

**Time** 2.00 pm **Public Meeting?** YES **Type of meeting** Regulatory

**Venue** Council Chamber - 4th Floor - Civic Centre

## Membership

**Chair** Cllr Anwen Muston (Lab)  
**Vice-chair** Cllr Gillian Wildman (Lab)

### Labour

Cllr Olivia Birch  
Cllr Lovinyer Daley  
Cllr Celia Hibbert  
Cllr Rashpal Kaur  
Cllr Phil Page  
Cllr Tersaim Singh  
Cllr Jacqueline Sweetman

### Conservative

Cllr Andrew Randle  
Cllr Wendy Thompson  
Cllr Jonathan Yardley

Quorum for this meeting is four Councillors.

## Information for the Public

If you have any queries about this meeting, please contact the Democratic Services team:

**Contact** Donna Cope  
**Tel/Email** Tel 01902 554452 or email [donna.cope@wolverhampton.gov.uk](mailto:donna.cope@wolverhampton.gov.uk)  
**Address** Democratic Services Civic Centre, 1<sup>st</sup> floor, St Peter's Square,  
Wolverhampton WV1 1RL

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Please take note of the protocol for filming, recording, and use of social media in meetings, copies of which are displayed in the meeting room.

Some items are discussed in private because of their confidential or commercial nature. These reports are not available to the public.

# Agenda

## Part 1 – items open to the press and public

- | <i>Item No.</i> | <i>Title</i>   |
|-----------------|--|
| 1               | <b>Apologies for absence</b>   |
| 2               | <b>Declarations of interest</b>  |
| 3               | <b>Minutes of the previous meeting</b> (Pages 3 - 8)<br>[To approve the minutes of the previous meeting as a correct record]         |
| 4               | <b>Matters Arising</b><br>[To consider any matters arising]  |
| 5               | <b>22/00584/LDO - Land At Inkerman Street, Heath Town, Wolverhampton</b><br>(Pages 9 - 16)<br>[To consider the planning application] |
| 6               | <b>22/00016/FUL - 147 Yew Tree Lane, Wolverhampton, WV6 8UW.</b> (Pages 17 - 22)<br>[To consider the planning application]           |
| 7               | <b>22/00740/TR - 21 Maythorn Gardens, Wolverhampton, WV6 8NP</b> (Pages 23 - 28)<br>[To consider the planning application]           |

<b>CITY OF WOLVERHAMPTON COUNCIL</b>	<b>Planning Committee</b> <b>Minutes - 24 May 2022</b>
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## Attendance

### Councillors

Cllr Anwen Muston (Chair)  
Cllr Gillian Wildman (Vice-Chair)  
Cllr Lovinyer Daley  
Cllr Celia Hibbert  
Cllr Rashpal Kaur  
Cllr Phil Page  
Cllr Andrew Randle  
Cllr Tersaim Singh  
Cllr Jacqueline Sweetman  
Cllr Jonathan Yardley  
Cllr Wendy Thompson

### Employees

Stephen Alexander	Head of City Planning
Tim Philpot	Professional Lead - Transport Strategy
Donna Cope	Democratic Services Officer
Jas Kaur	Democratic Services Manager
Stuart Evans	Solicitor
Vijay Kaul	Senior Planning Officer
Laleeta Butoy	Assistant Planner
Andrew Johnson	Planning Officer
Martyn Gregory	Section Leader

## Part 1 – items open to the press and public

*Item No.*     *Title*

**1        Apologies for absence**

Apologies for absence were received from Councillor Olivia Birch.

**2        Declarations of interest**

Councillor Sweetman declared a non-pecuniary interest in respect of agenda item 5.

3 **Minutes of the previous meeting**

Resolved:

That the minutes of the previous meeting held on 22 March 2022 be confirmed as a correct record and signed by the Chair.

4 **Matters Arising**

There were no matters arising.

5 **21/00402/FUL - Former Quality Hotel Site, 126 Penn Road (including 42 Oaklands Road And Business Centre), Wolverhampton, WV3 0ER**

Having declared an interest, Councillor Sweetman left the meeting room whilst the application was considered.

The Committee considered a report regarding 21/00402/FUL - Demolition of existing buildings and erection of a Class E limited assortment discount foodstore with associated car parking, access, landscaping and engineering works.

Andrew Johnson, Planning Officer, outlined the proposal and noted the following updates:

- Paragraph 11.4 of the report, relating to the Lead Local Flood Authority, was no longer applicable, and in relation to the issue of flood risk, the application satisfied the NPPF and complied with Policy ENV5 of the Black Country Core Strategy and saved Policy EP9 of the Unitary Development Plan.
- The Section 106 Agreement would be used by the Council to secure funding for the modified Traffic Regulation Order (TRO) on Oaklands Road. The TRO would be amended to facilitate the necessary visibility splays.
- The S278 Agreement was required to secure the highway improvements to the existing kerbline at the Oaklands Road / Penn Road junction. This would facilitate HGV movements associated with the development.
- Following a further objection from Tesco Stores Limited, it was proposed that the additional text be added to Condition 26: *“of which no more than 943 sq.m shall be used for the display of convenience good.”*
- The Tesco objection also included updated commentary regarding “sequential tests” for two sites:
  - The “Stafford Road / Cannock Road” site (Site 4e in the City Centre Area Action Plan (AAP)). It is our conclusion that site 4e is not suitable or available to accommodate the proposed Lidl
  - The Former St George’s Parade Store Site (also considered in Committee Report para 8.23 of the committee report). It our conclusion that this site is not realistically “available” to accommodate the proposed Lidl.

Mr Gair addressed the Committee and spoke in opposition to the application.

Mr McLeod addressed the Committee and spoke in support to the application.

The report was debated by Committee and concerns were raised regarding the proposals and the negative impact the development could have on the area.

The Planning Officer and Transportation Officer responded to the concerns raised and explained that the proposals were acceptable.

Councillor Muston moved the recommendations within the report and requested that a further two conditions be added regarding a TRO consultation and a speed limit reduction.

