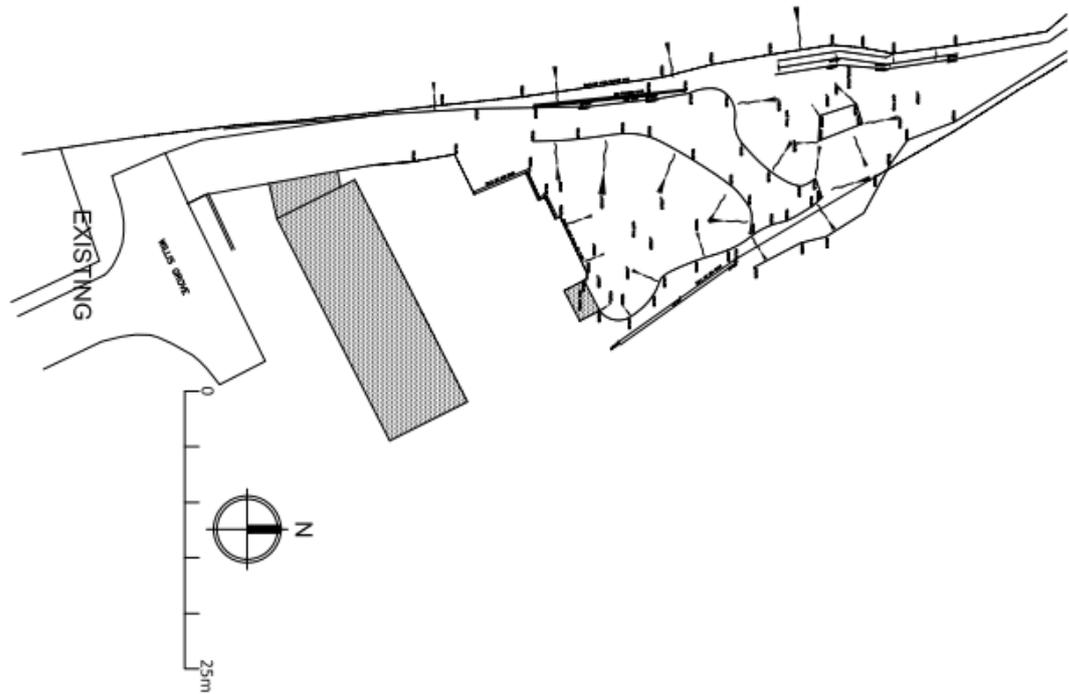
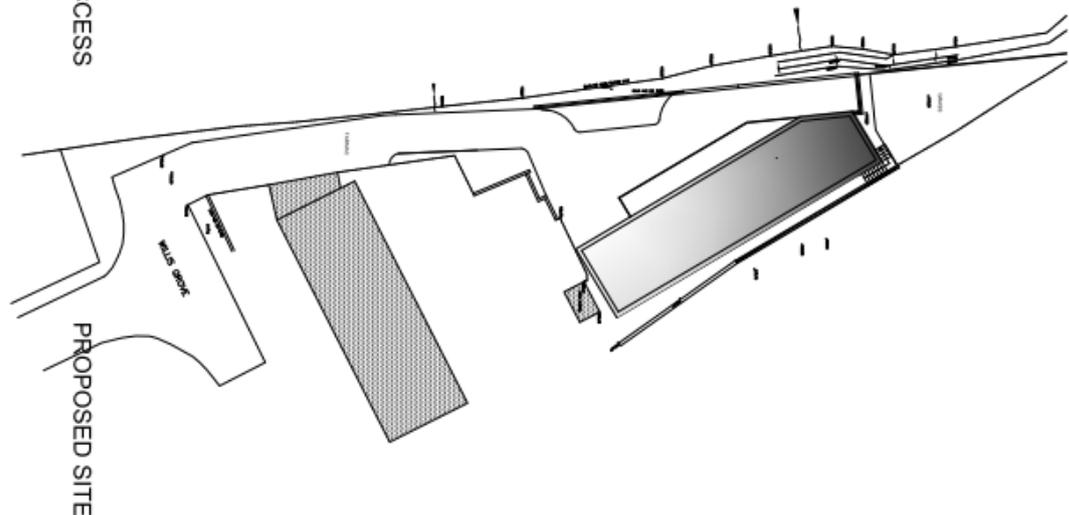
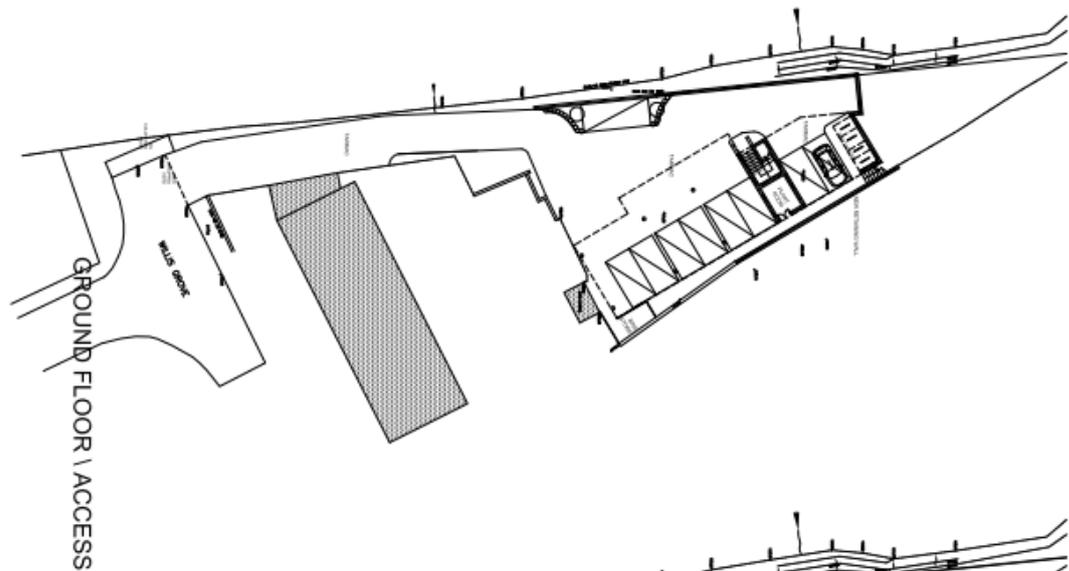
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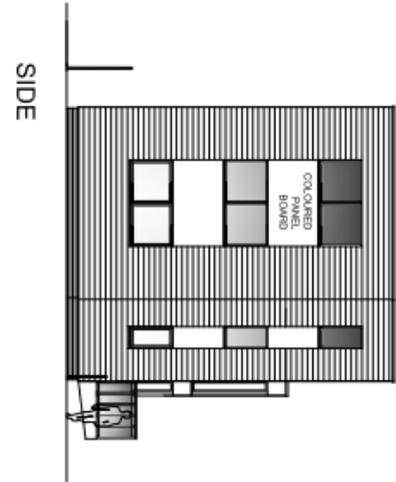
(vii) The proposal is contrary to these policies in that it has not been demonstrated that there would not be a severe detriment to the highway safety of the area.



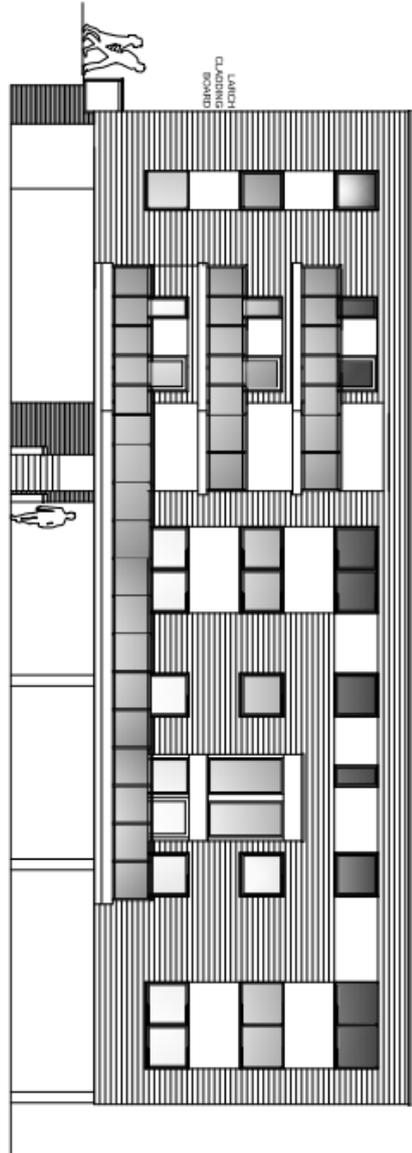
BLOCK PLAN - 1:500





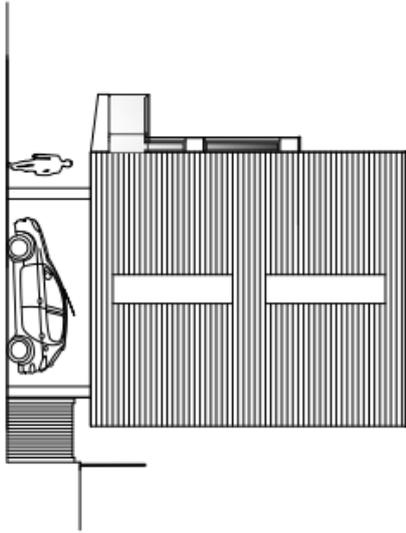


SIDE

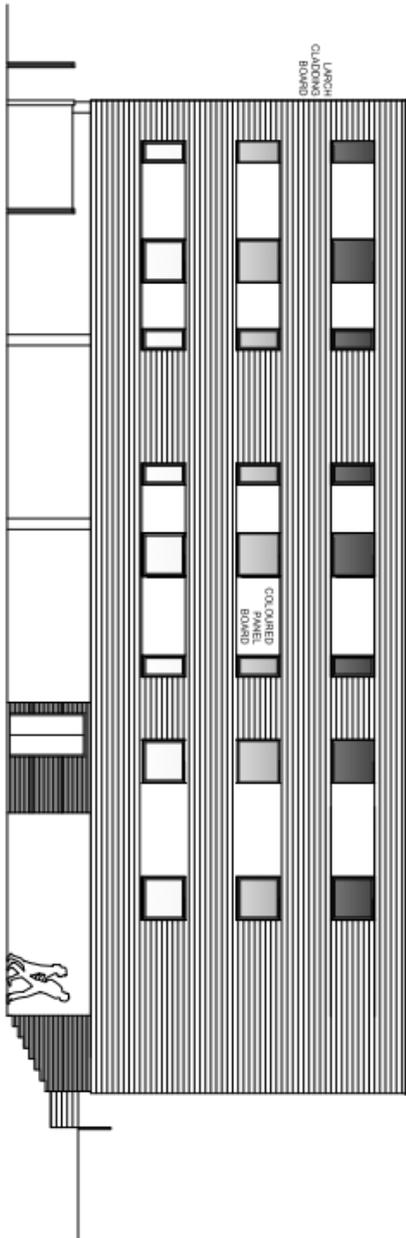


FRONT

NOTE
 WINDOWS TO BEAR ELEVATION TO BE FITTED WITH OBSCURE GLAZING AND CEILING LIGHTS TO BE FITTED WITH 100MM RESTRICTORS



SIDE



REAR



REFERENCE No. 037389

Site Address: 35 Manor Court Road Nuneaton Warwickshire CV11 5HU

Description of Development: Creation of a new detached dwelling (facing Earls Road); and single storey side extension to Dental surgery.

Applicant: Mr Sachin Mehta.

Ward: AB

RECOMMENDATION:

Planning Committee is recommended to grant planning permission, subject to the conditions printed.

INTRODUCTION:

The site is 35 Manor Court Road, Nuneaton CV11 5HU. The application is for the creation of a new detached dwelling (facing Earls Road); and single storey side extension to the existing Dentist Surgery. The proposal includes internal alterations to the layout of 35 Manor Court Road and originally included the provision of a fourth surgery/consulting room which has subsequently being removed.

The application includes some demolition works to the surgery. The site is within Abbey Conservation Area so any volume of demolition above 115 cubic metres requires conservation area consent. In this case the demolition is less than this so conservation area consent for demolition is not required.

The property is subject to an Article 4(2) Direction A, which means that the property has its permitted development rights removed including changes to windows and doors. This means the property is considered to have significant architectural value and contribute to the character of the Conservation Area.

The area has a number of street trees and a mixture of detached and semi-detached houses designed by just a handful of architects and constructed largely between 1902 and 1914 with a few earlier and later houses. The houses have individual designs but are mostly 2 storey red brick with plain tile gable or hip roofs and some have gablets finished in timber detailing. The original windows in the area are sash.

The property is a detached building on the corner of Manor Court Road and Earls Road. The property is a Dentist at ground floor which includes three consulting/surgery rooms, two stores, waiting room and reception room. At first floor the site is currently a one bedroom and one boxroom apartment which is only accessed through the Dentists surgery. The building is dated between 1918 and 1929.

The proposal includes the demolition of one of the surgery rooms and a store room at ground floor which are both in extensions to the back of the property. The consulting room is to be relocated on the first floor and the store is replaced in the new side extension.. At first floor the apartment is to be reconfigured to provide the replacement surgery room from the ground floor and the rest of the first floor space is to be offices, staff room and toilet.

The property has a large garden to the side and to the rear onto Earls Road with a number of large trees and hedges.

The front of the building is onto Manor Court Road and is separated from it by a hedgerow. The property is brickwork painted in black and has a hipped roof finished in Rosemary tiles with bonnet hip tiles. Attached to the side of the building is a single storey hipped extension which separates the main building from the private pedestrian access way to the side of the adjacent dwelling known as 33 Manor Court Road. This neighbouring property is a semi-detached brick building. This single storey side extension of the Dentist is to be demolished and extended along the entire length of the main building, whereas it currently only extends to approximately half the depth of the building. The garden of number 33 Manor Court Road extends beyond the Dentist surgery and behind 1 Earls Road.

Number 35 Manor Court Road sides onto Earls Road and is separated from it by a fairly modern tall brick-built wall, behind which is a number of trees within the garden area. Within this wall are double gates leading to a small car park to the rear of the Dentist surgery and accessed off Earls Road.

To the bottom of the garden area (north west boundary) there is a hedge of Leylandii and Holly which separates the site from the side of number 1 Earls Road which is the other adjacent semi-detached residential property. This adjacent property has its car parking to the side closest to the site.

The proposed new two storey, three bedroom detached dwelling is to be erected to the side of 1 Earls Road and will be situated within Earls Road and is to make use of the existing vehicular gates and part of the existing garden land including an area that is laid out as parking for the Dentist; but which the Applicant has advised:

“We currently do not use the car parking space, this has been historic and I believe our predecessor or his staff did not either. On reflection looking at the space available it is very tight regarding turning space and not sufficiently large enough to hold all the cars for the staff numbers we currently employ. There are sufficient carparking spaces available within the vicinity of our practice in addition to excellent public transport.”

This fact has been questioned by local residents who state the car park has and is used and photographic evidence has been provided to illustrate this from a number of residents.

The new detached dwelling is to have two double height bays to the front finished in gablets with the main roof hipped and finished in Rosemary tiles. The drawings show stone windowsills and decorative lintels to the windows and door to the front and timber cladding on the front gablets.

RELEVANT PLANNING HISTORY:

- 034394 Reduction in height of 10 conifer trees down to a height of 6m and trimming of conifer trees 1 to 4 (fronting Manor Court Road and Earls Road) to reduce branches overhanging footpath. Approved. 11.11.2016.
- 025747 (860090) New entrance porch. Approved. 19.03.1986.
- 021088 (790024) Residential extensions to existing house, part used as a dental surgery. Approved. 05.02.1979.
- 018619 (780569) Residential extensions (part two storey) to existing house part used as dental surgery and formation of new access. Approved. 04.10.1978.

RELEVANT PLANNING POLICIES:

- Policies of the Borough Plan 2019:
 - DS1 – Presumption in favour of sustainable development.
 - DS2 – Settlement hierarchy and roles.
 - DS3 – Development principles.
 - DS4 – Overall development needs.
 - H1 – Range and mix of housing.
 - HS2 - Strategic accessibility and sustainable transport
 - BE4 – Valuing and conserving our historic environment.
 - BE3 – Sustainable design and construction.
 - Supplementary Planning Guidance / Supplementary Planning Documents.
- Abbey Conservation Area SPD 2008.
- Sustainable Design and Construction SPD 2020.
- National Policy Planning Framework (NPPF).
- National Planning Practice Guidance (NPPG).

CONSULTEES NOTIFIED:

Cadent Gas, NBBC Environmental Health, NBBC Housing, NBBC Tree Officer, NBBC Planning Policy, NBBC Refuse, Severn Trent Water, WCC Fire Safety and WCC Highways.

CONSULTATION RESPONSES:

No objection subject to conditions from:

NBBC Environmental Health, NBBC Tree Officer and WCC Highways.

No objection from:

NBBC Planning Policy, NBBC Housing and WCC Fire Safety – Water Officer.

No objection subject to note from:

WCC Fire Safety.

No response from:

Cadent Gas, NBBC Refuse and Severn Trent Water.

NEIGHBOURS NOTIFIED:

33, 37, St Marys Abbey Church, Manor Court Road and 1 Earls Road.

Neighbouring properties were sent letters notifying them of the proposed development on the 12th November 2020. Site notices were erected on street furniture on the 25th November 2020.