Councillor Wildman seconded the recommendations.

Resolved:

That delegated authority be granted for planning application 21/00402/FUL subject to the slight revision of the proposed highway design, modifications to traffic regulation orders (to be secured through Section 106 and Section 278 Agreements) and subject to all agreed conditions.

Councillor Sweetman returned to the meeting.

6 **22/00073/FUL - 5 Saxonfields, Wolverhampton, WV6 8SX**

The Committee considered a report regarding 22/00073/FUL - Single storey rear extension.

Martyn Gregory, Planning Section Leader outlined the proposal.

Mandy Barnett addressed the Committee and spoke in opposition to the application.

The Section Leader responded to comments made and explained that the proposals were acceptable.

Councillor Page moved the recommendations within the report and Councillor Wildman seconded the recommendations.

A Member of the Committee raised concerns regarding the overbearing nature of the development, however most Members felt that the proposals were acceptable.

Resolved:

That the planning application 22/00073/FUL be granted subject to the following conditions:

- Matching materials.

**7 21/01275/FUL - 273 Tettenhall Road, Wolverhampton, WV6 0DE**

The Committee considered a report regarding 21/01275/FUL - Change of use from dwelling house (Use Classes C3) to Provision of medical or health services (Use Class E(e)).

Martyn Gregory, Planning Section Leader, outlined the proposal and noted that since the agenda had been published a further condition had been added requiring the site to have an electrical vehicle charging point.

Councillor Page moved the recommendations within the report and requested that the additional condition requires two electrical vehicle charging points instead of one.

Councillor Hibbert seconded the recommendations.

Resolved:

That planning application 21/01275/FUL be granted subject to conditions including:

- Notwithstanding any details shown on the approved plans or other submitted documents, prior to the commencement of any works within the Root Protection Area of the trees shown to be retained on the submitted tree survey (including demolition, existing surface removal and all preparatory work), an arboricultural method statement (AMS), in accordance with BS 5837:2012, shall be submitted to and approved in writing by the Local Planning Authority.
- Prior to the commencement of development, existing and proposed levels of land shall be submitted and agreed in writing by the local planning authority.
- The parking facilities shall be provided in accordance with the details shown in the approved plans and thereafter be kept available for the parking of vehicles in connection with the use hereby approved at all times.
- The bin stores shall be provided in accordance with the details shown in the approved plans and thereafter retained.
- During the construction phase of this development, working hours and commercial vehicle movements to or from the site during construction shall be restricted to 0800 to 1800 hrs Mondays to Fridays and 0800 to 1300 hrs Saturdays, and at no time on Sundays or Bank and Public Holidays.
- Operational hours for the proposed use including commercial vehicle movements to or from the site shall be restricted to 08.00 to 18:00 Mondays to Saturdays and at no time on Sundays or Bank and Public Holidays.
- Any external lighting scheme (to include design, siting, direction and avoidance of glare and spillage) shall be submitted to and approved in writing by the local planning authority.
- Provision of two electrical vehicle charging points.

**8 21/01642/FUL - 1 Clifton Road, Wolverhampton, WV6 9AN**

The Committee considered a report regarding 21/01642/FUL - Provision of two storey side extension to property (facilitates the internal reconfiguration of property and insertion of new windows to rear elevation). Amended plans.

Vijay Kaul, Senior Planning Officer, outlined the proposal and noted that since the report had been published a further condition had been added requiring further investigation into the foundation design in respect of protecting the adjacent trees.

Hayley Andrews addressed the Committee and spoke in opposition to the application.

Tony Jackson addressed the Committee and spoke in support to the application.

The Planning Officer responded to statements made and explained that the proposals were acceptable.

The report was debated by Committee and the Senior Planning Officer responded to questions asked.

Councillor Page moved the recommendations within the report and Councillor Singh seconded the recommendations.

Resolved:

That planning application 21/01642/FUL be granted subject to the following conditions:

- External materials (inc Juliette balcony design)
- Obscure glazing for en-suite and bedroom 4 (level 4 Pilkington and top opening 1.7m high)
- Obscure glazing for new master bedroom (level 4 Pilkington and non-opening)
- Tree protection measures

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CITY OF WOLVERHAMPTON COUNCIL	<b>Planning Committee</b> Tuesday, 12 July 2022
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<b>Planning application no.</b>	22/00584/LDO	
<b>Site</b>	Land At Inkerman Street, Heath Town	
<b>Proposal</b>	Local Development Order for a residential development of up to a maximum of six dwellings	
<b>Ward</b>	Heath Town;	
<b>Cabinet member with lead responsibility</b>	Councillor Stephen Simkins Deputy Leader: Inclusive City Economy	
<b>Accountable Director</b>	Richard Lawrence, Director of Regeneration	
<b>Originating service</b>	Planning	
<b>Accountable employee</b>	Phillip Walker	Senior Planning Officer
	Tel	01902 55 5632
	Email	Phillip.walker@wolverhampton.gov.uk

## 1.0 Summary recommendation

- 1.1 To authorise the adoption of a Local Development Order, granting planning permission for a maximum of six dwellings on land at Inkerman Street, Heath Town.

## 2.0 Background

- 2.1 A local development order (LDO) grants planning permission and is an alternative to a planning application. The government, through the National Planning Policy Framework, encourages local planning authorities to use local development orders to set the planning framework for particular areas or categories of development where the impacts would be acceptable and where this would promote economic, social or environmental gains for an area.
- 2.2 The Council owned land at Inkerman Street is identified in the Heathfield Park Neighbourhood Plan as a housing site.
- 2.3 The Council intends to bring forward this site within the Heath Town Regeneration Project for the development of up to six dwellings on a Community Design and Build type basis generating strong Social Value contributions to the regeneration of the area. The use of a local development order is seen as the best way to bring forward the development of this site, since it is a flexible tool which has the ability to accelerate

development, simplifying the planning process and making the investment more attractive.