NEIGHBOUR RESPONSES:

There have been 9 objections from 4 addresses some with signatories from more than one householder. The comments are summarised below:

1. The existing land described by the applicant as being vacant is currently used for storage and disposal of clinical waste of 2 large yellow clinical waste bins and 2 brown recycling bins for garden waste; where will all this be stored if the land is lost. Clinical storage will be increased if a further consultation room is provided.
2. The car park described as vacant has been used for off road parking for 3 to 4 vehicles (photograph evidence provided). The tree shown on the plans in the middle of the parking is not there. The land is currently being used for car valeting.
3. The car park described as vacant has provided a charging point for a hybrid vehicle used at the surgery. Also provides access to the surgery and for access to utility companies including delivery of skips. It provided enough room for 2 SUVs and was large enough for a climbing wall for a children's party held at the property and comfortably provided enough room for all the party goers.
4. Previously the Dentist was running as 1 surgery with 3 staff and parking was manageable. The current practice has 3 dentists and parking is now very difficult in the area. Making access for emergency vehicles into Earls Road an issue. (Photograph evidence provided of parking issues). A fourth consultation room would make parking worse.
5. The area could be used for electric charging points for cars.
6. No explanation why extra surgery room is required, there are plenty of other Dentists in the area all which serve NHS, which this Dentist does not.
7. Transport statement states there is plenty of parking within 100m for 4 consulting rooms which is simply not the case and does not highlight the fact that Manor Court Road is a busy major road with many crossing points and junctions. Parking in Manor Court Avenue is primarily taken up by staff and visitors to the large NHS facilities further up the road. People also park in the area when visiting Abbey Church, Abbey Grange Hotel and Manor Court Residential home. A fourth consultation room would exacerbate parking.
8. Earls Road and Manor Court Road is used by NHS for taking patients a walk so area should be reducing traffic and parking hazards not increasing it. The Borough Plan states that traffic congestion is high and air quality is poor across the Borough. Already pollution is a problem in the area with front windows having to remain shut.
9. The proposal will affect Conservation Area due to loss of 4 evergreen trees which are a feature in the area and more could be lost.
10. Neighbouring house has own trees that may be affected by development as they are on the border to the new house. Council should insist in tree survey.
11. Demolition of part of the existing 6-foot boundary wall will affect Conservation Area and has been feature for many years so should not be replaced with smaller wall and black gates and its removal may weaken the remaining wall.

12. Infill to allow for development is considered to be a problem in the Abbey Conservation Area Appraisal and Management Proposals of February 2008. The area has many historic properties.
13. The new dwelling will not get light to its rear.
14. What will be its new house number as there is already a 1 Earls Road, this could lead to confusion and renumbering, causing great inconvenience to existing dwellings.
15. Will affect light to existing neighbours' houses making the buildings colder and to neighbours' gardens that can currently enjoy sun light all day and washing can be dried outside, and vegetables can be grown; this will all change with the shadowing from the new house.
16. Invasion of privacy to neighbours' windows and gardens including a newly installed hot tub.
17. Possible future impacts to existing neighbours.
18. Lack of cohesion with UK government planning in relation to low emission vehicles.
19. Will reduce value and attractiveness of neighbouring properties.
20. Lack of clarity of plans supplied. Elevations are labelled incorrectly some of the drawings are very feint and tiny.
21. Proposed detached dwelling is not in keeping with either the Victorian or Arts and Crafts design of area and would expect it to have sash windows.
22. Will lead to loss of wildlife in the area, which is abundant in existing neighbouring gardens.
23. No adequate connections to drainage run in the area.
24. Application form is confusing, it states no new employment is being created but then states there will be increased parking required for employees. Also states no new access but there will be to the new property. Application also states there are no trees in the area; there are lots of trees on the site not shown on the plans.
25. Development would set precedent in area and there is plenty of new development in other areas, so house is not necessary here.
26. Possible contamination of land due to clinical waste produced by the practice.
27. Should be no disruption to neighbours during the work. Council should ensure as much of the labour is local as possible. Hours of operation should be strictly controlled, no weekend working, and thought given to construction parking and storage of materials and recycling where possible. As neighbours work from home this would be made difficult during construction.
28. New detached garage is not sufficient for modern cars. New house should have at least 2 parking spaces and even then, will mean more parking in the area with visitors to the property.
29. Neighbouring house has a pump due to ground water and which surveyor states could be made worse by the provision of a new house and the removal of the trees.
30. Compressor is to be moved closer to existing neighbouring property.
31. First floor is already used by staff that look into neighbouring houses and causes noise problems. Having a surgery upstairs will make this worse with noise of dental equipment.
32. Neighbours will not allow the extension up to their boundary.
33. Many residents are retired so their cars are in the street all day. Application states there is plenty of on street parking which is not true. Photographs

provided of such parking and these were taken during Covid when the Dentist was not run at capacity.so is not a clear picture.

34. The lack of parking means cars park contrary to the highway code close to the junction of Earls Road and Manor Court Road. There are a number of dropped kerbs in the area which restricts parking even further. Therefore, the Dentist practice should not be allowed to expand, and the new house will mean more on street parking is lost.
35. Loss of sunlight to neighbouring property will make this house much colder as it has solid walls and cannot be insulated on the outside due to the Conservation Area restrictions.
36. The increased height of the new parapet wall at 2.8m compared to the existing eaves of 2m will impact on the neighbours 2 side windows which make the affected rooms much darker as they currently enjoy sun for most of the day. It will also mean that views for the rear garden to the churchyard will be lost. It was these glimpses of trees that were reason for moving to area. In addition, it will make the side alleyway giving access to the rear of this neighbouring property much darker when moving the bins.
37. Materials should be in keeping especially as the property has restrictions on windows and doors under the Conservation area restrictions.

APPRAISAL:

The key issues to assess in the determination of this application are;

1. The Principle of the Development
2. Impact on the Conservation Area and Visual Amenity.
3. Impact on Residential Amenity.
4. Highway Safety.
5. Removal of trees on the site.
6. Flooding and Drainage.
7. Conclusion.

1. The Principle of Development

In relation to the extension and change of use to the Dentist

The NPPF paragraph 80 states that decisions should help businesses to invest and expand. Similarly, paragraph 192 also states this but says whilst businesses should not have unreasonable restrictions placed on them that the Applicant should work with the Council to ensure suitable mitigation for any adverse effect within its vicinity.

The proposed change of use of the first floor of 35 Manor Court Road from residential to Dental practice use is considered to be acceptable in principle given that the ground floor is already in use as a Dental practice. The Council's Legal Team have been consulted and the use as a Dentist is historical and it appears that the use has been established for part dwelling/part Dentist for many years. As the access to the first-floor flat is within the Dentist, it is considered that there are currently no restrictions on how the two-floors can be interchanged and indeed there is no current restriction on how many rooms can be used as surgery/consulting practice rooms. Therefore, even if the proposal is refused the uses could interchange within the building and more consulting rooms could be added within the building.

Nevertheless, if this current application is approved the layout and number of consulting rooms could be conditioned and to which the Applicant has agreed to. This

provides potentially a betterment to the existing circumstances in terms of number of consulting rooms and thus would prevent future intensification of the commercial use.

In relation to the new proposed house

The proposed dwelling would be within an existing residential area. Similarly, to the NPPF, Policy DS1 of the Borough Plan 2019 states there is a presumption in favour of sustainable development and that planning applications that accord with the policies in the Borough Plan 2019 will be approved without delay unless material considerations indicate otherwise. The location is considered to be sustainable as it is close to services within the District Centres of both Abbey Green and Queens Road as well as Nuneaton Town Centre. In addition, there are buses running within the area.

Policy DS2 of the Borough Plan 2019 identifies that Nuneaton has the primary role of housing development and most development should be directed to Nuneaton. Policy DS3 refers to development being acceptable within the settlement boundaries subject to there being a positive impact on amenity, the surrounding environment and local infrastructure. The proposed site is within the settlement boundary for Nuneaton and is therefore considered to be an acceptable location in principle.

Policy DS4 of the Borough Plan sets the requirements for the number of housing in the Borough. The dwelling proposed is not accounted for and will therefore be classed as a Windfall site, for which an amount is required within the Plan, although it is likely that Windfall sites will account for more housing than previously estimated. The site could not be considered as Brownfield as it is garden land which is specifically excluded as Brownfield within the NPPF.

Policy H1 of the Borough Plan refers to the range and mix of housing using the most up-to-date Strategic Housing Market Assessment (SHMA), as well as the characteristics of the surrounding area. The 2013 SHMA indicates there is greatest need in the Borough for three-bedroom properties and this proposal is consistent with this.

Policy HS2 of the Borough Plan requires a modal shift to non-car use. Due to the site's sustainable location, different modes of transport could be used by the future occupiers.

The principle of the development in this location is therefore acceptable and these factors weigh significantly in favour of the application.

2. Impact on the Conservation Area and Visual Amenity

As the site is in the Abbey Conservation Area, the Planning (Listed Buildings and Conservation Areas) Act 1990 is relevant. This Act at section 71 places a duty on Local Authorities to publish proposals for the preservation and enhancement of such areas.

Paragraph 200 of the NPPF states that:

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. Proposals that preserve those elements of the setting that make a positive contribution to the asset (or which better reveal its significance) should be treated favourably.

Similarly, BE4 of the Borough Plan 2019 refers to the valuing and conserving of the historic environment and that development proposals which sustain and enhance the Borough's heritage assets will be approved. Development affecting a designated or non-designated heritage asset and its setting will be expected to make a positive contribution to its character, appearance and significance.

The Abbey Conservation Area Appraisal and Management Plan Proposal February 2008 paragraph 3.1 states that Earls Road is considered to be of special architectural and historic interests because of its high degree of unity in scale, form and materials and paragraph 5.2.2 recognises the problems posing threats to the integrity of the Conservation Area including inappropriate form and scale of development. It states in paragraph 4.2.12 that other than isolated infill, post war development has not been extensive. Infill development is stated as being a potential threat within this document in paragraph 5.2.3 and states that development of long gardens on Manor Park Road should be resisted.

Number 35 Manor Court Road has undergone some unsympathetic changes in the past. The application site falls within a character zone stated as having no strongly identifiable character of its own, but it derives its mixed character from the adjacent areas that it connects to.

In relation to the extension and change of use to the Dentist

The physical change of use will not have any visual impact on the Conservation Area.

The demolition of the unsympathetic rear extensions will be of benefit to bring the building back to more in keeping with its original form.

The appearance of the proposed side extension looking from the footpath in Manor Court Road will be similar to the existing extension having a hipped roof which will mirror the existing property, although the proposed new roof will be slightly taller than the existing side extension due to the provision of a parapet roof. No materials have been specified for this extension on the drawings, but this could be conditioned.

In relation to the new proposed house

The proposed new house is an opportunity to enhance this part of the Conservation Area through a high-quality design that reflects the significant elements of the Conservation Area.

Paragraph 4.6 of the Appraisals document states how important quality materials are in the area. This includes roof tiles, stone window dressings and terracotta ornamentation. The Appraisal notes how many roofs within the Conservation Area retain their original red plain clay roof tiles, ridge and bonnet tiles, and finials.

The drawings show the new house roof is to be finished in Rosemary tiles but does not refer to bonnet tiles for the edges of the hipped roofs, but this can be conditioned and is considered appropriate as both neighbouring houses have this feature. The plans also show bay windows with stone windowsills and decorative stone lintel heads to the windows and front door with the front of the house finished in brickwork and which includes a chimney. These features will all be in line with the character of the area. The bays either side of the front door provide a balance and whilst many of the other

houses in the area have the doors to the side of a single bay, these existing semi-detached properties mirror each other to provide a visual balance. Similarly, the terraced properties in the area have bays often with an enclosed entry access to the rear between the bays again to provide symmetry to the front elevations.

Paragraph 4.8 of the Appraisal similarly refers to historic detailing/ materials and that lesser quality materials have fared worse. It also states that front boundary walls have been replaced with inappropriate materials such as concrete blocks instead of the original brick, together with the loss of front gardens and boundary walls to provide hard standing for cars.

The proposal requires the removal of some of the existing 1.8m high brick wall boundary, but this is not original and appears to be of newer materials than the building. Providing the part of this which is to be demolished is replaced with a quality boundary wall feature, it is considered that this will not be detrimental to the Conservation Area. The plans show a dwarf brick wall with pillars to the new house, and this could again be conditioned if approved.

Policy BE3 of the Borough Plan 2019 in line with the Council's Sustainable Design and Construction Supplementary Planning Document (SPD) 2020 requires the need for a high standard design to contribute to local distinctiveness and character by reflecting the positive attributes of the neighbouring area. This is by respecting the sensitivity to change of the generic character types within each urban character area. The new proposed design together with the use of quality material can meet this Policy. This Policy also requires the built form and layout to be reflected. The proposal is on the same building line as the neighbouring property and is therefore considered to meet this requirement.

The new dwelling exceeds the Nationally Described Internal Space Standards set out within the Council's SPD together with the provision of private amenity space.

In conclusion, it is considered that the application is acceptable both in terms of impact on the Conservation Area and on visual amenity.

3. Impact on Residential Amenity

The Council's Sustainable Design and Construction SPD 2020 Section 11 refers to residential amenity to both existing and future occupiers.

In relation to the extension and change of use to the Dentist

The application has been amended so there will be no more consulting/surgery rooms than existing so there will be no more coming and goings to affect neighbours, and the Council's Environmental Health Team have no objection. The room that is proposed to be the new consulting room at first floor is facing onto the side garden onto Earls Road and is therefore separated from the adjacent houses and looks onto Manor Court Road and Earls Road.

The residential property of number 33 Manor Court Road is closest to the extensions to be demolished and to the proposed new extension. The demolition of the buildings to the rear could only have a positive impact on this neighbouring property although

these building are over 2m from the boundary with this neighbour so the benefit will be minimal.

In relation to the new side extension there is already an extension up to the side boundary of 33 Manor Court Road. This is to be made deeper than the existing extension so will be along more of this neighbour's boundary. The ridge height will be increased from the current 3.5m to 3.9m but the ridge is set in from this neighbour. The eaves height is to increase as the new extension is to have a parapet wall with a hidden gutter and so the top of the parapet will be approximately 500mm taller at approximately 2.8m which will be adjacent to this neighbours' walkway. The new depth of this side extension extends to the depth of the main house of this neighbouring property; therefore, it would have no impact on the front or rear habitable windows. There are two small windows to the side of this neighbouring property which will be affected; these are secondary windows to the front lounge and rear dining room and the main windows to these rooms are to the front and rear of the property and which are not affected. Secondary windows cannot be protected under the Council's SPD. The neighbour's property is separated from this extension by their own pedestrian walkway to the side of the house.

The existing first floor side windows of 35 Manor Court Road looking onto the side of 33 Manor Court Road is to a bathroom and boxroom to the existing flat. There will be no new windows to this elevation but if approved these windows would be to a toilet for the commercial element and also to a small office. It is debatable whether the use as such would be more intensive than if used as a bathroom and boxroom in a dwelling but could be conditioned to ensure they are obscure glazed and have no opening lights less than 1.7m from the floor level, which would mitigate any increased loss of privacy and to an extent assist with any noise emissions.

There is a note on the proposed plan to say a small storeroom titled as 'compr' is to be added to the first floor on the side facing 33 Manor Court Road. It is assumed that this will be a compressor for the new equipment at first floor. This can be conditioned to ensure that any new external plant or ventilation requires approval via condition.

In relation to the new proposed house

There will be three houses that will be impacted the most. The adjacent house to the new dwelling is 1 Earls Road which will be to the side of the proposed new house and number 33 Manor Court Road which will have its side garden boundary backing onto the rear of the proposed new dwelling and rear garden. Number 37 Manor Court Road is across the road.

In reference to the impact to 1 Earls Road

The new property will be to the side of this and will not project any further back than this property. The side of this neighbouring property is set off the boundary of the site by 4.4m and has parking to the side bounding the site. The proposed property is to be set off a further metre from this shared boundary. There will be no impact to the front or rear habitable windows of 1 Earls Road. Whilst there is a first-floor side window, this is not classed as a habitable window.

The existing parking to the side of this property is open to the front so is not private amenity space. Beyond this parking space there is a fence so there is some private

rear amenity to this side. Nonetheless, the main amenity space would always be considered to be to the rear of the property closest to the house and which would not be impacted upon.

There is to be one window at both ground and first floor to the new dwelling and which will be a kitchen window at ground floor and en-suite window at first floor. As these windows are only overlooking the parking area it is considered that these are acceptable especially as the ground floor window will largely have restricted views due to the existing wall. However, it is considered that ensuring these are obscure glazed and having no openings below 1.7m from the floor level means that privacy can be maintained.

In relation to the impact to 33 Manor Court Road.

The new dwelling will be at 90 degrees to this and will be in line with part of the side of this house and part of its gardens. Rear first floor windows to the new dwelling overlooking onto 33 Manor Court Road are to a bathroom and en-suite and are therefore not considered to be habitable windows and are likely to be obscure glazed. These could be conditioned to be retained as obscure glazed in level 3 glazing or above and to have no opening lights below 1.7m from the floor level. Permitted development could also be removed for the creation of any new openings to the rear at first floor. In any case there will be 7.8m from the rear of the new property to this neighbour's garden. The Council's SPD paragraph 7.6 states that the minimum distance is 7m between new habitable windows and neighbouring private amenity space, therefore even if there had been habitable windows at first floor, they would have complied with the Council's distance standards.

Whilst there will be habitable windows to the proposed ground floor, views will be protected by the boundary treatment. Therefore, there will be no direct overlooking from windows.

It is noted that the proposed rear wall of the new dwelling is in line with number 1 Earls Road. Number 1 Earls Road already overlooks the garden of 33 Manor Court Road and is likely to have first floor habitable windows to the rear, although the views would be towards the bottom of 33 Manor Court Road whereas the new house will be closer to the amenity space enjoyed immediately adjacent to the rear of 33 Manor Court Road.

In terms of the impact to windows of this neighbouring property none of the existing windows that face down the garden will be impacted but there will be some impact to the windows at the rear which are side windows as they will face onto the new property and its parking area. The nearest ground floor side window is to the kitchen and serves the dining area of the kitchen this is the largest kitchen window. To the side of this there is a smaller window over the kitchen sink. Beyond this is a small window to a lobby which is not classed as a habitable room so cannot be protected. The main kitchen window will not largely be impacted as it is not in line with the new building so will have views to the side. The second, smaller kitchen window may be slightly impinged and have some views of the rear wall of the new house but there will be views beyond. The SPD paragraph 11.6 states that ground floor windows should be 14m from a two-storey wall to a ground floor window and in this case the distance is 12.3m. Though, because the new wall is not directly in line with all of the views of

these two kitchen windows it is considered adequate mitigation and would be difficult to defend if refused on this basis, especially as the larger kitchen window will still have clear views. There is also a rooflight to a toilet of this neighbouring property, but this cannot be protected in terms of overlooking.