- 2.4 Wolverhampton Homes (WH) is an Arm's Length Management Organisation (ALMO) wholly owned by the City of Wolverhampton Council (CWC) and will be acting as the Employers Representative collaboratively in delivering this housing development as part of the overall Heath Town project. Any buildings constructed on the site will be managed and maintained by WH as it does with the existing City Council owned stock on the Heath Town estate.
- 2.5 In 2018 Black Country Make (CIC) tendered for and were subsequently awarded a Pre-Construction Agreement Services contract to facilitate the full design and development of community led built homes at this site.

### **3.0 Development site**

- 3.1 The site is an irregular shape forming incidental public open space including some mature trees and existing resident car parking. The land is bounded by a railway viaduct to the south, Inkerman Street to the west and a five-storey block of flats (Block 2 to 30 Clover Ley) and associated resident shared amenity space to the north and east.

### **4.0 Relevant policy documents**

- 4.1 National Planning Policy Framework (NPPF)
- 4.2 The Development Plan  
Wolverhampton Unitary Development Plan (UDP)  
Black Country Core Strategy (BCCS)  
Heathfield Park Neighbourhood Plan

### **5.0 Publicity**

- 5.1 The draft LDO was publicised by site and press notices and letters were sent to consultees, in accordance with the statutory procedure. The last day for comment was 28<sup>th</sup> June 2022. No representations have been received.

### **6.0 Consultees**

- 6.1 Transportation – No objection.
- 6.2 Housing Development – No objection.

### **7.0 Legal implications**

- 7.1 In addition to the legal implications detailed in the body of this report, the legislative framework that must be followed in order to bring forward and adopt a Local Development Order are set out in sections 61A to 61D and Schedule 4A of the Town and Country Planning Act 1990, as amended, and articles 38 and 41 of the Town and Country Planning (Development Management Procedure) (England) Order 2015. (JA/16062022/G)

## **8.0 Appraisal**

- 8.1 The land at Inkerman Street is identified in the Heathfield Park Neighbourhood Plan as a housing site. It is therefore suitable for redevelopment for housing.
- 8.2 The land can reasonably accommodate up to six dwellings, whilst not compromising any amenities of existing residents. The detail design of the new housing can be agreed pursuant to the conditions of the proposed local development order.

## **9.0 Conclusion**

- 9.1 This is a suitable site for community led housing development, comprising up to six dwellings. The proposed adoption of this local development order will facilitate community-led housing which will enable local people to play a leading and lasting role in solving local housing problems in this area, creating genuinely affordable homes and strong communities in ways that are difficult to achieve through mainstream housing.

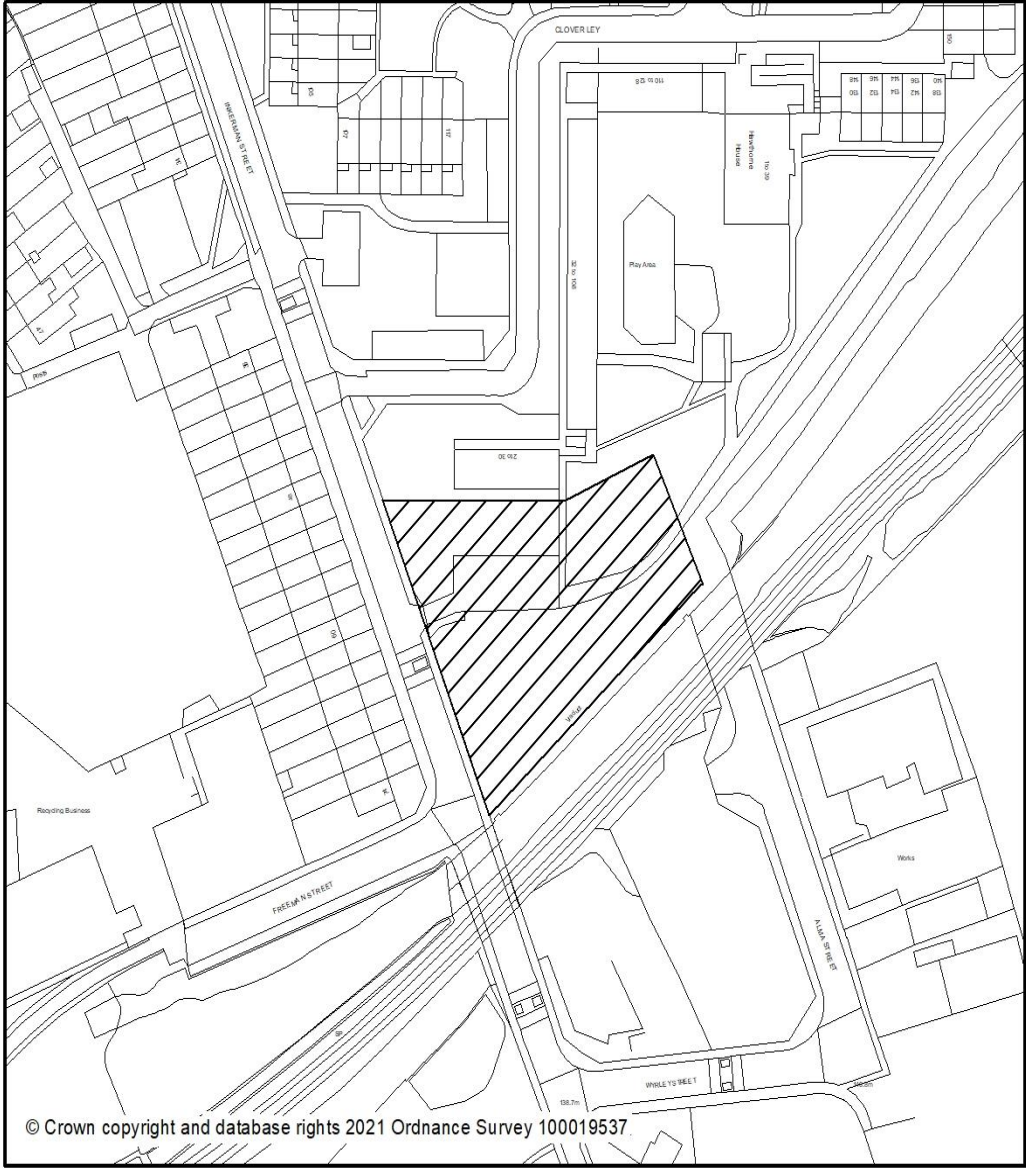
## **10.0 Detail recommendation**

- 10.1 To authorise the adoption of a Local Development Order, granting planning permission for a maximum of six dwellings on land at Inkerman Street, Heath Town.

## **11.0 Appendix 1**

- 11.1 Draft Local Development Order

This report is PUBLIC  
[NOT PROTECTIVELY MARKED]



## **Section 61 of The Town and Country Planning Act 1990**

### **Wolverhampton City Council**

#### **1) Local Development Order - Land at Inkerman Street, Heath Town, Wolverhampton**

- (a) This Local Development Order relates to land at Inkerman Street, Heath Town, Wolverhampton, as outlined in red on the Local Development Order (LDO) Site Boundary and Ownership Plan: Site 4 - Inkerman Street contained within Appendix 1.
- (b) The Order grants planning permission, subject to compliance with conditions, for a maximum of 6 dwellings - falling within Class C3 (a) "Dwelling-houses" of the Town and Country Planning (Use Classes) Order 1987, as amended.
- (c) The Order, and any terms within it, will be active for a period of 5 years following the date of its adoption, and will expire following this period. The Order will therefore cease to apply on ..... and development permitted by this Order must be commenced prior to this date.
- (d) Development which has started under the provision of the Order can be completed in the event that the Order is revoked or revised.
- (e) Development which has started under the provision of the Order prior to its expiry can be completed following the expiry of the Order.

### **Conditions**

#### **Development is permitted subject to the following conditions:-**

1. The development shall not commence until details of the following have been submitted to, and approved in writing by the local planning authority:
  - (a) Layout;
  - (b) Scale;
  - (c) Appearance;
  - (d) Access;

- (e) Landscaping, including hard landscaping, boundary treatments and retained trees;
- (f) Floor plans;
- (g) Finished ground and floor levels;
- (h) Surface water drainage;
- (i) On-site generation of renewable energy sufficient to off-set at least 10% of the residual energy demand of the development;
- (j) Recruitment and Training;
- (k) Community engagement in the development process;
- (l) Noise survey and implementation of any necessary noise mitigation measures;
- (m) Electric Vehicle Charging Points;
- (n) Site investigation and remediation strategy; and
- (o) Air quality survey and implementation of any necessary mitigation measures.

The development shall be carried out in accordance with the approved details.

2. Application for approval of the matters referred to in Condition 1 must be made not later than the expiration of 4 years from the date of adoption of this Order. The final day for the submission of matters referred to in Condition 1 is...
3. The landscaping scheme(s) approved pursuant to Condition 1 shall be fully implemented prior to the first occupation of the development or in accordance with phasing details that shall be submitted to and approved in writing by the local planning authority prior to the first occupation of the development. Following implementation, landscaping shall be maintained for a period of not less than five years. The maintenance shall include the replacement of any tree or shrub which is removed, destroyed or dies by a tree or shrub of the same size and species as that which it replaces, unless otherwise agreed in writing by the local planning authority.
4. The recommendations of the air quality and noise surveys shall be implemented prior to occupation of any of the development hereby approved, and the noise mitigation measures shall be retained thereafter.
5. The recommendations of the site investigation, including any necessary contaminated land remediation work shall be implemented prior to commencement of above ground works.
6. The recommendations of the drainage scheme shall be implemented prior to the commencement of above ground works.