At first floor on the side wall, this neighbour's window closest to the main part of the house serves a multipurpose as an office/spare/dressing/sitting room and which is classed as a habitable window and has to be protected. However, this window will have views between 35 Manor Court Road and the side of the new dwelling. In addition, the distance from the rear wall of the new house to the first-floor existing windows is 12.3m. The Council's SPD states that the distance from a first-floor habitable window to a two-storey blank wall should be 12m and therefore the proposal complies with this. The second first floor side window is to a bathroom which may be an extension and in any case as it is a bathroom window it cannot be protected. There is also a smaller window to the bathroom to the rear.

In relation to the impact to 37 Manor Court Road

Any views would be across Earls Road and the distance is over 19m. Normally the distance standards for window-to-window distance is 20m (paragraph 11.4 of the SPD). Paragraph 11.5 of the SPD states that these distances can be increased where the location is across a road or open space and which is the case in this instance.

Residential Amenity for the residents of the new dwelling

The rear of the existing building of 35 Manor Court Road will be across the entire east side of the new dwellings garden and will provide some sense of enclosure and shadowing to their new rear garden. As the parking for the new dwelling is to this side, it means there is a gap of 4.6m between the two properties which will mitigate some of the impact to the garden. The only small window at first floor at 35 Manor Court Road that would look onto this new property is to be blocked up and which could be conditioned. The views from ground floor windows would be protected by an appropriate boundary treatment which could also be conditioned.

In terms of the impact to the new dwelling windows, the window of bedroom 1 will overlook the garden area of the Dental practice which is considered acceptable. The new nearest kitchen window is infringed slightly at 45 degrees by the existing building of 35 Manor Court Road, but this is 8.4m away lessening the impact and in any case, this is a secondary window to the kitchen and the main window to the kitchen is not infringed.

The first-floor side window to the multiuse room at 33 Manor Court Road will overlook this new garden at a distance of 4.5m and should be at least 7m (paragraph 11.6 of the SPD) in order not to provide overlooking. Nevertheless, this is not to the main part of the new garden which would be immediately adjacent to the rear of the new dwelling which is off set and more than 7m away. In addition, there would be an element of buyer beware.

It is possible that there will be some disturbance from the business use of 35 Manor Court Road to the new dwelling. However, the Council's Environmental Health Team have not objected to this and again to a certain extent it is buyer beware as the business use already exists. In addition, by providing a condition on any new approval

to restrict the number of consulting rooms at the Dentist will mean that the intensity and therefore noise and disturbance can be restricted.

In conclusion, it is considered that the new dwelling adjacent to the Dentist is acceptable in terms of the impact to the new residents subject to conditions. There will inevitably be some impact to these existing neighbours as they have enjoyed the open views of a garden up to now and enjoyed sunlight from the south east. Inevitably a new two storey house will reduce the amount of sunlight and provide some sense of new enclosure. However, the new house and alterations to the Dentist largely complies to the Councils' SPD or there are mitigating circumstances that make it acceptable and therefore refusal on the impact of residential amenity grounds would be difficult to defend at Appeal.

4. Highway Safety

WCC Highways have recognised that on street parking in the area is of high demand and that the site is on the junction where parking close to the junction could lead to the obstruction of visibility.

WCC Highways originally objected when the application was for additional consulting rooms as they were concerned about the intensification of the use which would result in more patients and staff and subsequently more on street parking. In normal times they would have requested a parking survey but due to Covid this is not possible as current surveys would not reflect normal on street parking.

Highways also had objections about retaining the existing gates, visibility splays and width of drive for the new dwelling.

A car parking feasibility plan of cars that could be parked on the existing car park at the property was submitted by the Agent showing that only two cars could be safely parked within the existing car park whilst able to manoeuvre in order not to reverse out into the street. Neighbours' photographs seem to indicate that more cars have been parked in the car park and it is likely that at least 3 cars could potentially park within it. The plans show a tree within the area of the car park which some neighbours state is not there, the Arborist has not identified this as a tree in the Tree Report so is likely to be a smaller bush or shrub. Notwithstanding this, Highways did not directly object to the loss of the existing parking area.

The previous planning history on the site included a planning application for the access to this car park and was conditioned to maintain the car park (planning reference 790569). Discussions with the Council's Legal Team clarified that its retention in perpetuity could not be guaranteed or enforced by this condition.

The application scheme was amended to remove the gates and provide the correct visibility splays and drive width for the new dwelling and removed the additional consulting surgery room. Highways still had concerns if the number of surgery rooms could be increased in the future without permission as they considered this could increase the intensity of the use and lead to more on street parking.

Discussions were again held with the Council's Legal Team and it concluded that as the use currently stands, additional surgery rooms within the building could be provided without planning permission.

This objection was discussed with the Agent who agreed that a condition could be applied if approved to ensure that the layout remained the same as what is proposed and that the number of consulting rooms will remain at 3. WCC Highways subsequently removed their objection subject to this condition and other conditions about ensuring visibility to the access to the new dwelling.

In conclusion, it is considered that the loss of the existing parking area cannot be objected to especially as WCC Highways have no issues with this. By having a new condition to limit the number of consulting rooms at the Dentist an approval could actually provide a betterment in terms of highways by ensuring the intensity of the Dentist is not increased further under permitted development. Highways do not object to the new dwelling or have any highway safety issues associated with the new dwelling.

5. Removal of trees on the site

Despite the application stating no trees were impacted or were in close proximity to the site, the site visit showed this was not the case and therefore an Arboricultural Report, Constraints Plan and Tree Protection Plan was requested and received.

The proposal requires that one Leylandii (shown as T1 on the Arboricultural Assessment and Tree Constraints Plan) is felled to allow for the proposed side extension.

A group of Leylandii and Holly located in close proximity to the new house and to the side of 1 Earls Road also require felling (shown as G1 on the Arboricultural Assessment and plans). The trees that are to be felled are shown in the Assessment as Classification C of poor quality and appearance and due to previous works. Council Officers agree that these trees are not considered to be worthy of a Tree Preservation Order.

There are also a number of trees in the existing garden of 35 Manor Court Road on the corner of Earls Road and Manor Court Road. The Tree Report states that these require works including the removal of further Leylandii (all Class C trees) to enable a Wellingtonia and Monkey Puzzle tree (both which were recorded as B Classification which are trees of moderate quality) to develop fully. The works to these trees are not necessary for the development within the application and the Agent has therefore been advised that these require a separate formal application for works to trees within a Conservation Area.

To ensure that the existing remaining trees are protected during the work which includes the trees within the neighbouring garden and street tree, it is considered that a relevant condition is appropriate for details to be provided of root protection fencing which would then need to be implemented on site for the duration of the work.

In conclusion it is considered that the trees to be removed are acceptable and that the remaining trees can be protected via condition.

6. Flooding and Drainage

The property is in Flood Zone 1 which is the least likely to flood and neither the WCC Flood Risk Team nor the Environment Agency have been contacted as the development is not a major application. Severn Trent Water have been contacted but have not responded and any drainage connections will need to be approved by Building Regulations. Therefore, flooding and drainage is considered acceptable for this application.

7. Conclusion

In conclusion, the NPPF promotes a presumption in favour of sustainable development, and in line with the Planning and Compulsory Purchase Act 2004 states that decisions should be made in line with an adopted Development Plan, unless material considerations indicate otherwise.

It is considered that the principle of the proposed development is acceptable and represents sustainable development in an urban area. The proposal would not be harmful to the Conservation Area or to visual amenity as the design of the proposed dwelling reflects the character of the surrounding area providing good quality materials are used.

The impact to residential amenity has carefully been assessed and whilst there is no doubt there will be some impact, this is largely within guidelines set out within the Council's Sustainable Design and Construction SPD (2020).

In addition, neither WCC Highways nor the Council's Environmental Health have objections to the application subject to conditions and in fact by providing new conditions to the property, the intensity of use in terms of limiting the number of consultation rooms to 3 can be regulated.

Flooding and drainage are not considered to be an issue and the removal of some of the trees on the site are considered acceptable and protection to the remaining trees can be conditioned.

It is considered that the proposed development would be in accordance with policies within the Borough Plan and the NPPF and represents sustainable development in an urban area and which should therefore be approved subject to conditions.

REASONS FOR APPROVAL:

Having regard to the pattern of existing development in the area, relevant provisions of the development plan, as summarised above, and the consultation responses received, it is considered that subject to compliance with the conditions attached to this permission, the proposed development would be in accordance with the development plan, would not materially harm the character or appearance of the area or the living conditions of neighbouring occupiers and would be acceptable in terms of traffic safety and convenience.

SCHEDULE OF CONDITIONS:

2. The development shall not be carried out other than in accordance with the approved plans contained in the following schedule:

Plan Description	Plan No.	Date Received
Site Location Plan	3000	8th September 2020
Existing and Proposed Site Plans	3100 Rev D	4th February 2021
Proposed Floor Plans	3400 Rev C	7th December 2020
Proposed Elevations	3500 Rev D	6th May 2021
Arboricultural Report	9th December 2020	21st December 2020
Tree Constraints Plan	Dec 2020	21st December 2020
Tree Protection Plan	Dec 2020	21st December 2020

3. No development including site clearance, shall commence until details of protective fences (including details of the protection for neighbouring trees labeled as G3 in the submitted Arboricultural Method Statement and Tree Protection Plan within the adjoining garden of 1 Earls Road) have been submitted and approved in writing by the Local Planning Authority. No tree or hedgerow other than T1 and G1 of the Arboricultural Method Statement and Tree Protection Plan shall be removed or have work carried out to unless otherwise agreed. No construction including site clearance shall commence until the approved measures for the protection of the trees and hedges have been implemented in full and retained during the course of development. The submitted information must include details of a no dig methodology where necessary to conform to BS5837:2012.

4. No development including site clearance shall commence until a Dust Management Plan has been submitted to and approved by the Local Planning Authority. The details approved shall be implemented during site clearance and development.

5. No development of the new dwelling shall commence until a positive means of drainage to ensure that surface water from the new vehicular access does not discharge onto the highway shall be submitted to and be approved in writing by the Local Planning Authority. Such details as may be approved shall thereafter be installed and operational prior to first use and thereafter be retained.

6. No development of the new dwelling shall commence until details of site levels and finished ground floor levels (to enable comparison to surrounding properties) have been submitted to and approved in writing by the Local Planning Authority. The development shall not be carried out other than in accordance with the approved details.

7. No demolition/construction work or deliveries for such, shall be carried out other than between the hours of 08:00 until 18:00 Monday to Friday, 08:00 until 13:00 Saturdays and at no time on Sundays or Bank Holidays.

8. No development shall commence until details of an enclosed area for the storage of the domestic and clinical bins to the Dentist Surgery has been submitted and approved in writing by the Local Planning Authority and the approved details thereafter implemented on site in perpetuity.

9. No development above ground floor slab level of the new dwelling or Dentist shall commence until full details and samples of materials proposed to be used in the external parts of the new buildings (including bricks, windows, doors, roof tiles including bonnet hip tiles and front boundary wall have been submitted to and

approved in writing by the Local Planning Authority. The development shall not be carried out other than in accordance with the approved details.

10. The new dwelling shall not be occupied until the proposed parking and turning facilities have been laid out and constructed in accordance with the approved plans and thereafter be set aside and retained for those purposes.

11. The new dwelling shall not be occupied until pedestrian visibility splays of at least 2.4 metres x 2.4 metres have been provided on each side of the vehicular access. (These measurements are taken from and along the highway boundary.) These splays shall thereafter be permanently retained and kept free of all obstacles to visibility over 600mm in height above the level of the public highway footway.

12. The new dwelling shall not be occupied until the boundary walls and pillars 2.4 metres on either side of the access have been lowered to a maximum height of 600mm in accordance with the approved plan 35 3100 Rev D. These boundary features shall thereafter be permanently retained at a maximum height of 600mm above the level of the footway.

13. The new dwelling shall not be occupied until the vehicular access has been resurfaced with a bound material for a minimum distance of 7.5 metres as measured from the near edge of the public highway carriageway.

14. The new dwelling shall not be occupied until full details of the boundary treatments including new walls and fences (to include details of hedgehog passes) have been submitted to and approved in writing by the Local Planning Authority. The new dwelling shall not be occupied until the agreed boundary treatment has been carried out in accordance with the approved details.

15. No gates, barriers or means of enclosure shall be erected across the new vehicular access within 5.5 metres of the highway boundary. All such features erected beyond that distance should be hung to open inward away from the highway.

16. The internal layout of the Dentist Surgery hereby permitted shall be laid out in accordance with the approved plan 354 3400 Rev C to provide a total of 3 consulting practice rooms and there shall be no increase from 3 consulting practice rooms in the future within the property.

17. The new dwelling shall not be occupied until the property is fitted with an Electric Vehicle charging point. In addition, at that time, the developer is to ensure appropriate cabling is provided to enable increase in future provision.

18. The approved new first floor layout of the Dentist Surgery shall not be occupied until the existing windows to the side facing 33 Manor Court Road are fitted with obscure glazing of level 3 or greater and any opening lights to these to be at least 1.7 metres above the finished floor of the rooms they serve. In the event this requires replacement windows, details are to be submitted and approved in writing by the Local Planning Authority prior to installation. The windows are to be retained in obscure glazing level 3 with any opening lights above 1.7 metres from the floor level in perpetuity in accordance with these details.

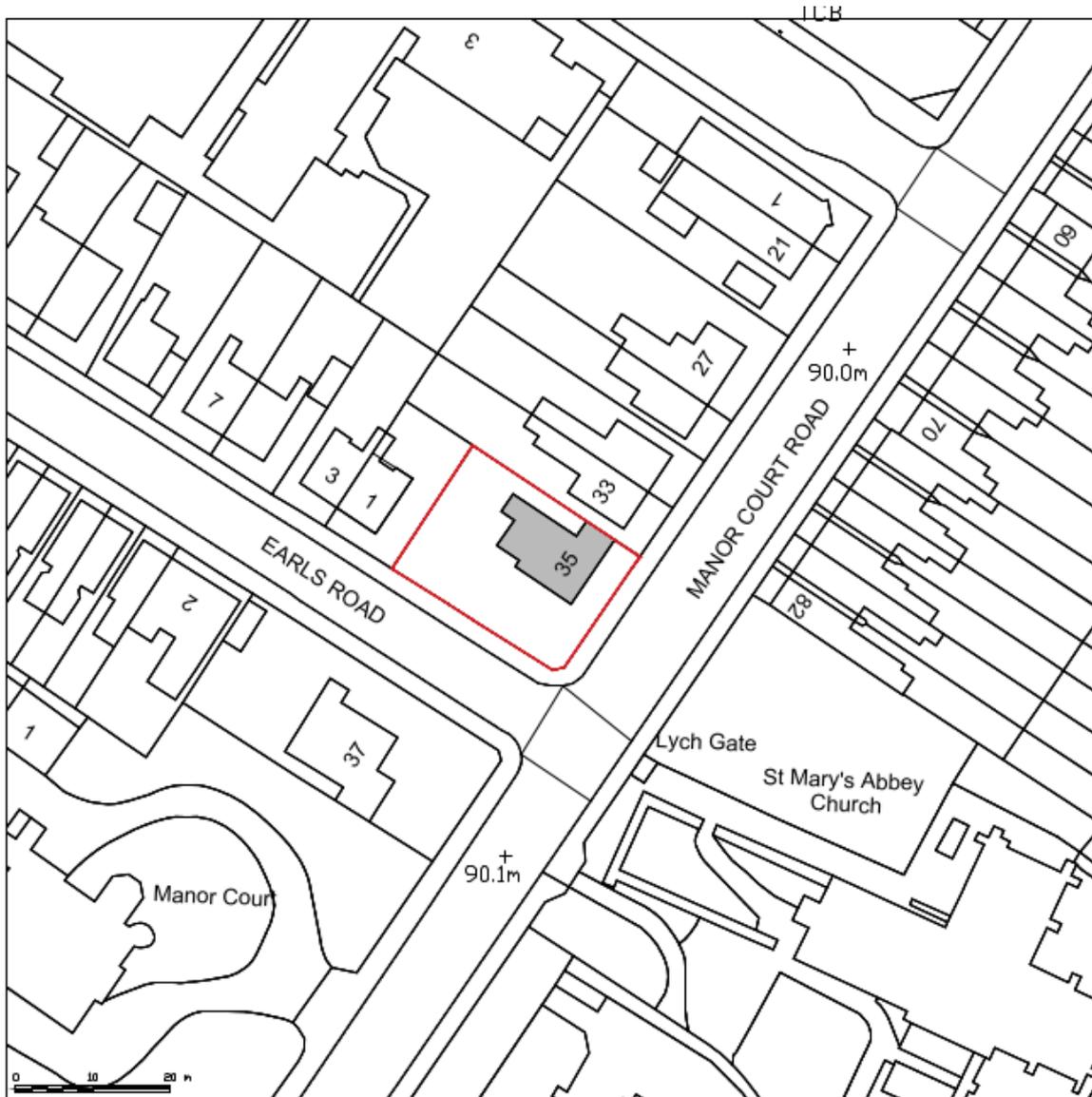
19. No external plant and ventilation shall be fitted at the Dentist until the details are submitted and approved in writing by the Local Planning Authority. The approved plant will be fitted and maintained as approved in perpetuity.

20. The new dwelling shall not be occupied until the first-floor office window of the Dentist facing bedroom 1 of the new dwelling is blocked up and made good to match the existing building.

21. Should the new dwelling be fitted before occupation with a gas-fired boiler, installations should be low NOx emission type that meet a minimum standard of less than 40 mg NOx/kWh.

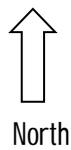
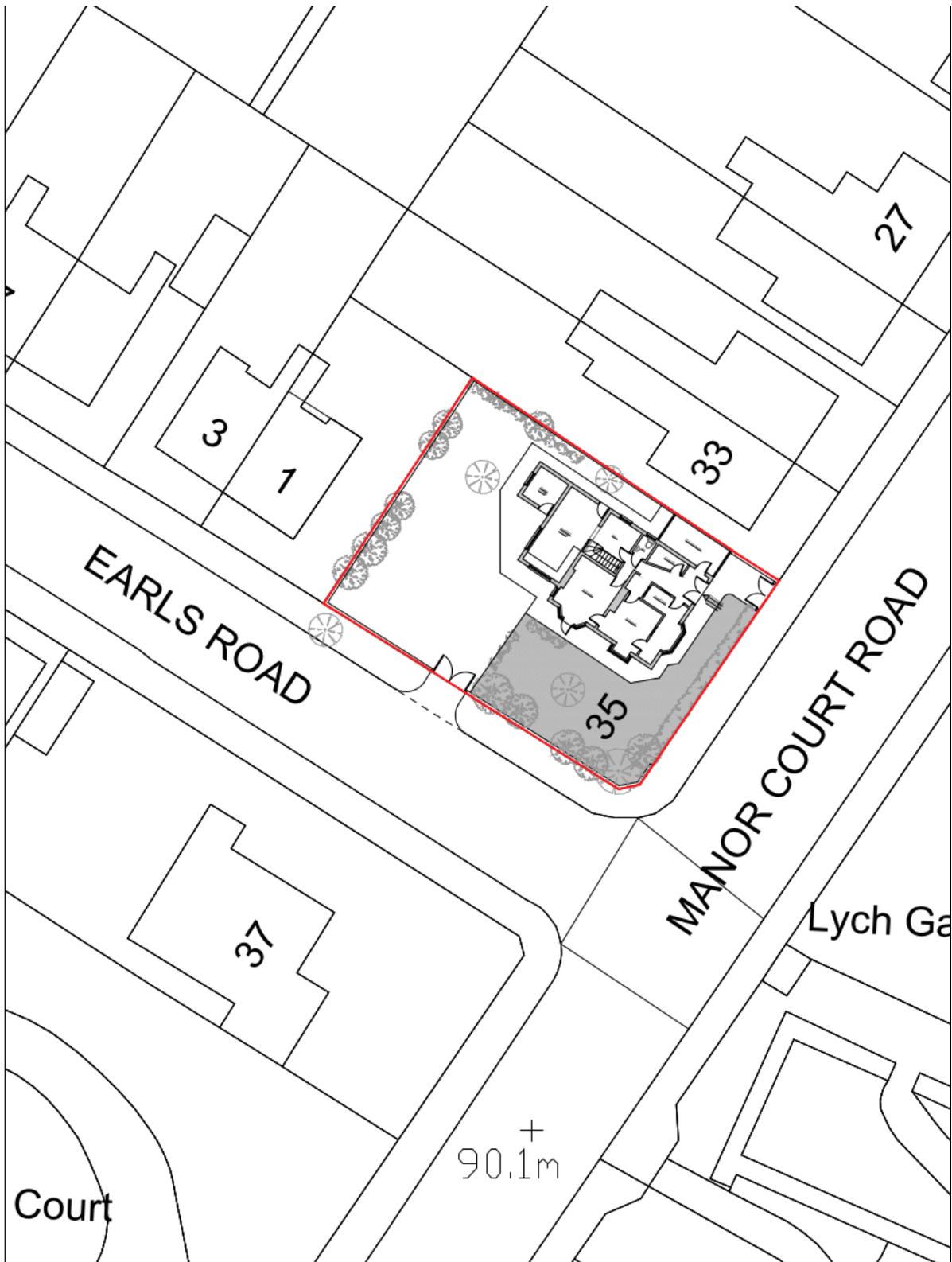
22. The proposed first floor windows to the new dwelling to the rear and to the side facing 1 arls Road shown on the approved plans are to be fitted with obscure glazing level 3 or above and any opening lights to be at least 1.7 metres above the finished floor level of the rooms they serve. The windows are to be retained in perpetuity in accordance with these details.

23. No new first floor window openings are to be provided to the rear elevation of the new dwelling other than those shown on the approved plans.

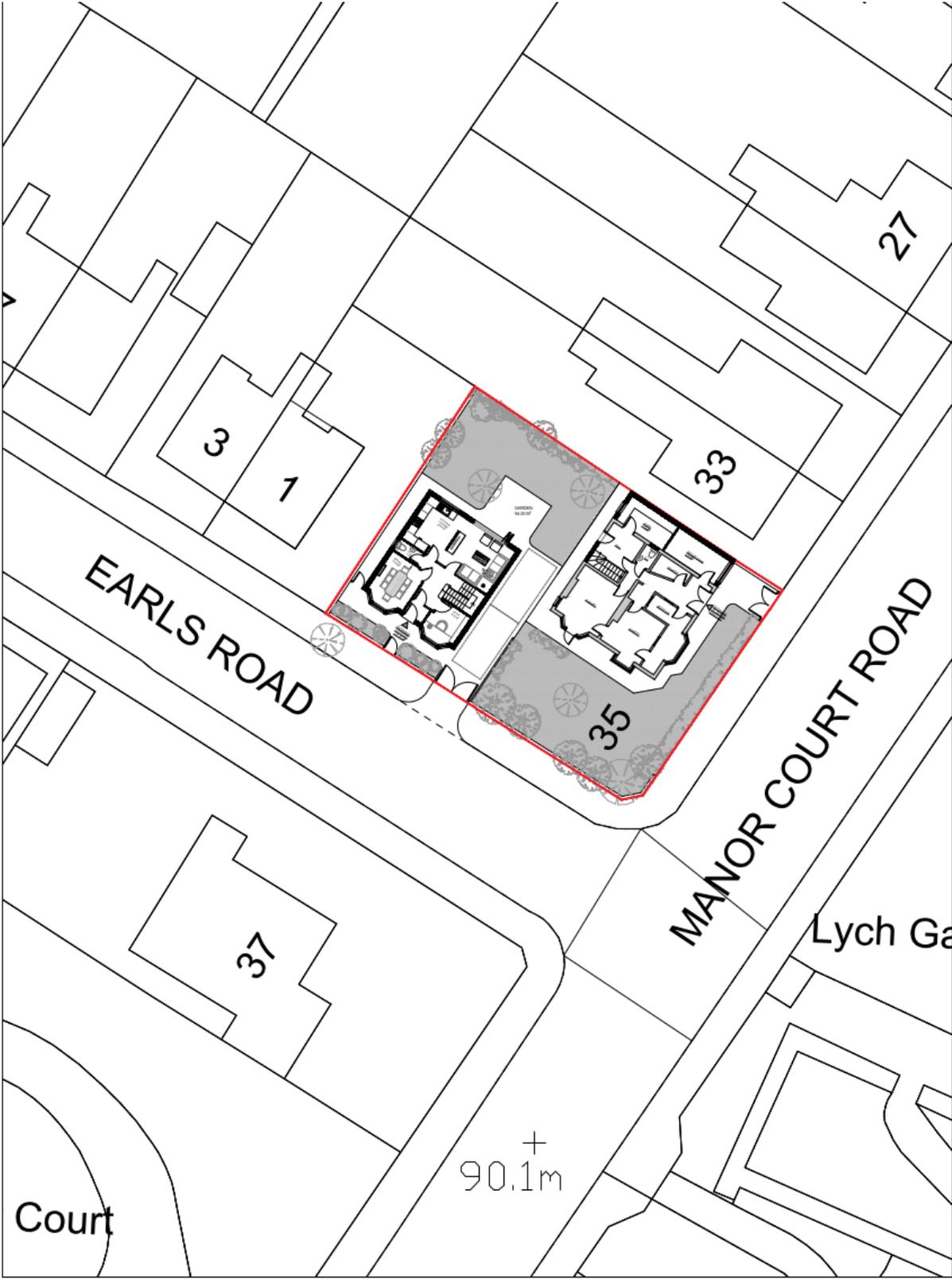


Location Plan

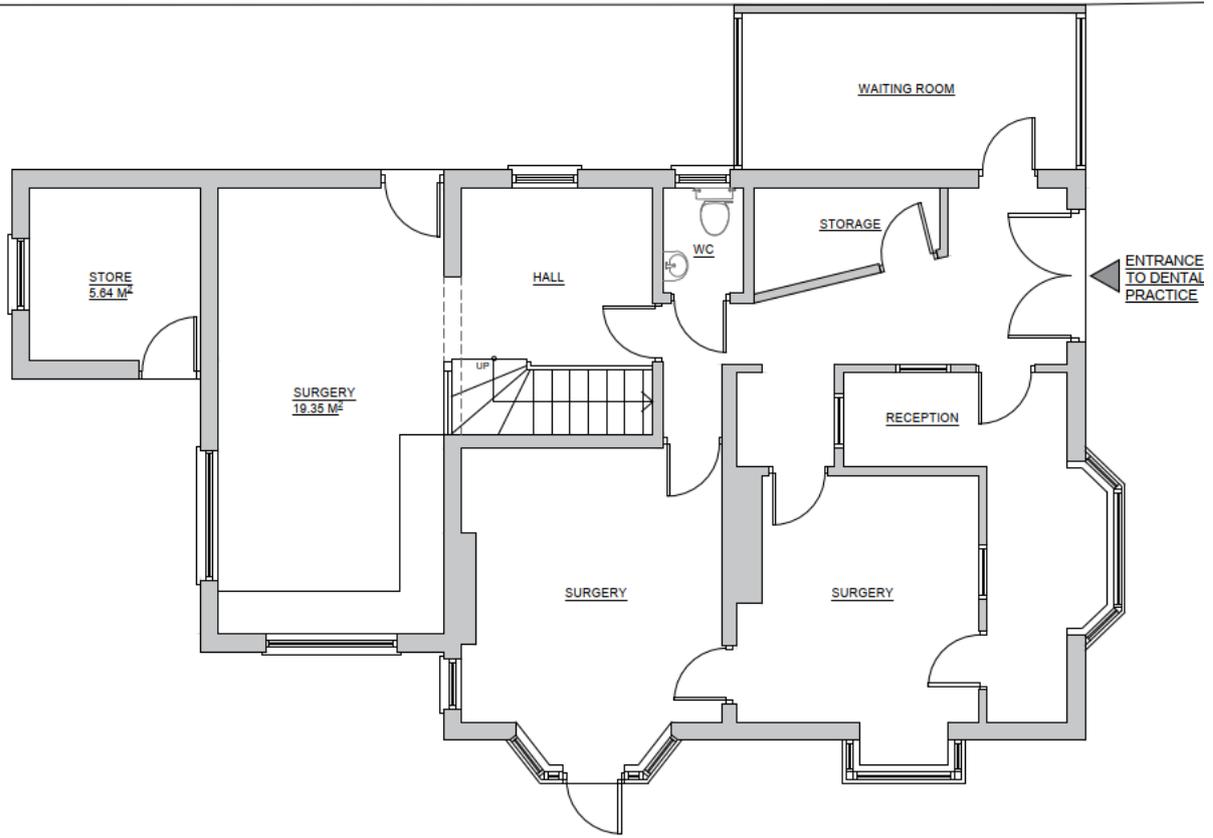




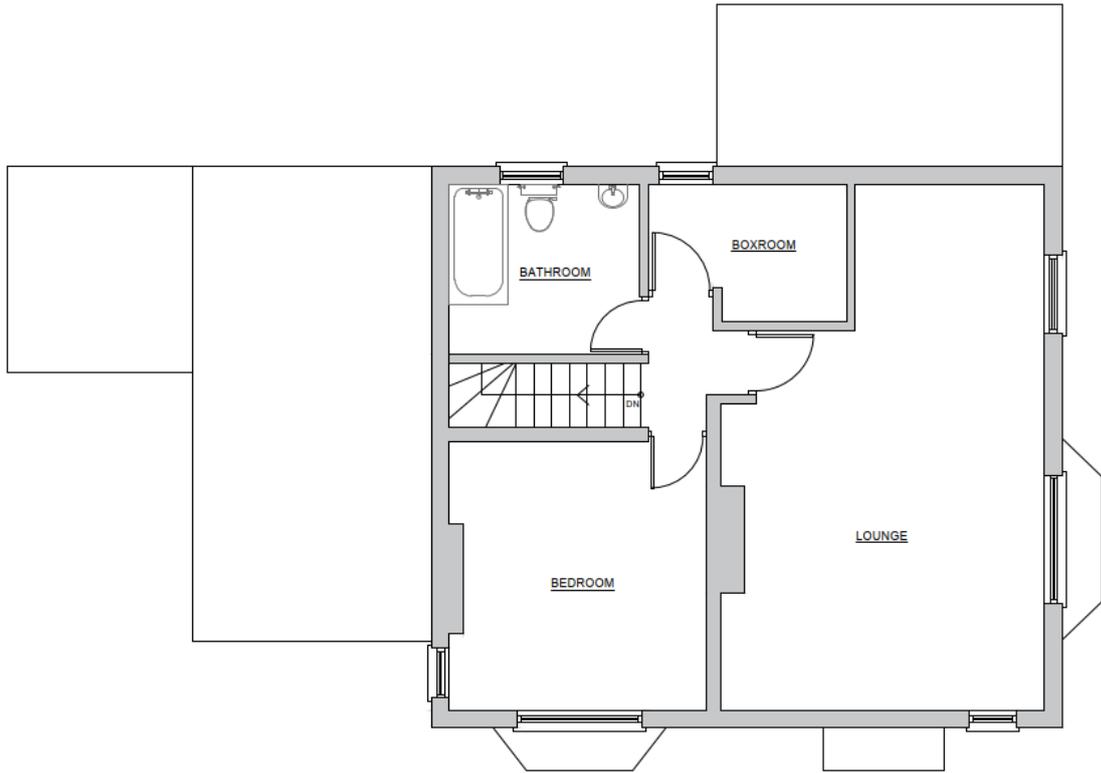
Existing Site Plan



Proposed Site Plan



Existing Ground Floor Plan



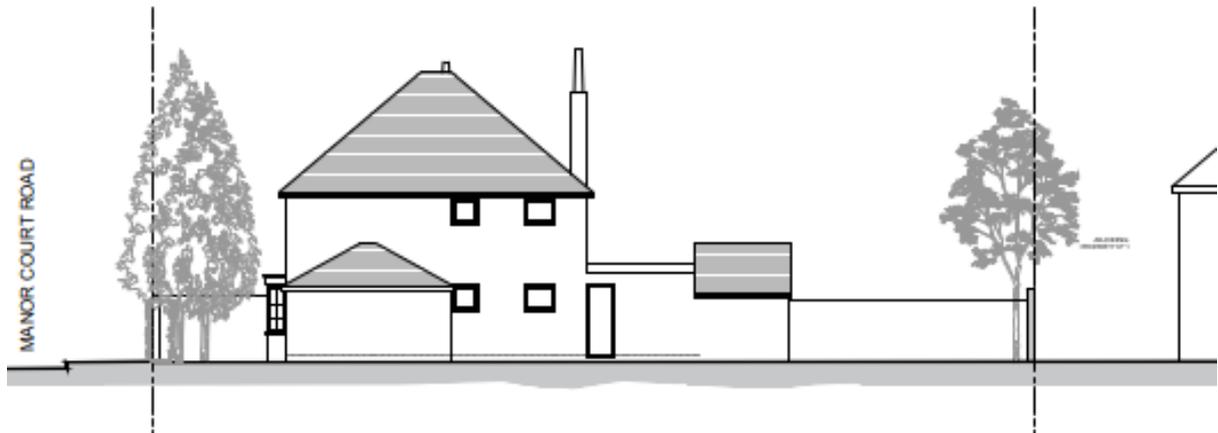
Existing First Floor Plan



Existing Side Elevation of 35 Manor Court Road viewed from Earls Road.



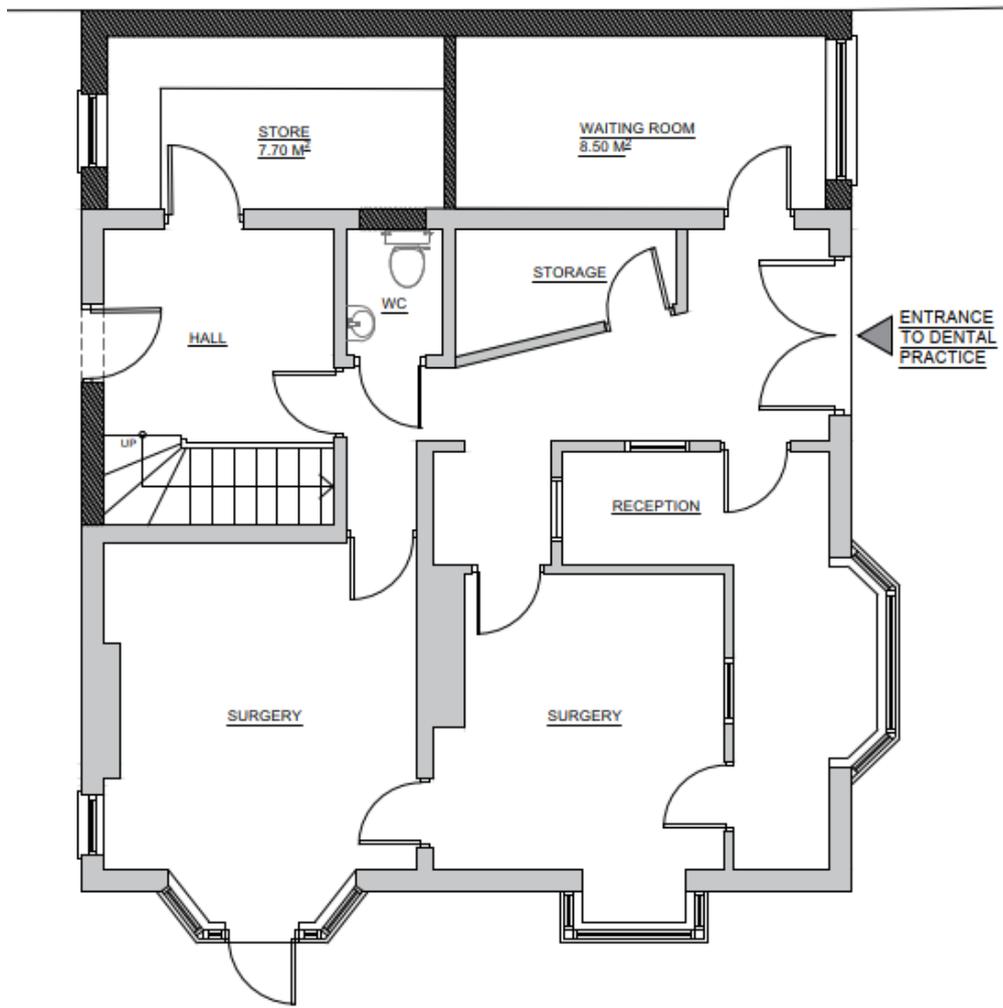
Existing Front Elevation of 35 Manor Court Road viewed from Manor Court Road.