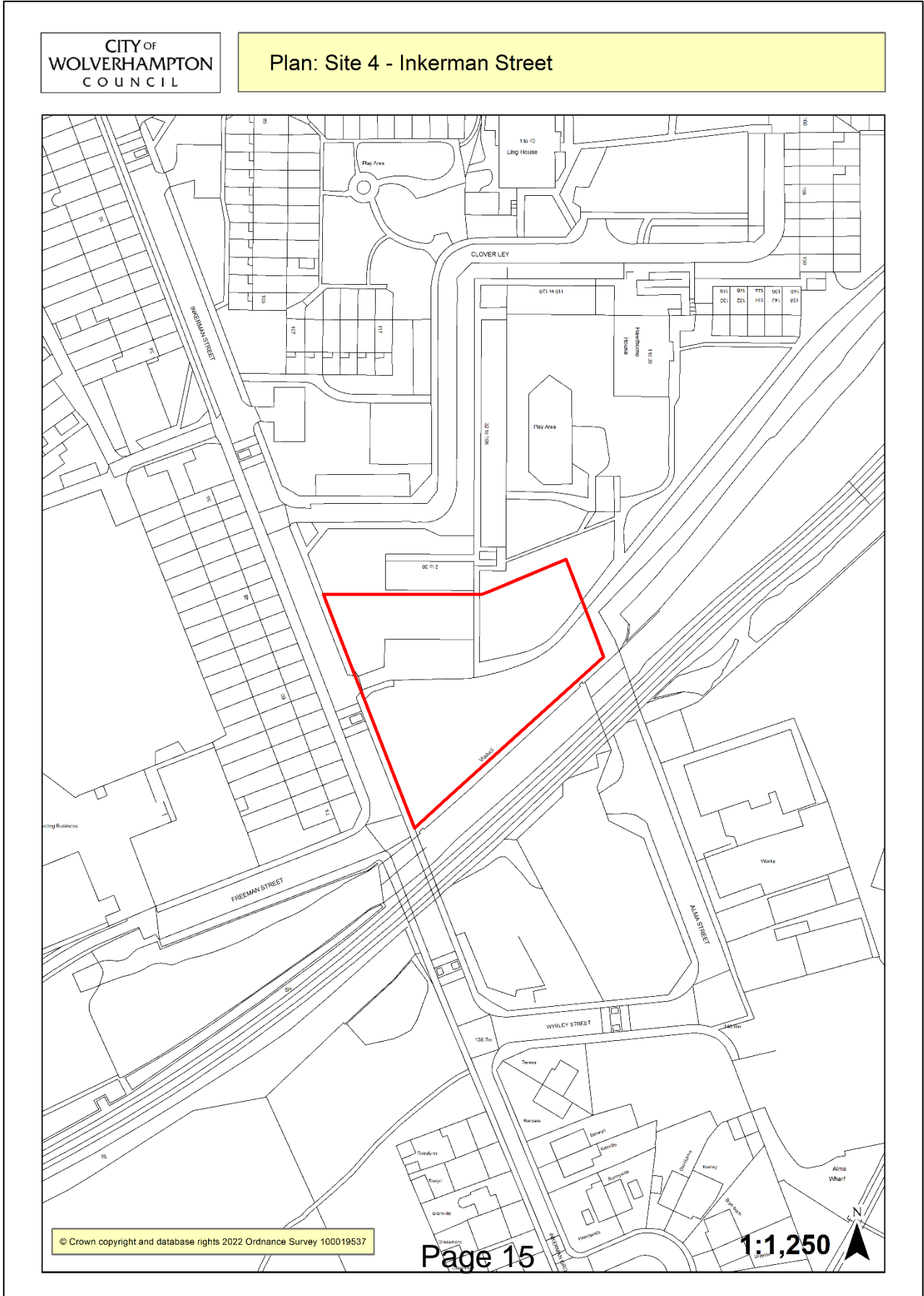
#### Note for Information

The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to The Coal Authority on 0345 762 6848. It should also be noted that this site may lie in an area where a current licence exists for underground coal mining.

Further information is also available on The Coal Authority website at: [www.gov.uk/government/organisations/the-coal-authority](http://www.gov.uk/government/organisations/the-coal-authority)

Property specific summary information on past, current and future coal mining activity can be obtained from: [www.groundstability.com](http://www.groundstability.com)

Appendix 1 - Local Development Order (LDO) Site Boundary and Ownership Plan: Site 4 - Inkerman Street



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CITY OF <b>WOLVERHAMPTON</b> COUNCIL	<b>Planning Committee</b> <b>Tuesday 12 July 2022</b>
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<b>Planning application no.</b>	22/00016/FUL	
<b>Site</b>	147 Yew Tree Lane, Wolverhampton, WV6 8UW.	
<b>Proposal</b>	Two storey front, side, rear and single storey rear extensions.	
<b>Ward</b>	Tettenhall Regis	
<b>Applicant</b>	Kulvinder Dhillon	
<b>Cabinet member with lead responsibility</b>	Councillor Steve Simkins Deputy Leader, Inclusive City Economy	
<b>Accountable Director</b>	Richard Lawrence, Director of Regeneration	
<b>Originating service</b>	Planning	
<b>Accountable employee</b>	Author name	Nussarat Malik
	Tel	01902 550141
	Email	Nussarat.malik@wolverhampton.gov.uk

## 1.0 Summary recommendation

1.1 Refuse, detrimental effect on street scene, filling gap.

## 2.0 Application site

- 2.1 The application site consists of a large, detached property set well back from the main road with parking to the front with a landscaped front lawn and an enclosed rear garden. The dwelling has been extended previously. The street scene consists of mainly large, detached properties of varying designs, mostly with distinct gaps between them.
- 2.2 The application site sits within a group of three dwellings of similar design within a well established residential area. The main characteristic feature of this group is the large bay windows and the “cat slide” roof design feature at the front with the main roof being of hipped design, there is a single storey garage projecting out from the main house adjoined by a porch.
- 2.3 The garage has been converted to a living area/office and there is single storey extension and conservatory to the rear.

### **3.0 Application details**

- 3.1 The application seeks to extend at the front, side and rear at two stories as well as single storey to the rear and new bay windows to the front with a new porch.
- 3.2 The proposal will accommodate a fourth bedroom to the front first floor and extend the current third bedroom with en-suite and move the existing bathroom to the side. To the front the ground floor will be increased in width up to the boundary of the plot however, this will be reduced in projection. Also to the front new bay windows and porch are proposed, and to the rear ground floor the existing dining and conservatory will be replaced with a larger open plan kitchen/living area.

### **4.0 Relevant planning history**

- 4.1 04/0266/FP/R First floor side extension – Refused, 02 April 2004.
- 4.2 04/0849/FP/R First floor side extension to front of property – Permitted, 29 July 2004.
- 4.3 16/00090/PDPA Rear single storey extension to form kitchen and utility (Maximum rearward projection beyond the rear wall of the original dwelling house 4.5 metres, height to the eaves 2.2 metres and maximum height to the roof 3.8metres) – Permitted, 01 March 2016.

### **5.0 Relevant policy documents**

- 5.1 National Planning Policy Framework (NPPF)
- 5.2 Planning Practice Guidance (PPG)
- 5.3 The Development Plan: Wolverhampton Unitary Development Plan (UDP)
- 5.4 Black Country Core Strategy (BCCS)
- 5.5 Tettenhall Neighbourhood Plan Area

### **6.0 Publicity**

- 6.1 Letters were sent to neighbours and three letters of objection have been received, two were objecting to the first set of plans and one letter of objection was received after the proposal was revised. The objections raised are:
  - Detrimental affect
  - Loss of light
  - Overshadowing
  - Loss of privacy due to large rear windows
  - Overlooking