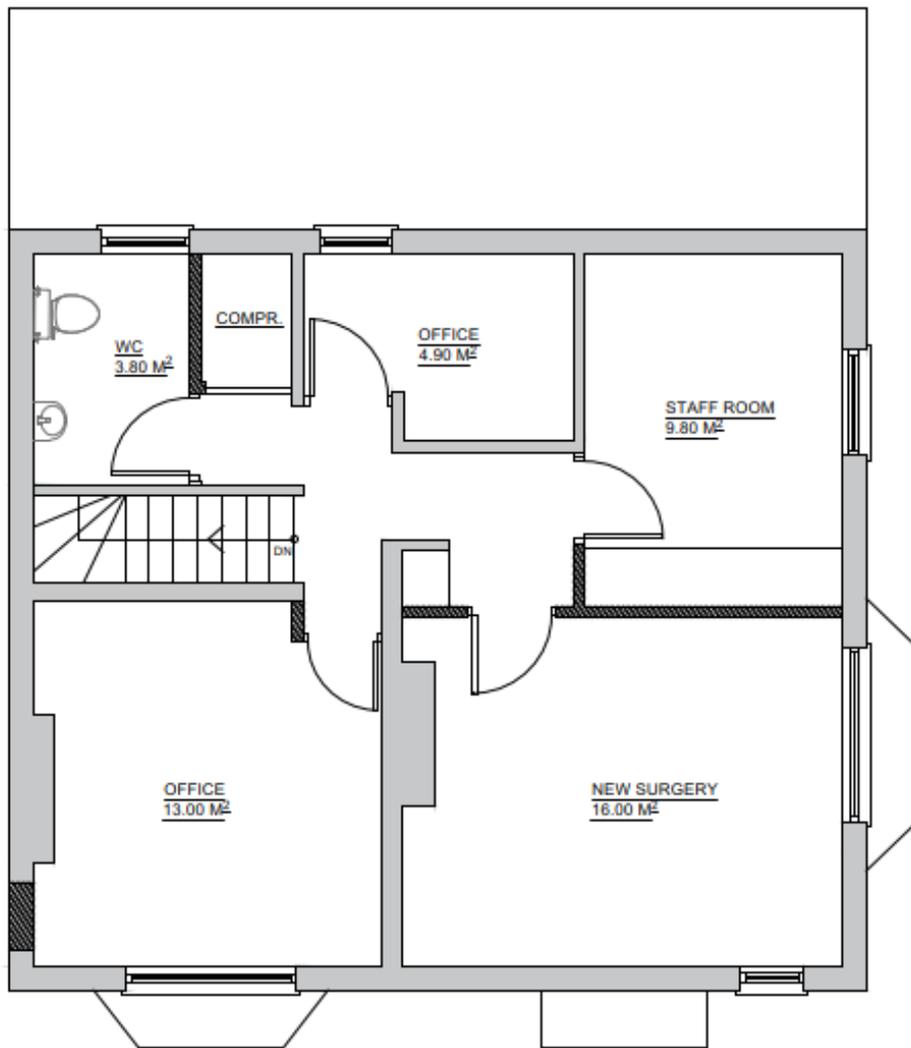
Existing Side Elevation of 35 Manor Court Road viewed from 33 Manor Court Road.



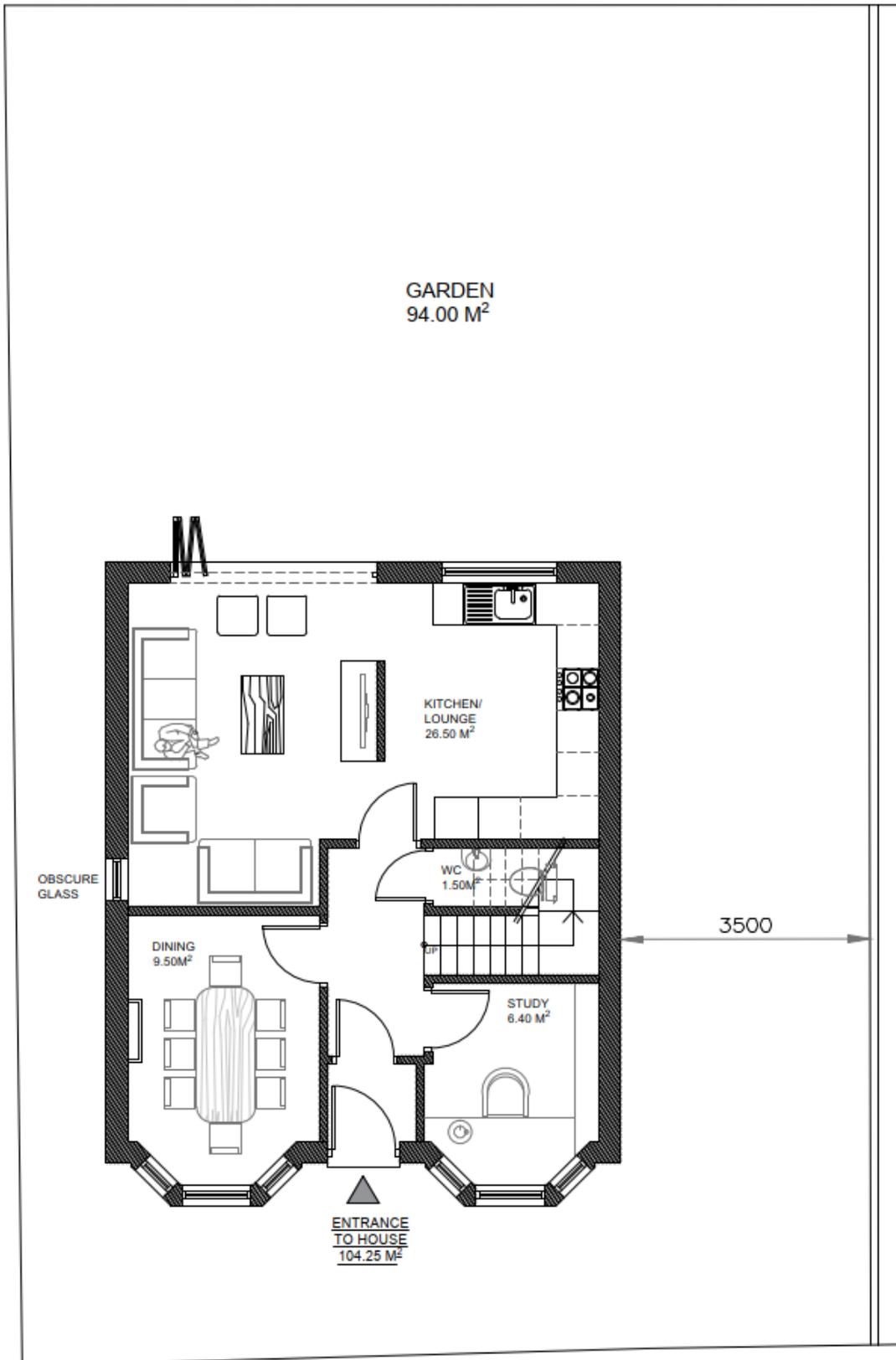
Existing Rear Elevation of 35 Manor Court Road viewed from 1 Earls Road.



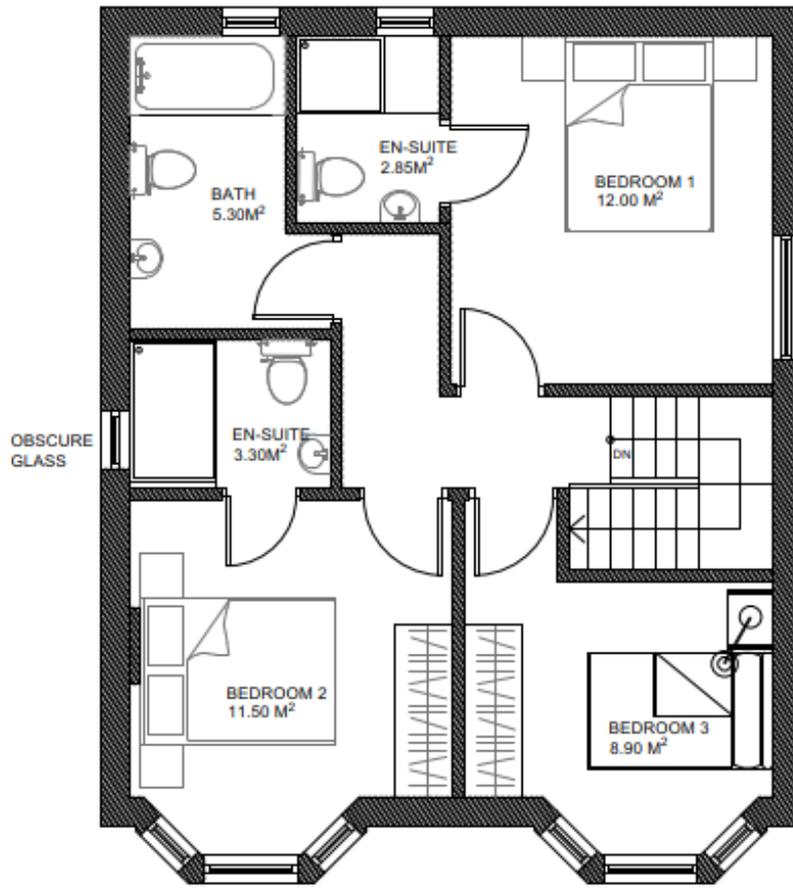
Proposed Ground Floor Plan of Dentist



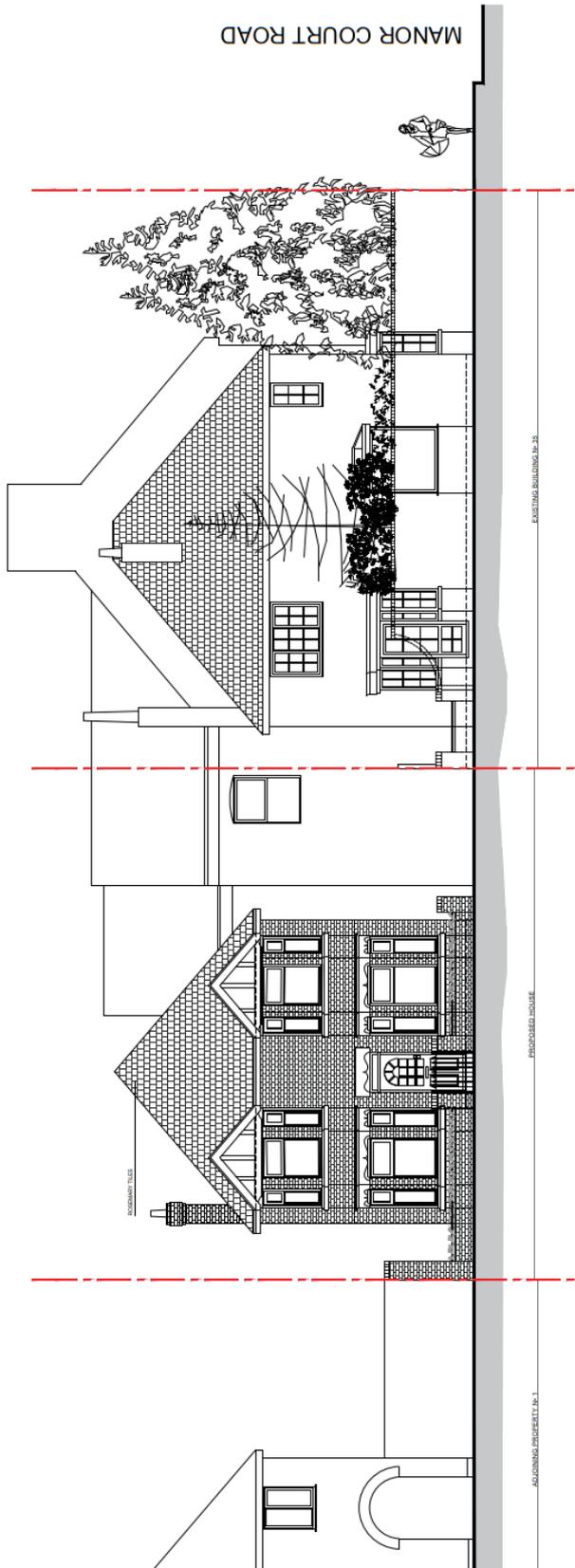
Proposed First Floor of Dentist



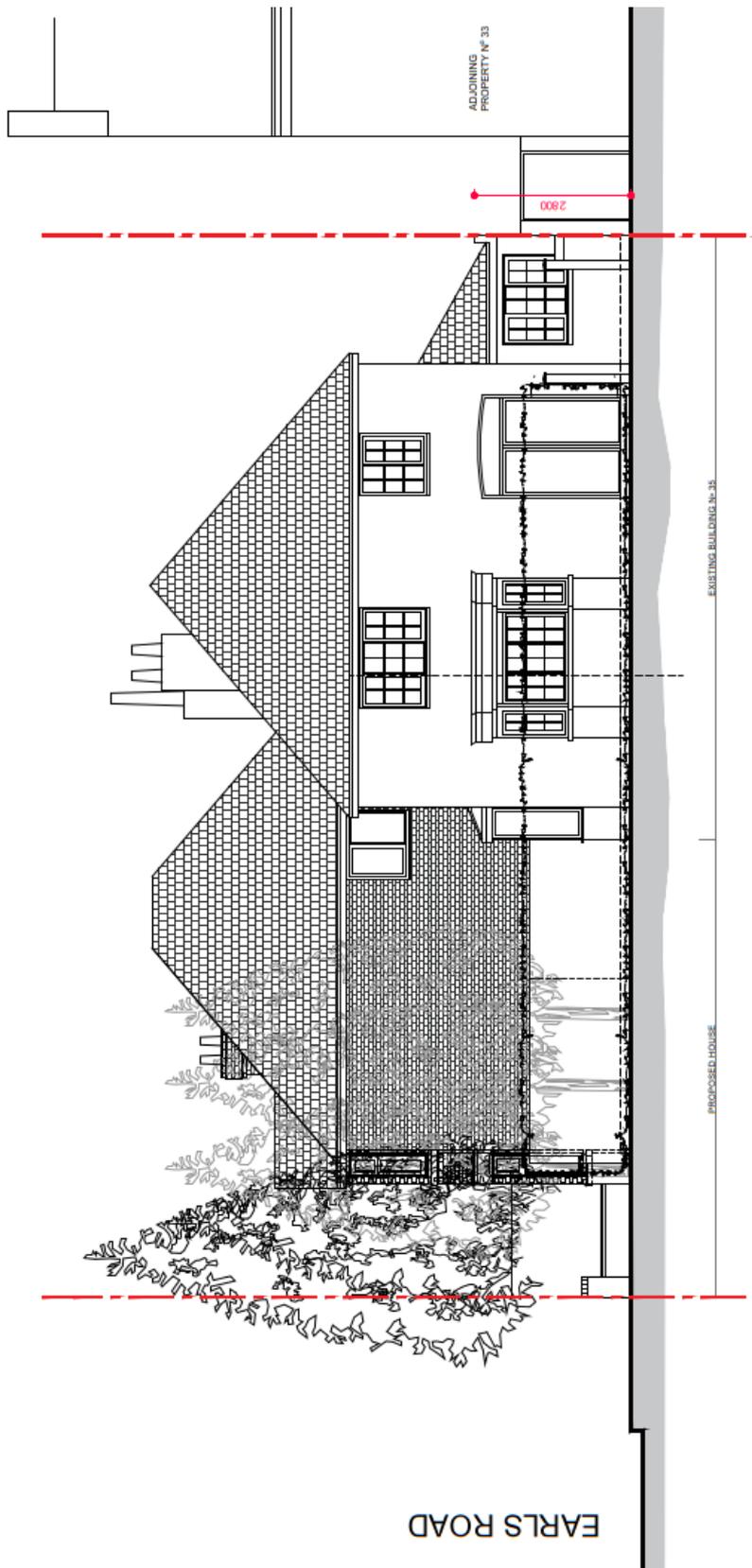
Proposed Ground Floor Plan of new dwelling.



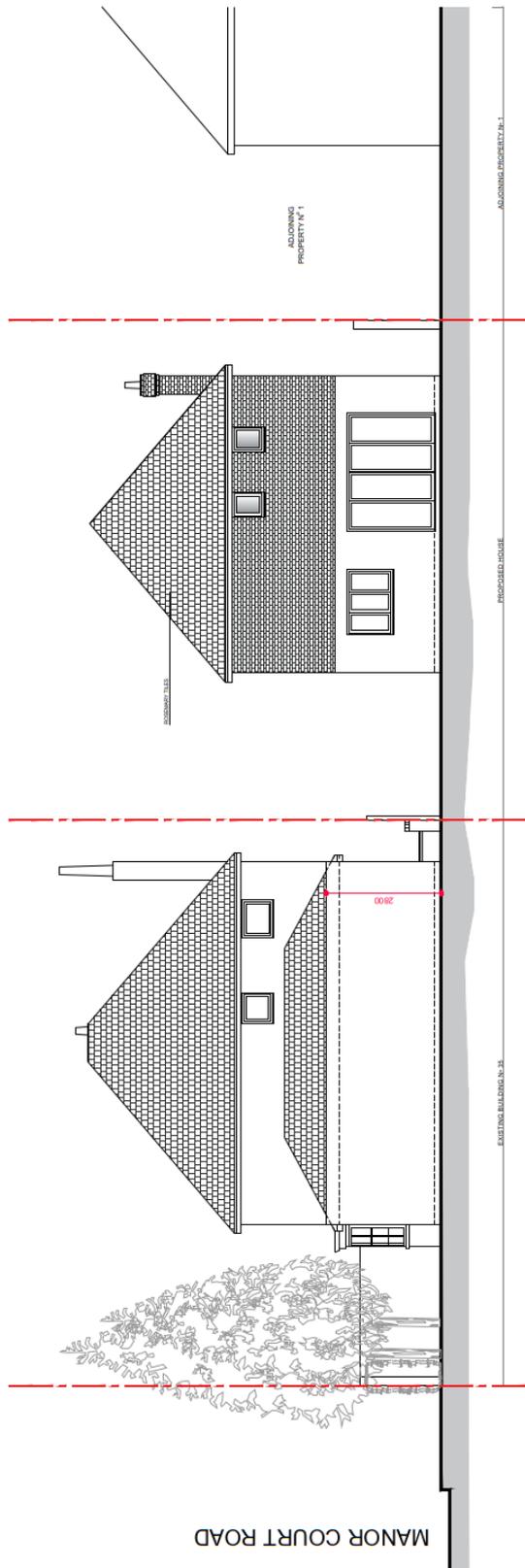
Proposed First Floor of new dwelling.



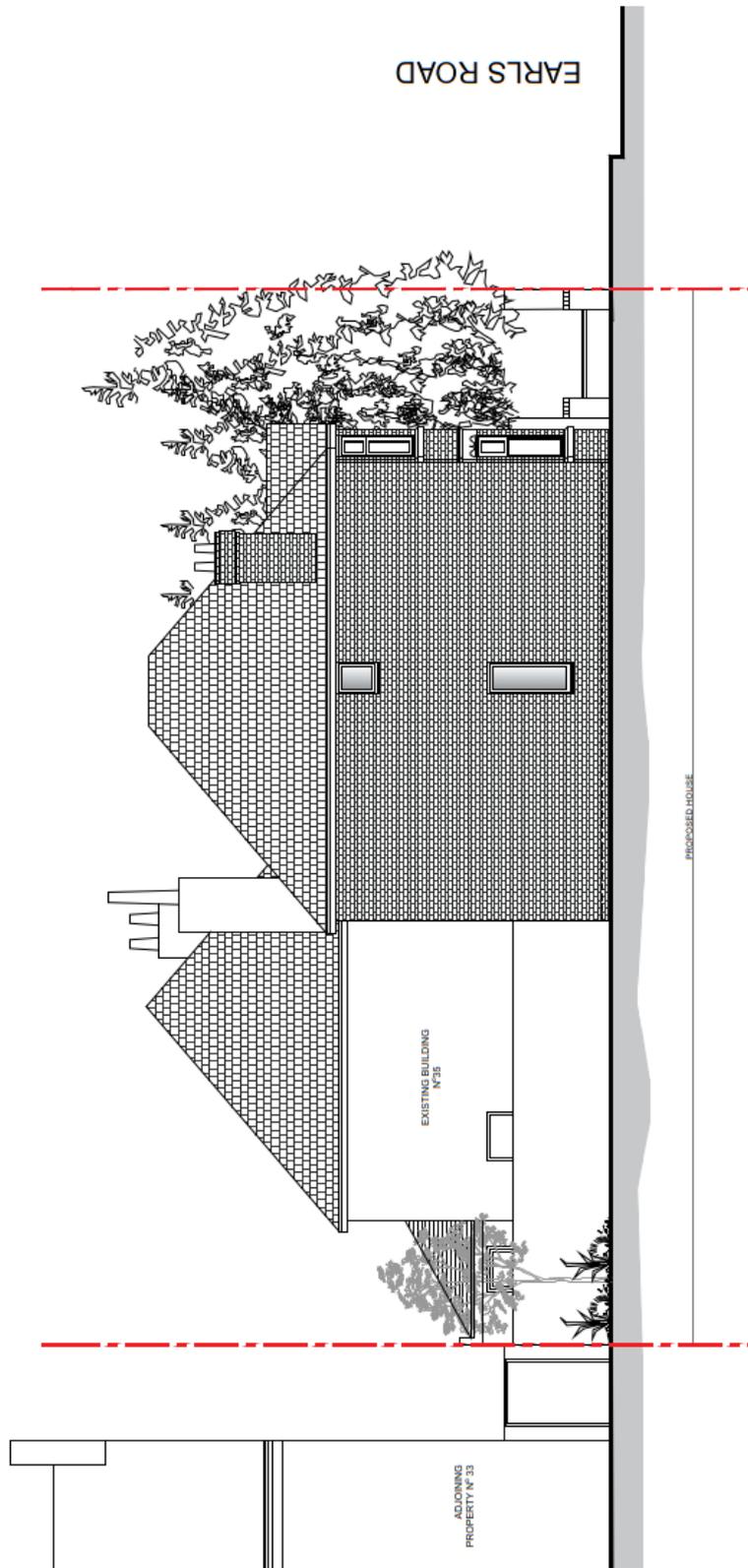
Proposed South Elevation - Front Elevation of proposed new dwelling and Side Elevation of 35 Manor Court Road (as seen from Earls Road).



Proposed East Elevation - Front Elevation of 35 Manor Court Road and Side Elevation of proposed new dwelling (as seen from Manor Court Road) .



Proposed North Elevation - Side Elevation of 35 Manor Court Road & Rear Elevation of proposed new dwelling (as seen from 33 Manor Court Road).



Proposed West Elevation - Side Elevation of proposed new dwelling and Rear Elevation of 35 Manor Court Road (as seen from 1 Earls Road).

Item No. 4**REFERENCE No.** 037402**Site Address:** Anker Service Station Weddington Road Nuneaton CV10 0AD.**Description of Development:** Change of use from a car wash (Use Class sui generis) to hot food takeaway and cafe at ground floor (previously Use Class A3/A5 now sui generis/E). First floor extension and external staircase to provide new offices (Use Class previously B1a/A2 now E.) New application following refusal of 036513.**Applicant:** Mr Shaan Chaudry.**Ward:** SN

RECOMMENDATION:

Planning Committee is recommended to refuse planning permission, for the reasons as printed.

INTRODUCTION:

Change of use from a car wash (Class Use sui generis) to hot food takeaway and cafe at ground floor previously Use Class A3/A5 now sui generis/E. First floor extension and external staircase to provide new offices (Use Class previously B1a/A2 now E.) New application following the refusal of application reference 036513.

The Service Station is within Weddington Terrace Local Centre and is part of a wider site which includes an existing petrol filling station, convenience store and car wash. There is also a detached garage building with MOT bays for cars and light commercial vehicles (vehicular class 4 and 7) with waiting area and reception. There are a number of parking spaces laid out around this site. The Service Station is on the corner of Old Hinckley Road and Weddington Road.

To the north of the application site there is a service road to other retail units. To the east of the application site there are residential dwellings, the nearest of which is 26 Old Hinckley Road which is a two-storey property. The rear garden of this property borders the application site. There are a number of residential properties located along Old Hinckley Road.

Weddington Road is located to the west of the application site and beyond this on the opposite side of the road there is a KFC restaurant and various industrial and retail units.

This current application is to extend the width of the detached flat roofed car wash by 1.3 metres to provide a change of use to a café/hot food takeaway on the ground floor

and to provide a new first floor with flat roof to provide new offices to be accessed via a new external staircase to the side.

There have been a number of same or similar applications for the car wash over the years. In 2019 an application was submitted for the same scheme (Council reference 036513) which was refused at Committee and Dismissed at Appeal in 2020 (Appeal reference APP/W3710/W/20/3248138). Subsequent to this, a similar application (035069) was withdrawn. Prior to this, a previous application for the same was approved in 2013 (032023). This was following a refusal for a similar scheme (030611) which was Allowed at Appeal in 2012. Prior to this, a similar scheme was refused (029387) and Dismissed at Appeal in 2009 and a previous one (012772) was withdrawn in 2008.

The reasons the Inspector gave for the Dismissal in 2020 was on the grounds of residential amenity in terms of the likely increased noise and disturbance to number 26 Old Hinckley Road and other nearby dwellings; litter and proximity to schools which would increase pupils access to unhealthy food and which the Inspector considered a material consideration. The Inspector considered the application was contrary to Policy HS7 of the Borough Plan 2019 (Borough Plan 2019): the Council's Supplementary Planning Document (SPD) - Planning for a Healthier Area – Hot Food Takeaways 2020 and Paragraph 92 of the NPPF.

The Council can refuse to deal with repeated similar applications, particularly if an application has recently been Dismissed at Appeal and has no material amendments. When the application came in, the case was discussed with the Council's Legal Team and it was considered that as the Agent had tried to address the reasons for Dismissal within a Planning Statement and by amending the proposed hours of operation, that the details were materially different enough in order to accept as a new application.

BACKGROUND:

This application is being reported to Committee at the request of Councillor Kondakor.

RELEVANT PLANNING HISTORY:

- 036513: Change of use from a car wash (sui generis) to hot food takeaway and cafe at ground floor (Class A3/A5). First floor extension and external staircase to provide new offices (Class B1(a)/A2). Refused at Committee 11/12/2019. Appeal Dismissed (APP/W3710/W/20/3248138) 15/06/2020.
- 035069: Demolition of car wash facility. Replacement of 4 No. pump islands. 2 No. new underground storage tanks. 12 No. car parking spaces. External shop alterations and ancillary forecourt boundary treatments. Affecting trees covered by a Tree Preservation Order. Withdrawn. 13/09/2017.
- 034817: Extension and alteration to MOT bay. Approved. 08/08/2017.
- 032394: Extension to rear, alteration of existing MOT bay, increase in height of building and blocking up of existing reception entrance. Approval 19/02/14.
- 031847: Vary condition 8 of planning approval 030611 to allow the sandwich bar to operate independently of Anker Service Station. Approved 17/01/2013.
- 032023: Extensions and change of use of car wash building to hot food takeaway on ground floor with office over. Approved. 08/05/2013.

- 030611: Extensions and change of use of car wash building to sandwich bar on ground floor with offices over (Offices to be directly associated with existing uses on site - ancillary to garage). Refused 08/06/2011. Appeal Allowed 05/03/2012.
- 031072: Increase in height of roof and rear extension to MOT Service Station. Withdrawn 23/11/2011.
- 029387: Extension and change of use car wash building to sandwich bar on ground floor with offices over. Refused 14/07/2009. Appeal Dismissed 02/12/2009.
- 012772: Extension and change of use of the existing car wash building to a sandwich bar on the ground floor with offices above. Withdrawn 20/11/2008.
- 011810: Extensions to the retail area to include the conversion of 24 Old Hinckley Road to retail and first floor to a flat (resubmission following refusal of 11392). Approved 10/9/07.
- 011643: Extension to retail area to include conversion of ground floor of No 24 Old Hinckley Road to retail and first floor to self-contained flat with new enclosed staircase (Resubmission following refusal of 11392). Withdrawn 11/11/2007.
- 011392: Extensions to the retail area to include the conversion of 24 Old Hinckley Road to retail and first floor to a flat. Refused 11/4/2007.
- 009457: Installation of cash point machine. Approved. 21/02/2005.
- 009509: Illuminated sign over proposed cash point machine. Approved. 21/02/005.
- 007545 (TP/0622/02): Installation of cashpoint. Refused. 30/10/2002.
- 007533 (TP/0621002): Illuminated sign over proposed cash point machine. Deemed Refused. 2/12/2002.
- 000321 (TP/0019/94): Provision of 5 car parking spaces (disused house to be demolished. Withdrawn. 20/05/1994.
- 008064 (TP/0665/93): Illuminated signage. Approved. 21/01/1994.
- 028298 (TP/0128/91) Alterations to shop front. Approved. 10/04/1991.
- 027724 (TP/0004/90): Illuminated advertisement signs. Approved. 07/03/1990.
- 028487 (TP/0176/89): New forecourt canopy and installation of 6,000 gallon underground petrol storage tank. Approved. 12/04/1989.
- 023456 (870723): Redevelopment of site to include new forecourt, sales building, car wash and workshop block. Approved. 22/02/1988.
- 025868 (860292): Forecourt redevelopment to include new shop area, canopy and installation of 2 new 12,000 gallon petrol storage tanks. Approved. 30/06/1986.
- 025173 (850032): Sale of motor vehicles displayed on areas. Approved. 20/03/1985.
- 024926 (840482): Underground diesel storage tank (6,000 gallons) and pipework alterations. Approved 19/09/1984.
- 024336 (830509): Erection of church for worship and religious instruction and car park (Outline application). Approved. 28/09/1983.
- 023635 (820365): Residential development. Approved. 23/08/1982.
- 021196 (790158): New Derv tank installation. Approved. 23/04/1979.
- 018636 (780589): New service bay extensions to car wash and petrol filling station, offices and alteration of car wash to accessory shop. Approved. 23/10/1978.

- 020828 (780459): Single storey extensions to form MOT installation. Approved. 21/08/1987.
- 018598 (770577): Change of use from car wash to service bay. Approved. 18/01/1978.
- 020107 (770165): Work bay for MOT testing. Approved. 01/06/1977.
- 019579 (741391): Construction of additional working bays at rear. Refused. 18/11/1974.
- 019509 (741160): Alterations to forecourt area, canopy, 4 new pumps and new 10,000 D.C tank. Approved. 12.08.1974.
- 019387 (701127): Proposed display and sale of motor cars. Deemed refused.
- 019050 (590507): Use of land for erection thereon of service station. Refused. 28/01/1960.

RELEVANT PLANNING POLICIES:

- Policies of the Borough Plan 2019 (Borough Plan 2019):
 - DS1 - Presumption in favour of sustainable development.
 - DS2 - Settlement hierarchy and roles.
 - DS3 - Development principles.
 - DS4 - Overall development needs.
 - E1 - Nature of employment growth.
 - TC3 - Hierarchy of centres.
 - HS2 - Strategic accessibility and sustainable transport.
 - HS5 – Health.
 - HS7 - Creating a healthier food environment.
 - BE1 - Contamination and land instability.
 - BE3 - Sustainable design and construction.
 - Supplementary Planning Guidance / Supplementary Planning Documents.
- Planning for a Healthier Area – Hot Food Takeaways SPD 2020.
- Sustainable Design and Construction SPD 2020.
- National Policy Planning Framework (NPPF).
- National Planning Practice Guidance (NPPG).

CONSULTEES NOTIFIED:

NBBC Environmental Health, NBBC Licensing, NBBC Planning Policy, Severn Trent Water and WCC Highways.

CONSULTATION RESPONSES:

Objection from:
NBBC Planning Policy.

Comment from:
NBBC Environmental Health, WCC Highways. and NBBC Licensing.

No response from:
Severn Trent Water.

NEIGHBOURS NOTIFIED:

13 – 35 (odd), 26, 30, Flats 1 – 9, 28 Old Hinckley Road, 31a, 33, Stone and Heating Centre, Earth Spirit Crystals 30a, Weddington Terrace, Flooring Empire unit 3, Kitchen World 3b, Unit 4, The Hayloft Unit 6, Davies Courtyard, Weddington Terrace, Match Kit Fit, Budgens, Midlands Golf, Russell Francis Interiors, May Ann Evans Hospice shop, Plumbing and Heating Weddington Road.

The Neighbouring properties were sent letters notifying them of the proposed development on 7th October 2020. A site notice was erected on street furniture on 5th October 2020 and the application was advertised in The Nuneaton News on 21st October 2020.

NEIGHBOUR RESPONSES:

There has been 1 objection from 1 address. The comments are summarised below;

1. Disappointed that the Council have accepted a new application as it was refused at Appeal and new application does not address the reasons for Dismissal at Appeal e.g. residential amenity and health.
2. Would increase the number of customer visitors which would impact on road and pedestrian safety. The site is already on an awkward corner and not particularly easy to exist onto Old Hinckley Road where traffic is coming round a corner and often changing lanes.
3. Opening hours up to 10pm at night every week would lead to more noise and litter in the area which would particularly affect the homes on Old Hinckley road and have a negative impact on their environment.
4. The Planning Inspector stated that litter management plan was not enforceable.
5. The problem with litter wouldn't just be at the site but further away over a wider area.
6. Site is too close to Etone College and Sixth Form and is less than 400m from the entrance to the Sixth form.
7. There are already 2 takeaway facilities in what is deemed to be the Local centre which in reality is more like a light industrial area.
8. Takeaway food is already available at the service station/Budgeon and KFC.
9. Contrary to Policy HS7 of the Borough Plan and paragraph 92 of the NPPF in terms of improvement to health, social and cultural wellbeing of all of the community and would attract pupils from Etone as well as Higham Lane School increase children's access to unhealthy food.

Response from Councillor Kondakor advising that:

1. The application has all the problems as the one refused by Committee and Planning Inspector.
2. It is still too close to the school.
3. Will still produce litter and noise.

Response from Councillor R Tromans to advise:

1. The fact is it's by a school / schools so we shouldn't grant permission - unless prepared to close 8am-9am then 12.00 to 1.30pm then again at 3.15 to 4.15pm.

APPRAISAL:

The key issues to assess in the determination of this application are;

1. The Principle of Development
2. Impact to Residential Properties
3. Impact on Visual Amenity
4. Impact on Highway Safety
5. Conclusion

1. The Principle of Development

The principle of development for a sandwich bar and offices with a similar design was established in 2012 by Appeal and was therefore a material consideration for a subsequent application approved by the Council in 2013 but which was not implemented. However, since then a new Borough Plan 2019 (BP 2019) and Hot Food Takeaway SPD have been adopted. Subsequent to this there has been a resubmission in 2019 (Council reference 036513) which was refused by Members and the application was Dismissed at Appeal in 2020.