## 7.0 Legal implications

7.1 There are no legal implications arising from this report. KR/30062022/B

## 8.0 Appraisal

### Design and Layout

- 8.1 The current design has been amended from the original proposal which was larger and could not be supported. This new scheme has been amended and reduced however would still be filling in the gap between this property and the neighbouring property 145 Yew Tree Lane as well as altering the existing roof design by removing the catslide element at the front. A similar scheme (04/0266/FP/R) was refused previously for filling in the gap.
- 8.2 This alteration to the roof design at the front and the two storey side extension cannot be supported and would be detrimental to the appearance of the street scene and would result in a loss of spaciousness between properties which is a characteristic feature of this row of houses and contrary to the policies of the development plan.
- 8.3 To the rear first floor the proposal would be projecting out by 2.5 metres with a large gable style roof and large window overlooking the rear garden. The neighbouring dwelling (145 Yew Tree Lane) has a bedroom window to the rear and the projecting mass of brickwork would affect the outlook and amenity to this bedroom.
- 8.4 At the front ground floor, the proposal would be reducing the projection by approximately 0.7 metres of the current living/office (this was previously a garage) but would be built up to the boundary with the neighbouring dwelling (145 Yew Tree Lane) which has a bay window adjacent.
- 8.5 The rear single storey extension will replace the existing conservatory and will be in line with the existing single storey extension with a new internal layout.
- 8.6 Neighbour Amenities
- The ground floor front extension will have some impact on the neighbouring dwelling, however, as it will be a reduced in length even though it will be closer to the neighbour it will have a flat roof, and on balance it would not be justified to refuse this element. The rear single storey will replace the conservatory and will project out further by approximately 2 metres (with neighbour 149) and will bring it in line with the existing dining area.
- 8.7 The rear first floor proposal will project out by 2.5 metres and due to the proximity with its neighbouring house (145 Yew Tree Lane) the overall bulk, mass and height of the extension will have a detrimental impact on the outlook presently enjoyed by this dwelling.

## 9.0 Conclusion

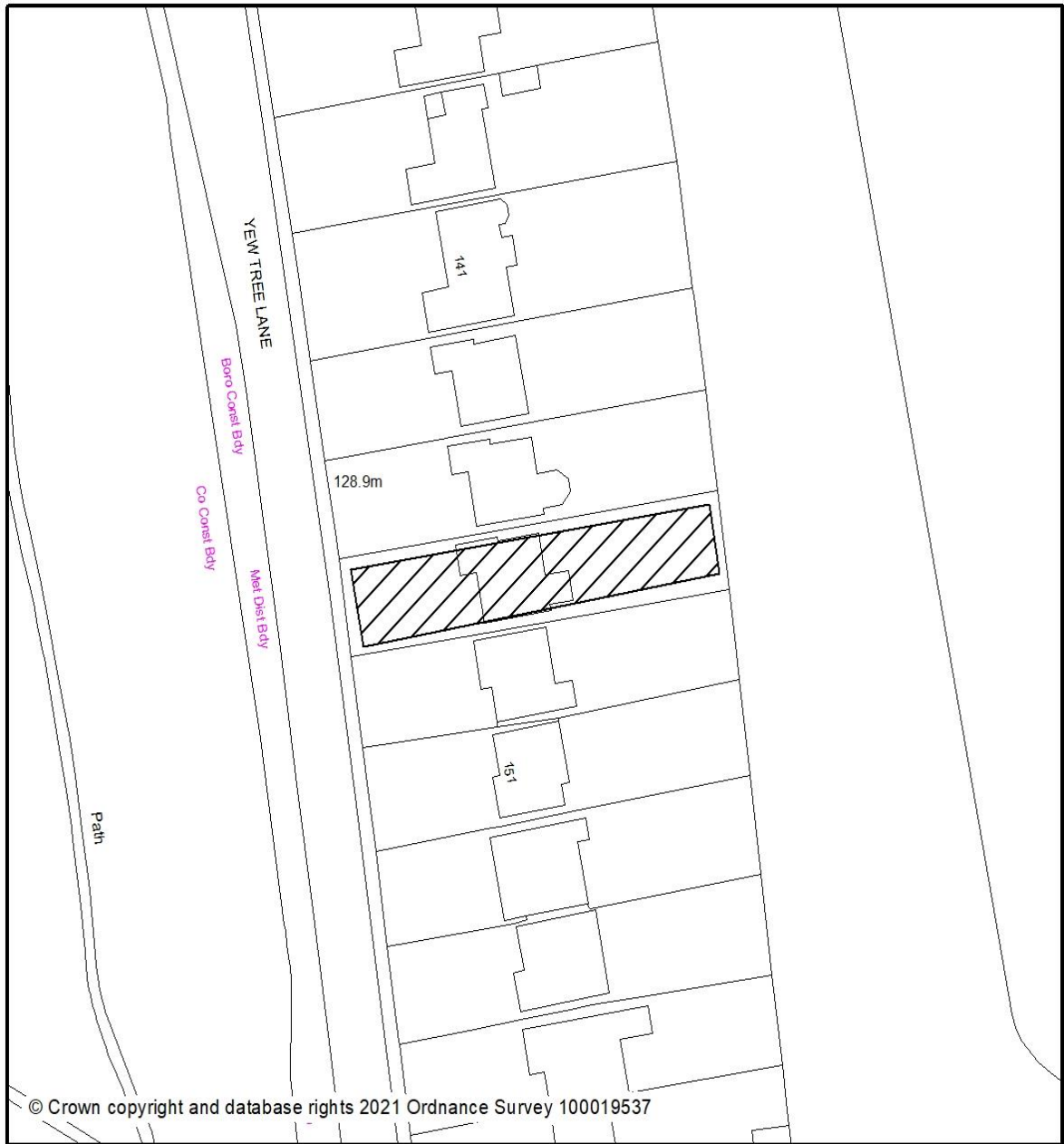
- 9.1 The proposal will be filling in the gap that currently exists not in keeping with the character of the immediate street scene. Therefore, the proposal is not in accordance with the development plan and policies as well as being contrary to the Tettenhall Neighbourhood Plan.
- 9.2 The proposal will have a detrimental impact on the neighbouring dwelling at the rear first floor (145 Yew Tree Lane) and have some impact on the ground floor front living area of this dwelling.