Prior to the previous application's determination in 2019 the Borough Plan was adopted. The Council's adopted Supplementary Planning Document (SPD) Planning for a healthier area – Hot Food Takeaways was adopted between the time the application went to Committee and the time the Appeal was determined. The SPD was therefore taken into consideration by the Planning Inspectorate. Material consideration for this latest application has to be given to the existing Policies, SPD and also to the recent Appeal.

In regard to the principle of development, the proposal is on the edge of Nuneaton Town Centre and is within the Weddington Terrace Local Centre and is considered to be within a sustainable location. Policy DS1 of the Borough Plan states there should be a presumption in favour of sustainable development unless material considerations indicate otherwise. The site is also within the Nuneaton settlement and Policy DS2 states that development should be directed to Nuneaton as the primary town.

Policy DS3 – Development principles – states that all new development should be sustainable and high quality and supported by environmental mitigation and that new development within the settlement boundaries will be acceptable subject to there being a positive impact on amenity to the surrounding environment and local infrastructure. (Amenity will be discussed later.) The proposal is within the settlement boundary so providing amenity is not affected the proposal would not be contrary to this Policy.

In relation to the proposed office space, Policy E1 of the Borough Plan states that offices should be directed to Nuneaton and Bedworth Town Centres. Whilst the proposal is not within the Town Centre, it is close to the edge of Nuneaton Town Centre. Policy DS4 of the Borough Plan states that almost 108 hectares of employment land should be provided over the plan period. Whilst the proposal is not within a strategic employment area, it is nonetheless considered to be in an employment site and will provide an addition of 82 square metres of employment floor space. The Agent has confirmed that the office is to be ancillary to the uses on the

site. The application therefore complies with this policy, although the application form states that the proposal will not increase or decrease the number of existing employees.

Policy TC3 of the Borough Plan states that development within local centres will be considered acceptable in principle subject to:

1. The function, vitality and viability is maintained or improved.
2. Contributes positively to the range of services on offer.
3. Does not harm the amenities of local residents.
4. Does not result in the loss of ground floor retail/commercial floor space to residential use.

The proposal is not for any of the appropriate uses listed in the policy, but it is considered that the proposal will not impact the function, vitality or viability of the local centre and will provide a further service. The impact to local residents will be discussed later. Section 4 of the above does not apply.

Paragraph 10.23 of policy TC3, states that applications within local centres that include healthy eating establishments will be considered favourably. However, it is unclear what type of food will be served and this could not be conditioned as it is the principle of the class use being considered not the type of food and the food type could change.

NPPF Paragraph 91 (in part) states that:

91. Planning policies and decisions should aim to achieve healthy, inclusive and safe places which:
- c) enable and support healthy lifestyles, especially where this would address identified local health and well-being needs – for example through the provision of safe and accessible green infrastructure, sports facilities, local shops, access to healthier food, allotments and layouts that encourage walking and cycling.

Paragraph 92 (in part) of the NPPF 2019 states that:

92. To provide the social, recreational and cultural facilities and services the community needs, planning policies and decisions should:
- b) take into account and support the delivery of local strategies to improve health, social and cultural well-being for all sections of the community;

In addition, paragraph 127 (in part) of the NPPF includes the requirement that:

127. Planning policies and decisions should ensure that developments:
- a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
 - f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

These paragraphs show the importance of considering the health and well-being needs of the local population when determining planning applications.

Policy HS7 of the Borough Plan states:

To limit development of environments that encourage obesity, A5 uses (hot-food take-aways) should be directed to town centres as set out in Policy TC3 – hierarchy of centres. Outside of Nuneaton and Bedworth town centres, A5 use proposals will be permitted providing:

- The proposal is not within a 400 m radius of the principal point of access to an existing secondary school or sixth form college. This will not apply when the buffer zone overlaps with a town or local centre.
- The proposal does not jeopardise the provision of an essential local service.
- The proposal does not increase the number of units under the A5 use class to over 20% of the centre's total usage.
- Customer visits by car would not have an unacceptable impact on existing or proposed public transport provision, traffic movements, road or pedestrian safety.
- A sequential assessment is provided which demonstrates that there are no other sequentially preferable sites.

In terms of the second and last point of the above it is considered that the proposal does not jeopardise a local service (being the loss of a car wash not considered an essential local centre use) and as the application site is within a defined centre, a sequential assessment would not be necessary.

Policy HS7 was aimed to target health and obesity levels in the Borough. Paragraph 11.67 of the Borough Plan 2019 gives the reason for this:

Health Impact Assessment was undertaken... and recommended the Plan includes a restrictive policy regarding fast food outlets.

To support Policy HS7 of the Borough Plan 2019, the Council created and adopted the Planning for a healthier area – Hot Food Takeaways SPD. Under paragraph 1.3 of this document, it states that:

unhealthy eating may encompass a broader range of uses than Hot food Takeaways alone and can also include restaurants (A3) and retail units (A1)". This means that the accessibility to unhealthy eateries is not limited to just A5 uses.

Paragraph 3.10 of the SPD also gives wider research which has shown that the impact of the local food environment around schools directly influences the obesity of school students.

The three Policies of this SPD are:

HFT1 – Proximity to schools

Planning permission will not be granted for new A5 Uses within 400 metres of a secondary school main entrance except within the boundaries of designated centres.

HFT2 – Concentration and clustering of Hot food takeaways

Within a defined district or local centre planning permission will not be granted where the percentage of A5 usage exceeds 20%.

A limit of two adjacent outlets together is the maximum appropriate. Should this be exceeded (e.g. three outlets or more together) then the application will not be permitted due to excessive clustering of these types of outlets together.

The clustering of Hot Food Takeaway outlets together creates areas in district and local centres that are dominated by one use and only open and active at certain times of the day. By reducing the clustering of these types of outlets it will increase the variety of different types of shop fronts and therefore improve the perception and vitality of the centre.

HFT3 – Environment considerations

When considering suitable opening times for HFTs, the following will be taken into account:

- A. The impacts on residential amenity;
- B. Whether there is an existing night time economy in the area;
- C. The existing character and levels of activity and noise in the area.

The first Policy within this SPD HFT1 prevents new hot food takeaways being permitted within 400 metres of the main access to a secondary school unless this overlaps with the boundary of a designated centre. In this case the takeaway is within that 400m radius of Etone School and Sixth form and would introduce an additional hot food takeaway option within close proximity to a vulnerable group of the population, which could be to the detriment to their health. However, the policy does state that the policy will not apply if the buffer zone overlaps with a town or local centre and this does apply in this instance.

Whilst the Inspector Dismissed the Appeal, they did provide an award of partial costs against the Council as they considered that refusal on the grounds that the hot food takeaway was within 400m of a school was unreasonable because the Policy clearly stated that this did not apply if within a designated centre as is the case in this instance. The Inspector in their costs statement (page 2) advised:

7. Moreover, even if the SPD had been adopted, the Council's costs response misinterprets Policy HFT1 of the SPD. This repeats the provision of LP Policy HS7 that the 400 metres restriction does not apply where a hot food takeaway would be within a designated centre.
8. Consequently, the Council's refusal is unsupported by its own policy at the time of determination. As such, I conclude that the arguments for refusal were unsubstantiated. This amounts to unreasonable behaviour leading to wasted expense at Appeal.

The Inspector concluded the costs decision with:

Costs Order

11. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Nuneaton and Bedworth Council shall pay to Mr Shaan Chaudry, the costs of the Appeal proceedings described in the heading of this decision limited to those costs incurred in the Appeal with regard to the development's proximity to the school only; such costs to be assessed in the Senior Courts Costs Office if not agreed. The applicant is now invited to submit to Nuneaton and Bedworth

Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

Notwithstanding the above, during the application process this time, due to Councillors concerns on the health of the local school children the Applicant has agreed that they would not be open between 8am to 9am; 12.00 to 1.30pm and 3.15 to 4.15pm this could be conditioned if Councillor's were minded to approve the application and is considered a reasonable condition in order to ensure that the use would not be open to pupils during journeys to and from school. Therefore, by restricting school run hours the choice of using the facility would be more guided by adult supervision times; although it is recognised that for teenagers that attended after school activities or choose to hang out in the area in the evenings, that the use could still impact on health of the younger population.

The Council's Policy Team acknowledged this potential health issue and objected to the latest application on these grounds as they stated the application did not give full consideration of the impacts on the health and well-being of the local community.

Policy HFT2 in the SPD addresses the concentration and clustering of hot food takeaways and mirrors point 3 of Borough Plan 2019 Policy HS7 about hot food takeaways not taking up more than 20% of units in a local centre. The proposal will not increase the amount of A5 units to over 20% within the local centre.

Members in 2019 considered that the application was unacceptable as they considered that there was already a high saturation of takeaways and fast-food restaurants within the 400m vicinity of Etone School and that the additional hot food takeaway proposed would pose an additional risk for the health and wellbeing to the students of the school. Members considered this was contrary to Policy HS7 due to the effect on the wellbeing of the community and contrary to this policy in its aim "to limit development of environments that encourage obesity".

The reason on the refusal decision 2019 was:

The proposal is contrary to this policy in that there is an over provision of A5 uses within a 400 metre radius of a high school. Whilst the proposal is within Weddington Terrace Local Centre, it would introduce an additional hot food takeaway option within close proximity to a vulnerable group of the population, potentially to the detriment of their health.

The Inspector on the Appeal considered the amount of hot food takeaways and stated:
Health

11. The site would be a short walk from Etone College's main entrance at the corner of Trent Road and a slightly longer walk from Etone School's main entrance on Leicester Road. The existing KFC is visible from the college entrance area and as far as I could see, far closer to the college and the school than similar outlets in the town centre on the other side of the railway line. The SPD sets out that recent research indicates that children attending schools near fast food outlets are more likely to be obese than those whose schools are more inaccessible to such outlets. Nuneaton and Bedworth has some of the highest rates of childhood obesity in the county and the SPD states that the objective behind the hot food takeaway policy is to reduce pupil access to unhealthy food.

12. Although Weddington Terrace has the character and appearance of a light industrial estate and has few retail outlets generally expected of a day-to-day shopping precinct, it is nonetheless designated as a local centre.

13. LP Policy HS7 and the SPD state that hot food takeaways within 400 metres of a school entrance are permitted when the outlet would be within a local centre. As such the development would accord with both LP Policy HS7 and the SPD in this regard.

14. The SPD sets another test, relating to clustering. Although the service station sells sandwiches and food from within a heated cabinet, it is not a hot food takeaway. Consequently, the development would not fail the test in relation to clustering which suggests that two adjacent outlets should be a maximum. Nor is there any evidence before me to indicate that the development would raise the provision of Class A5 to more than 20 per cent within Weddington Terrace.

The Inspector made no reference to concerns about the abundance of hot food takeaways in the larger area.

In conclusion, it is considered that whilst the principle of the development is acceptable in terms of an appropriate use in a local centre, that the latest application still does not give full consideration of the impacts on the health and well-being of the local community except for the times when school children are walking to and from school, but which would not restrict access in the evenings to older teenagers and adults.

2. Impact to Residential Properties

The third Policy of the SPD refers to the environmental impacts of the use to the surrounding area and therefore refers to the residential amenity.

Policy DS3 and TC3 of the Borough Plan 2019 states there should not be a negative impact to the amenity of the surrounding environment or residents. The Council's Environmental Health had concerns about noise and odour and requested that if approved conditions would be required for:

- Requesting details for ventilation and filtration to be submitted to the Council and maintained in perpetuity.
- The requirements for plant/machinery and equipment (including refrigeration and air conditioning) to be within an acoustic enclosure to prevent noise and vibration to neighbouring properties.
- Restricting the hours of use to Monday to Sunday 11.00 until 22:00.
- Restricting deliveries to the hours of 08:00 until 18:00 Monday to Friday and 09:00 until 18:00 Saturdays. No deliveries or servicing including refuse on Sundays or Bank Holidays.
- Any litter associated with the running of the sandwich bar shall be adequately disposed of and regular litter picking should take place within 100m of the site. Adequate numbers of litter bins shall be provided on site and the contents regularly and adequately disposed of.

It is considered that the above conditions are reasonable with the exception of the requirement for litter picking in the area which is not considered enforceable and to be discussed later.

In relation to the physical impact of the new proposed first floor, the nearest residential property is 26 Old Hinckley Road. The proposal is in a westerly direction to this neighbour's garden and is approximately 15 metres away and separated from it by parking which could be used by future customers. There are no windows proposed to the rear of the new first floor building to overlook this neighbour but there will be a new external staircase to the side of the building which will allow people to look across into gardens. The Council's Sustainable Design and Construction SPD 2020 paragraph 11.6 has no specifications on external staircases but does state first floor windows and above should be at least 7 metres from the boundary to neighbours' gardens to prevent overlooking. As the staircase is at least 15 metres away it could be stated that in principle the staircase would be acceptable in terms of overlooking.

Policy HFT3 of the SPD, concerns the environmental impacts of hot food takeaways. It states that the following must be considered when determining an application for a new hot food takeaway:

- A. The impacts on residential amenity.
- B. Whether there is an existing night time economy in the area.
- C. The existing character and levels of activity and noise in the area.

The Council's Environmental Health this time had concerns and requested conditions to mitigate some impact on residential amenity; however, similar conditions to those requested this time by Environmental Health were suggested by the Council to the Inspector during the Appeal. Despite these recommended conditions the Inspector still considered that the scheme was contrary to the third Policy (environmental considerations) of the Hot Food Takeaway SPD and that development failed in terms of noise, disturbance and residential amenity although he recognised that the site was at a busy junction with a constant flux of existing customers. The Inspector stated:

7. There are existing customer parking spaces directly adjacent to the rear garden boundary of 26 Old Hinckley Road (No 26). However, what was formerly the circulation area of the car wash parking next to the boundary would be additional parking spaces. Although the service station has 24 hour opening, an additional facility with early morning and late night opening hours would increase comings and goings during the takeaway's opening hours. There would also be additional delivery and refuse vehicles. The hot food takeaway would also have longer opening hours than the nearby KFC.

8. The quantum and extent of noise and disturbance generated by the site would increase and would be likely to significantly exceed the current situation. This increase in noise and disturbance would be detrimental to the living conditions of occupiers of No 26, as well as occupiers of other nearby dwellings.

Furthermore, the Inspector quantified this as:

10. Consequently, I conclude that the development would have an adverse effect on the living conditions of nearby dwellings with regard to noise and disturbance, as well as litter. This would be detrimental to overall residential amenity. It would also be contrary to the SPD with regard to environmental considerations, as noted above, and Paragraph 127 of the National Planning Policy Framework (the Framework). This requires development to create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.

In response to the Planning Inspector's reason for dismissing the Appeal, the applicant has proposed reducing the opening hours to match those of the nearby KFC and the application form states that opening hours will be 11.00am until 10.00pm. In terms of the existing opening times on the site; the MOT station at the property appears to be 8.30am until 5.00pm Monday to Saturday whilst the petrol filling station element and ancillary shop appear to open 24 hours. Therefore, the site already has some activity from the existing combined uses.

The hours suggested by the Applicant with a reduction by an hour at the end of the day is materially different to that previously considered by the Inspector and will no doubt alleviate later noise (10.00pm to 11.00pm) to the neighbouring properties. Neighbouring private residential amenity space would likely be used in the evenings as well as in the day and increased disturbance could potentially still be an issue in the evenings before 10:00pm which would not be mitigated by the reduced hours of operation. Unfortunately, it is unclear what times the Inspector considered the exacerbation of 'quantum and extent' of noise was problematic.

Whilst it was not a reason previously used for refusal by the Council, the Inspector considered neighbours objections of likely increased litter and the Inspector concluded in his decision that:

9. I also acknowledge that hot food takeaways can be associated with additional litter. At my visit I noticed branded litter from KFC in the road, despite the presence of bins at the outlet. Whilst I acknowledge that this is a snapshot in time it suggests that litter is being generated from the existing hot food takeaway and there is nothing to suggest an additional outlet would not generate additional litter. Even if bins are provided, in my experience it is not always the case that they are used, or emptied regularly. This is something that is difficult to control by condition and it can have an adverse effect on the local amenity, and the character and appearance of a neighbourhood.

The Agent within their Planning Statement this time, considers the issue of litter can be covered by a litter management plan and states that:

5.5 With regard to litter, although the inspector's comments on this were not based on a thorough analysis of any evidenced problems, but by admission reflected a snap shot in time and were based on a subjective opinion rather than informed by evidence, the applicant would introduce a litter management plan, which it is expected would be conditioned to any planning permission. Waste would be collected every 2 days via a private maintenance contractor and the applicant would appoint employees to collect litter throughout the period of opening of the premises.

However, as the Inspector has already considered that a condition for litter is difficult to control, it is considered that the issue of litter still remains.

In conclusion, the only changes on the new application from the previous application considered by the Inspector are the proposed reduced opening hours and the litter management plan. In light of the Planning Inspector's decision and given the requirements of Paragraphs 91 and 127 of the NPPF in terms of protecting residential amenity; it is considered that it has not been demonstrated that the previous issues considered by the Inspector have been overcome. The proposal is therefore contrary

to Policy HS7 of the Borough Plan 2019 and Policy HFT3 of the hot food takeaway SPD and the NPPF.

3. Impact on Visual Amenity

Policy BE3 of the Borough Plan 2019 states that consideration should be given to the proposed design and layout to be in keeping with the surrounding area. The existing buildings on the site are largely single storey approximately 4 metres in height but with a two-storey pitched roof element set back to the rear of the main building.

The canopy above the petrol pumps is 5 to 6 metres in height. The adjacent MOT station on the site is approximately 4 metres in height and is flat roofed. The existing car wash is flat roofed and is 3.64 metres in height. The proposal is to increase the height to 6.2 metres. The length of the building is to remain the same at 10.4 metres, but the width is to be increased from 6.75 metres to 8.05 metres. The adjacent dwelling is two storeys with a pitched roof and some of the building's opposite are approximately 6 metres. Whilst the car wash is slightly further forwards than the brick buildings in the area it will be seen against the backdrop of the fuel station canopy and it is considered that the scale of the building is considered acceptable.