## 10.0 Detail recommendation

### 10.1 Refuse

The proposed extension by filling in the existing gap between this property and the neighbouring house at first floor would result in a loss of spaciousness between the buildings which is characteristic of this row of houses and so would detract from the existing character and appearance of the street scene. Therefore, the proposed development would be contrary to saved UDP Policies: D4, D7, D8, D9, H6 and BCCS Policies CSP4 and ENV3 and guidance of SPG4 Extensions to Houses and the Tettenhall Neighbourhood Plan

- 10.2 By virtue of the proposed first floor rearward projection by reason of its height, bulk and position relative to the neighbouring house (145 Yew Tree Lane) it would have an unacceptable overbearing impact on the outlook presently enjoyed by this house contrary to policies of the development plan. Therefore, the proposed development would be contrary to saved UDP Policies: D4, D7, D8, D9, H6 and BCCS Policies CSP4 and ENV3 and guidance of SPG4 Extensions to Houses and the Tettenhall Neighbourhood Plan



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CITY OF <b>WOLVERHAMPTON</b> COUNCIL	<b>Planning Committee</b> Tuesday, 12 July 2022
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<b>Planning application no.</b>	22/00740/TR	
<b>Site</b>	21 Maythorn Gardens, Wolverhampton, WV6 8NP	
<b>Proposal</b>	06/00214/TPO (T143) - Cedar in rear garden - Fell because of condition	
<b>Ward</b>	Tettenhall Wightwick;	
<b>Applicant</b>	Mr William Humphries	
<b>Cabinet member with lead responsibility</b>	Councillor Stephen Simkins Deputy Leader: Inclusive City Economy	
<b>Accountable Director</b>	Richard Lawrence, Director of Regeneration	
<b>Originating service</b>	Planning	
<b>Accountable employee</b>	James Dunn	Tree Officer
	Tel	01902 555621
	Email	<a href="mailto:James.dunn@wolverhampton.gov.uk">James.dunn@wolverhampton.gov.uk</a>

## 1.0 Summary recommendation

1.1 Refuse

## 2.0 Application site

- 2.1 The cedar tree subject to this application is protected as T143 of The Wolverhampton Tettenhall No.2 Tree Preservation Order 1959. The Tree is situated within the rear garden of 21 Maythorn Gardens. The tree is situated centrally within the rear garden, with a canopy spread that overhangs most (approximately 57%) of the useable area of the rear garden.
- 2.2 The property in which the tree stands is situated within the residential cul-de-sac of Maythorn Gardens, there is a similarly sized cedar tree located in the front garden of the property, and a similar but smaller sized cedar tree located in the adjacent rear garden.
- 2.3 Maythorn Gardens was built on the site of a former single large property called "The Grove", and the mature trees within Maythorn Gardens would have formed a part of the

landscaping associated with that property. The tree subject to this application appears to be a remnant of the formal landscaping alongside the driveway of that property.

### **3.0 Application details**

- 3.1 The applicant has proposed to remove the tree due to concerns about the safety of the tree and the risk that it provides to resident and users of their property due to numerous previous incidences of significant branch failure.
- 3.2 In support of the applications Mr Humphries has submitted photos of a previous branch / limb failure, along with a supporting letter from a chartered arboriculturalist recommending the felling of the tree due to the nature and history of the branch failures.

### **4.0 Relevant policy documents**

- 4.1 Wolverhampton Unitary Development Plan (UDP) – Policy N7: The Urban Forest

### **5.0 Publicity**

- 5.1 No comments received.

### **6.0 Consultees**

- 6.1 None.

### **7.0 Legal implications**

- 7.1 Regulation 24 of the Town and Country Planning (Tree Preservation)(England) Regulations 2012 provides that any person who suffers loss or damage that is in consequence of the Council's decision to refuse consent, or to impose conditions when granting consent, may within 12 months of the decision, and subject to other limitations as set out in regulations, make a claim for compensation from the Council.  
KR/30062022/A)

### **8.0 Appraisal**

- 8.1 The Cedar tree subject to this application is a mature specimen that is prominently visible in the street scene of both Maythorn Gardens and Wood Road. The tree is one of a number of large trees that characterise the area and makes a significant contribution to the visual landscape and street scene. Furthermore, the tree forms a heritage link to the previous iterations of development at the site, as it appears that this tree may have been present at the time the 1884 County Series mapping was produced, and would have formed part of a short avenue of similar trees either side of the driveway to "The Grove" house, which occupied the plot prior to the current properties which were built around the 1970's. Given the public visibility, the stature of the tree and its heritage link, the tree has a high amenity value.
- 8.2 Given the high amenity value of the tree, the justification required for its removal needs to be similarly high.



- 8.3 The application describes the reasons of the application as the condition of the tree, and the risk to the occupiers and visitors to the property from further branch failure. In support of the application the applicant has submitted a letter / report from a chartered arboriculturalist which considers the impact of the falling branches and cones on the use of the garden by stating that in his assessment there were no pruning remedies to the failures and the only form of action would be to fell the tree.
- 8.4 The issues relating to the failure of seasonal debris are not considered sufficient grounds to fell a tree with an amenity value of this magnitude. The fall of needles, small twigs and cones from the tree is a natural process. Risk of injury from falling seasonal debris is sufficiently low so as not to place an undue burden on property owners. To accept that the natural shedding of cones, and other seasonal debris is sufficient grounds to fell high amenity trees would, if allowed to follow to its reasonable conclusion, result in a substantial and significant reduction in the amenity value of areas such as Tettenhall due to the presence of similar such trees in the area.
- 8.5 With regards to the failure of the larger branches from the tree and the impact that this has on the use of the garden, the issue at hand is whether the applicant has sufficiently demonstrated that the prevailing condition of the tree, the characteristics of the species and the associated hazard to the occupiers to the land underneath are such that the felling of the tree, is the most reasonable course of action given the amenity that the tree provides to the area.
- 8.6 During my visits to the tree the evidence of various failures was observed within the tree, including the most recent failures, and the significant hung-up limbs that are still retained during the canopy. There seem to be a predominant bias of the points of failure to the western half of the tree, which would appear to benefit from less protection from the prevailing winds from the cedar tree in the front garden. This would support the conclusions that the failures are related to the wind forces that are exerted on the trees.
- 8.7 The arboriculturalist's assertion in their report / letter, that "...there is no pruning remedy for these branch failures" and that "the only form of action is to remove the tree" isn't accepted, as on inspection, there appears to be substantial potential for the secondary and tertiary branches to be pruned back to appropriate pruning points so as to re-profile the canopy, reduce the overall lever arm length of the overall branches structures and lessen the wind forces exerted on the higher order branch structures and junctions, whilst still retaining the trees with a relatively naturalistic canopy. Such works would reduce the risk of branch failure whilst allowing for the retention of the tree as a significant amenity feature in the area.
- 8.8 Given the pruning potential that exists within the canopy it is not accepted that the felling of the tree is the only viable option to resolve the concerns regarding falling branches, and therefore, given the high amenity value of the tree the felling of the tree has not been adequately justified.