In relation to the materials, the ground floor is to remain in the existing yellow brick representative of the rest of the site, with the new first floor being clad in timber. Whilst timber will weather, it is becoming a more common building material for walls and it is considered that as a commercial building it would unlikely be allowed to deteriorate to an extent that it became visually unattractive. As the area has different materials, it is considered that the proposed materials are acceptable and therefore visual amenity of the proposal would be acceptable.

4. Impact on Highway Safety

Policy HS2 of the Borough Plan 2019 lists issues to be addressed where development is likely to have transport implications.

Policies DS3; HS1 and HS2 of the Borough Plan 2019 states that development should not have a negative impact on local infrastructure.

The proposal shows a minimum of 3 spaces for staff and 9 spaces for customers/visitors; other spaces in proximity to this are shown on the plan. The Council's only parking guidance is no longer valid but states 1 space per 3 square metres for a hot food takeaway and 1 space per 5 square metres for a restaurant and 1 space per 30 square metres for offices. The café/hot food takeaway is 72 square metres so if 4 spaces per 5 square metres is used this equates to 18 spaces and 2.4 spaces for the offices. This means there is inadequate parking spaces based on the out-of-date Parking SPD.

As previously stated, the Agent has advised that the offices are to be ancillary to the uses on the site, therefore the people using the office could potentially already be on site. In addition, it is considered that as the proposal is within a local centre there will be a certain number of customers visiting the use on foot or in any case could already be using the other services on the site.

The previous approval specifically included a parking layout as an approved plan and if approved Highways request the same condition.

WCC Highways had no objection to the previous application but the Planning Class uses have changed so that the office use (previously 'Class Use B1') has been included in a generic 'Class Use E'. Within this new 'Class use E' are shops (previously 'Class use A1'); financial and professional (previously 'Class use A2'); food and drink (restaurants and cafes 'Class use A3'); non-residential institutions (eg clinics, health centres, day nurseries and day centres - previously 'Class use D1') and assembly and leisure (e.g. gymnasiums and indoor recreation – 'Class Use D2'). Whilst the permitted development rights will remain as existing until the 31st July 2021, after this date it is possible that legislation may change so that the uses within this 'E Class' can be interchanged without requiring planning permission. Therefore the office could change to one of the other uses within Class E which could intensify the use and increase coming and goings and therefore subsequent parking intensification.

WCC Highways objected due to the potential for the future intensification within the "Class use E and stated that:

With the alterations to classifications within use classes, the Highway Authority needs assurances that the proposed uses cannot change. The applicant's agent has stated that the applicant is happy to have restricted use. The Highway Authority considers the control of use essential. The site is in a prominent location with significant levels of pedestrian, NMU and vehicle movements passing, entering and leaving the site. There does not appear to be capacity on the site for more parking provision, which would be required if the units could be used for other uses. Intensification of use, which could occur under different uses within the proposed classification, could result in parking on-street or vehicles obstructing the access into the site, which cannot be supported.

The applicant is accepting of restricted use for the building, but It needs to be shown that the planning authority can condition the uses, and if it is compliant to do so in accordance with the regulations / guidance.

Guidance has been sought from the Council's Legal Team to see if the first-floor use can be restricted to just offices. They acknowledged that the new Class Use is too new for Court Cases to drive guidance, but that Inspectors at Appeal have considered that conditions restricting the use were neither reasonable or necessary and ran counter to the intention of the 'Class use E'. However, the Council's solicitor stated that providing there was a genuine reason for such a restrictive condition such as highway safety, then providing the reason for such condition was made clear and could be defended at Appeal, then the condition could be considered reasonable. The Agent has agreed to restrict the use to ancillary office and for permitted development rights to be removed to maintain this use. However, it is worth noting that in the future a new application could be sought to remove this condition or alternatively the condition could be Appealed against. Highways have been advised of this but their comments remain the same.

The amended legislation has meant that the ground floor hot food takeaway use has changed from 'Class use A5' to 'sui generis' and means the use could potentially

change to A1, A2, A3 or some D1 uses up until 31st July 2021. This flexibility for changes may be amended once the legislation is updated at the end of July and it is impossible to consider at present how the legislation may change in the future. Notwithstanding this, in any case it is considered that any changes from a hot food takeaway at ground floor would be a reduction in intensity and therefore parking.

It is therefore considered that Highway safety is acceptable as long as the first floor is restricted purely to ancillary office use and permitted development removed for any changes within the 'Class use E'.

5. Conclusion

In conclusion, the NPPF and local policy promotes a presumption in favour of sustainable development, and the Planning and Compulsory Purchase Act 2004 states that decisions should be made in line with an adopted Development Plan, unless material considerations indicate otherwise.

The key issues in this case being the principle of development; impact to residential/visual amenity and impact on highway safety.

The proposal is within 400m of a school which would normally be against local policy but in this instance, this is overridden as it is within a Local Centre. Concerns of the impact to local school children during the school run can be conditioned by ensuring the use is not open at these times.

However, it has not been demonstrated that the use would meet with the principle of meeting local strategies for improving health, as per the principles driving the Council's Planning for a Healthier Area – Hot Food Takeaways SPD 2020. The application subsequently fails to meet Policy HS7 of the Borough Plan 2019 which states that proposals must be in accordance with the SPD and in addition fails to meet paragraphs 92 and 127 of the NPPF which state the need to take into account local strategies to improve health for all sections of the community.

In terms of the impact to residential amenity, it is considered that whilst it is acknowledged that the new application has reduced the proposed closing time from 23.00 to 22.00pm this will not on its own address the Inspectors concerns about the cumulative increase on 'adverse effect on the living conditions of nearby dwellings with regard to noise and disturbance'.

As the Inspector has stated that litter is difficult to control by condition and can have an adverse effect on the local amenity, character and appearance of a neighbourhood then it is unlikely that a Litter Management Plan condition would overcome concerns about litter.

Subsequently it has not been demonstrated that the proposal can mitigate environmental impacts including residential amenity states as set out in Policy HFT3 of the SPD which would mean the application is contrary to Policy HS7 of the Borough Plan 2019 or Paragraph 127 of the NPPF which similarly refers to ensuring the functionality and quality of an area for health, well-being and high standard of amenity for existing and future users.

It is considered that whilst this new application has tried to address the previous concerns of the Inspector and their reasons for dismissing the previous application, that it has still not been evidenced that these concerns can be overcome in order to make the application acceptable.

REASONS FOR REFUSAL:

Refusal is recommended due to the following Policies:

- 1 (i) Paragraph 92 (in part) of the National Planning Policy Framework 2019 states:
To provide the social, recreational and cultural facilities and services the community needs, planning policies and decisions should:
 - b) take into account and support the delivery of local strategies to improve health, social and cultural well-being for all sections of the community;

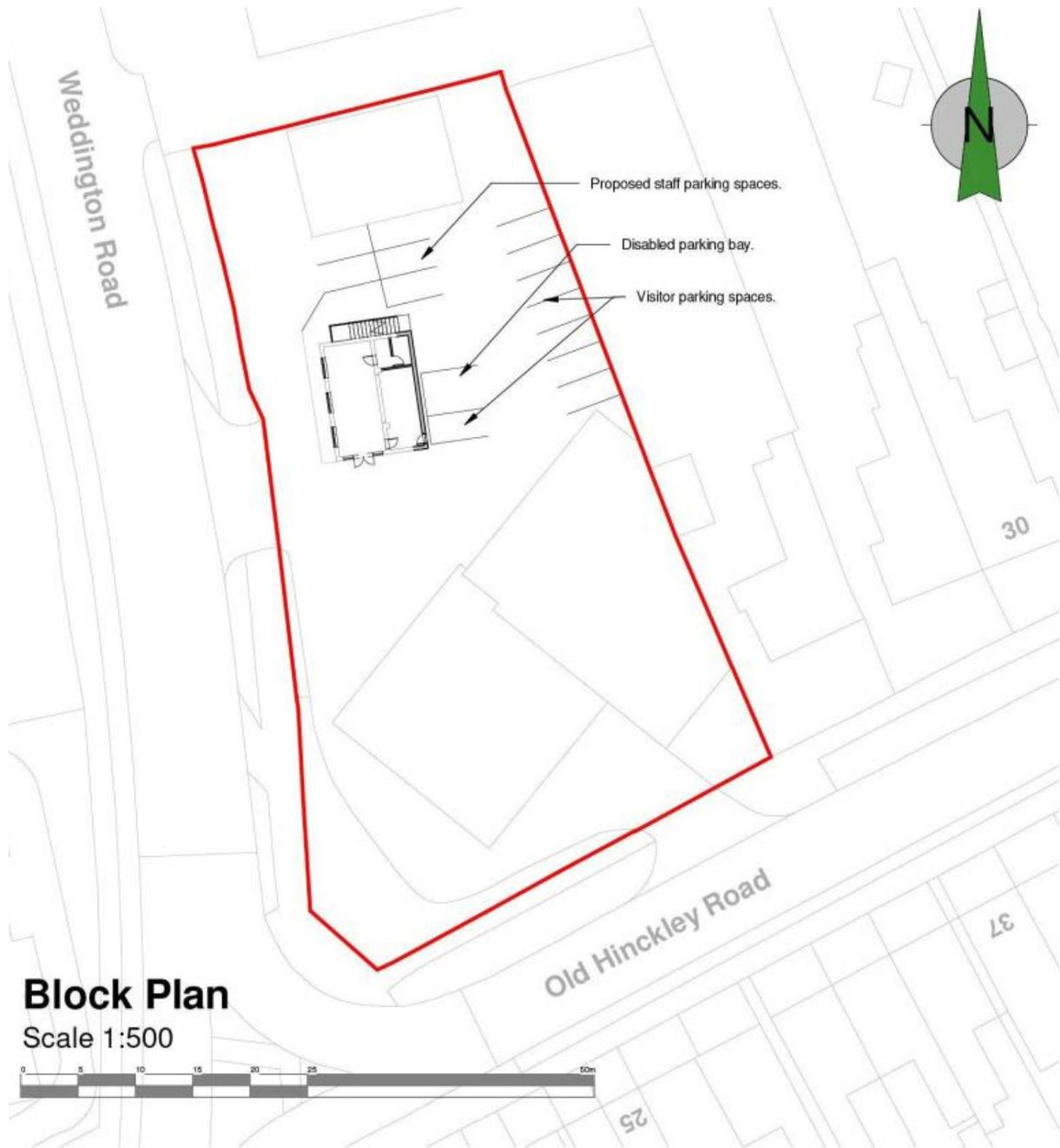
- (ii) Paragraph 127 (in part) of the National Planning Policy Framework 2019 states:
Planning policies and decisions should ensure that developments:
 - a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
 - c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);
 - f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

- (iii) Nuneaton and Bedworth Borough Plan 2019 Policy HS7 – Creating a healthier food environment states:
To limit development of environments that encourage obesity, A5 uses (hot-food take-aways) should be directed to town centres as set out in Policy TC3 – Hierarchy of centres. Outside of Nuneaton and Bedworth town centres, A5 use proposals will be permitted providing:
 - Customer visits by car would not unacceptable impact on existing or proposed public transport provision, traffic movements, road or pedestrian safety.Proposals should be in accordance with the supplementary planning document ‘Planning for a healthier area – Nuneaton and Bedworth’.

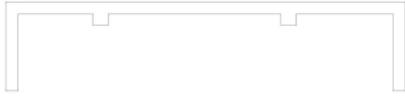
- (iv) This application is contrary to these Policies in that it has not been adequately evidenced that the proposal will promote health and wellbeing of the community or would not adversely affect the character and residential amenity of the surrounding properties in terms of noise, disturbance and litter contrary to the Council’s Planning for a Healthier Area – Hot Food Takeaways Supplementary Planning Document 2020, policy HST3.



Location Plan



Block/Site Plan



Ground Floor Plan



West Elevation



South Elevation



North Elevation

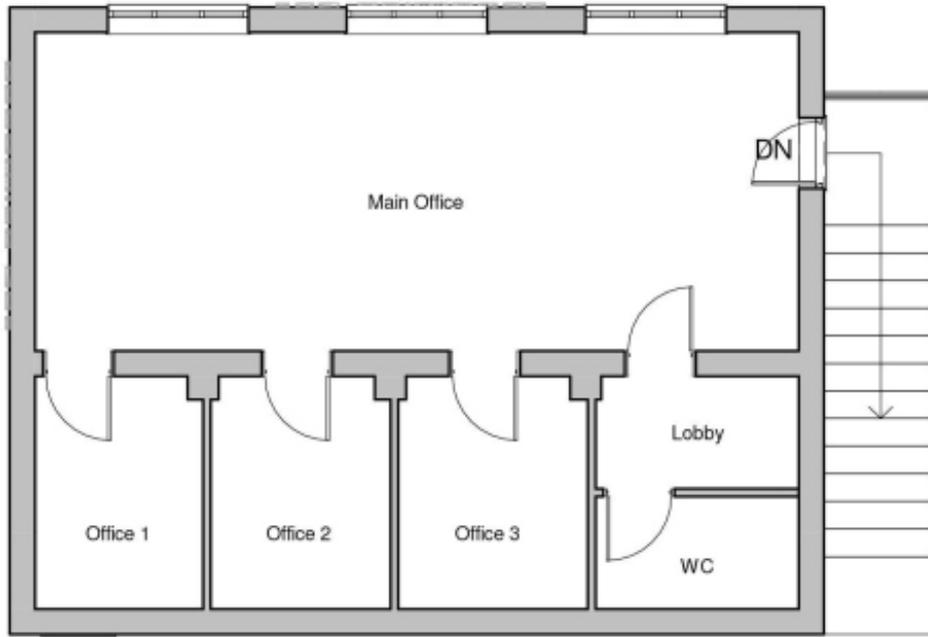


East Elevation

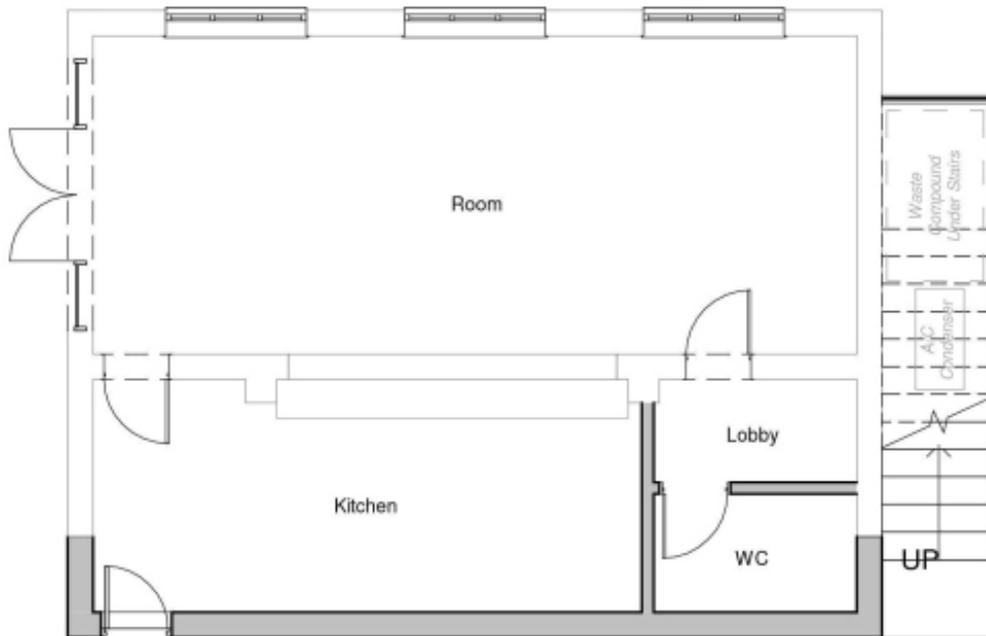


3D-Perspective View

Existing Floor Plan and Elevations



First Floor Plan



Ground Floor Plan

Proposed Floor Plans



West Elevation



South Elevation

Proposed Elevations



North Elevation



East Elevation

Proposed Elevations

Use	Use Class up to 31 August 2020	Use Class from 1 September 2020
Shop not more than 280sqm mostly selling essential goods, including food and at least 1km from another similar shop	A1	F.2
Shop	A1	E
Financial and professional services (not medical)	A2	E
Café or restaurant	A3	E
Pub or drinking establishment	A4	Sui generis
Take away	A5	Sui generis
Office other than a use within Class A2	B1a	E
Research and development of products or processes	B1b	E
For any industrial process (which can be carried out in any residential area without causing detriment to the amenity of the area)	B1c	E
Industrial	B2	B2
Storage or distribution	B8	B8

Use	Use Class up to 31 August 2020	Use Class from 1 September 2020
Hotels, boarding and guest houses	C1	C1
Residential institutions	C2	C2
Secure residential institutions	C2a	C2a
Dwelling houses	C3	C3
Use of a dwellinghouse by 3-6 residents as a 'house in multiple occupation'	C4	C4
Clinics, health centres, creches, day nurseries, day centre	D1	E
Schools, non-residential education and training centres, museums, public libraries, public halls, exhibition halls, places of worship, law courts	D1	F.1
Cinemas, concert halls, bingo halls and dance halls	D2	Sui generis
Gymnasiums, indoor recreations not involving motorised vehicles or firearms	D2	E
Hall or meeting place for the principal use of the local community	D2	F.2
Indoor or outdoor swimming baths, skating rinks, and outdoor sports or recreations not involving motorised vehicles or firearms	D2	F.2

Changes of use within the same class are not development. Use classes prior to 1 September 2020 will remain relevant for certain change of use permitted development rights, until 31 July 2021. The new use classes comprise:

Class E (Commercial, business and service uses),

Class F.1 (Learning and non-residential institutions)

Class F.2 (Local community uses)