## 9.0 Conclusion

9.1 Having regard to both the application and the documents submitted in support, the reasons put forward in the application to justify the felling of this high value tree are not sufficient to justify the impact on the amenity of the local area that would result from the proposed felling of the tree. In particular, the proposed risk to further significant failure of the tree has not been demonstrated to the point that felling of the tree is, given the amenity value of the tree, the most appropriate and reasonable management option.

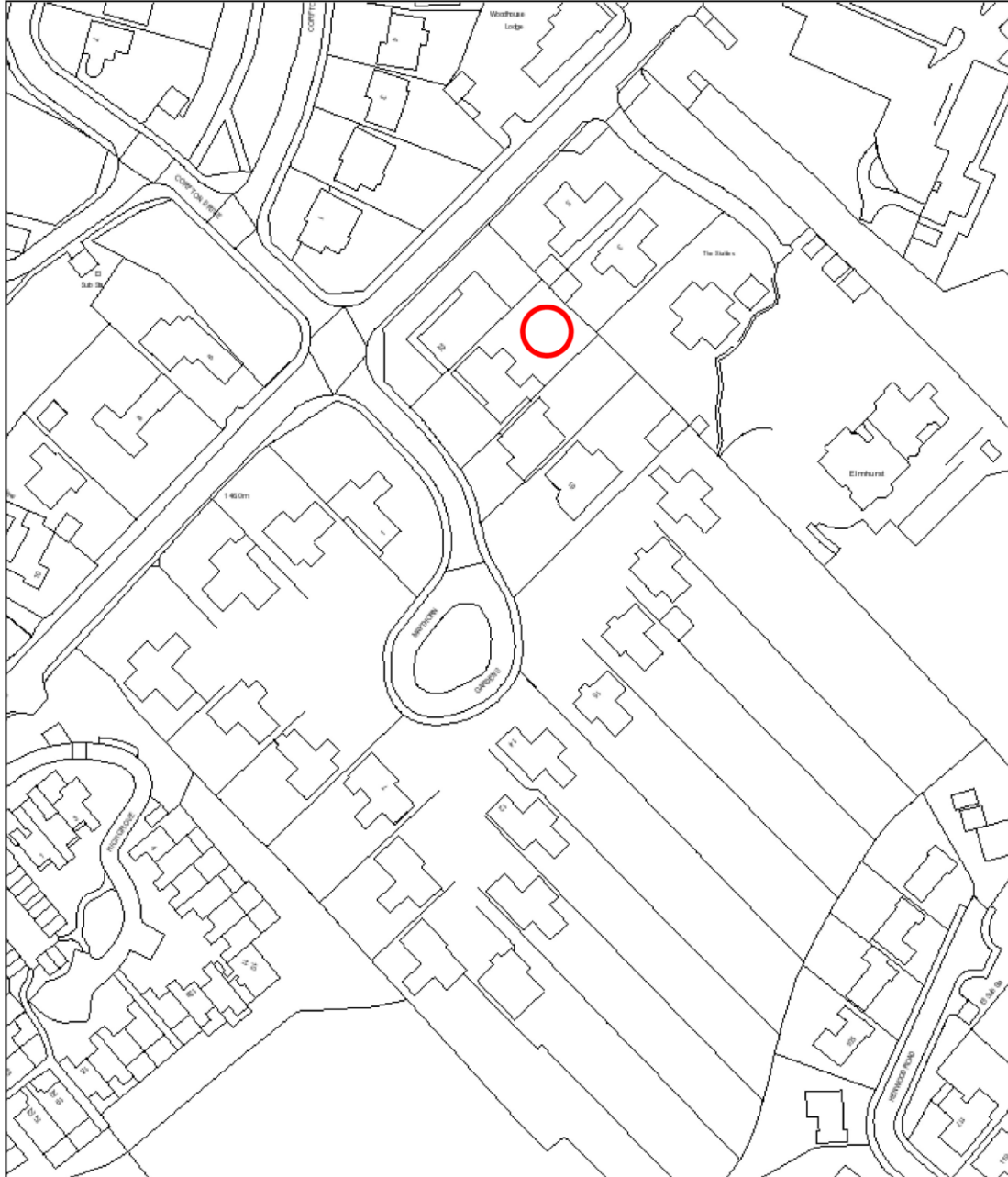
#### **10.0 Detail recommendation**

10.1 Refuse planning permission for the following reason:

The cedar tree subject to this application provides a high amount of amenity to the surrounding area. The application and associated supporting information do not sufficiently demonstrate that the felling of the tree is the most appropriate and reasonable management option for the tree and therefore the detrimental impact on the amenity value of the tree that would result from the proposed works has not been sufficiently justified.

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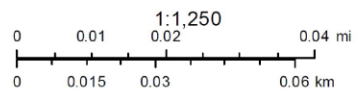
### Location Plan for application 22/00740/TR



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Tree subject to application



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