

IN THE HIGH COURT OF JUSTICE

Claim No: CO/4504/2019

QUEENS BENCH DIVISION

ADMINISTRATIVE COURT

BETWEEN

BALJIT SINGH BHANDAL
BALBIR SINGH BHANDAL
AMRIK SINGH BHANDAL

APPELLANTS

AND

SECRETARY OF STATE FOR HOUSING COMMUNITIES AND LOCAL GOVERNMENT

1ST RESPONDENT

BROMSGROVE DISTRICT COUNCIL

2ND RESPONDENT

INDEX TO HEARING BUNDLE – VOLUME B
HEARING 5 MAY 2020

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Appeal Decision

Site visit made on 2 July 2019

by J Whitfield BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 October 2019

Appeal A Ref: APP/P1805/C/19/3219678

Appeal B Ref: APP/P1805/C/19/3219679

Appeal C Ref: APP/P1805/C/19/3219680

Land at Four Stones Restaurant, Adams Hill, Clent, Stourbridge,
Worcestershire DY9 9PS

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr Baljit Singh Bhandal (Appeal A), Mr Balbir Singh Bhandal (Appeal B) and Mr Amrik Singh Bhandal (Appeal C) against an enforcement notice issued by Bromsgrove District Council.
- The enforcement notice was issued on 27 November 2019.
- The breach of planning control as alleged in the notice is without planning permission **the erection of a replacement glazed sunroom ("the unauthorised development")**.
- The requirements of the notice are:
 1. Remove the unauthorised development from the Land.
 2. Remove from the Land all building materials and rubble arising from compliance with the requirements of step 1 above.
- The period for compliance with the requirements is 3 months.
- Appeal A is proceeding on the grounds set out in section 174(2)(a), (f) and (g) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
- Appeals B and C are proceeding on the grounds set out in section 174(2)(a), (f) and (g). Since the prescribed fees have not been paid within the specified period, the appeals on ground (a) and the application for planning permission deemed to have been made under section 177(5) of the Act as amended have lapsed.

Summary of Decisions: The appeals are dismissed and the enforcement notice is upheld with a variation.

Appeal A on ground (a) and the deemed application

Main Issues

1. The main issues are:
 - whether the development is inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies;
 - the effect of the development on the openness of the Green Belt;
 - whether the development preserves or enhances the character or appearance of the Clent Conservation Area; and,

- if the development is inappropriate, would the harm by reason of inappropriateness, and any other harm, be clearly outweighed by other considerations. If so, would this amount to the very special circumstances required to justify the development.

Reasons

Background

2. The appeal site comprises a detached building presently in use as a restaurant. Planning permission¹ was granted in July 2016 for the demolition of a front sun room and replacement with a new flat roof sun room. The Council became aware in July 2017 that a sun room had been constructed at the appeal site which was not in compliance with the July 2016 permission. It is said that: the number of glazed panels on the front of the sunroom constructed is one less than that approved; the upper section of the front elevation is glazed in contrast to that approved; and, the roof as built is sloping, higher and includes a projecting canopy to the front which includes support columns. An application² seeking to regularise the extension was refused in July 2017 and subsequently dismissed on appeal³ in April 2018.
3. The development subject of the enforcement notice before me in this appeal, is that which was subject to the previous section 78 appeal. The terms of the appeal on ground (a) derive directly from the alleged breach of planning control set out in the notice. There is no power before me to grant permission for something different to that enforced against, only the whole or part of those matters.

Inappropriate Development

4. The appeal site lies within the Green Belt. Policy BDP4.4 of the Bromsgrove District Plan (2017) (BDP) states that the development of new buildings in the Green Belt is not inappropriate development in some circumstances. Those circumstances include, amongst other things, proportionate extensions to non-residential buildings, taking into account the potential impact on the openness and purposes of including the land in the Green Belt. The policy is consistent with the Framework which states, at paragraph 145, that the construction of new buildings in the Green Belt is inappropriate, except for, inter alia, the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building.
5. As with the Inspector in the April 2018 appeal, I find the original building has been substantially increased in size through various additions. In my view, the development as enforced against results in a disproportionate addition over and above the size of the original building. The appellant does not disagree.
6. The development therefore comprises inappropriate development in the Green Belt, in conflict with BDP Policy BDP4.4 and the Framework. In accordance with paragraph 144 of the Framework, I afford substantial weight to the harm that arises to the Green Belt by reason of inappropriateness.

¹ LPA Ref: 16/0403

² LPA Ref: 17/00646/FUL

³ APP/P1805/W/17/3191833

Openness

7. Openness as a concept has both a visual and spatial dimension. Whilst the sun room is no greater in footprint than that permitted in July 2016, it is of greater volume due to the roof design and canopy and, given its location to the front of the building, is widely prominent.
8. I conclude, therefore, that the development has a harmful effect on openness and conflicts with the fundamental aim of Green Belt policy to keep land permanently open as set out in paragraph 133 of the Framework.

Conservation Area

9. The appeal site lies within the Clent Conservation Area, the significance of which is largely derived from its pattern of simple, brick-built cottages of varying sizes set amongst a spacious and verdant semi-rural setting. I saw from my site visit that very few of the buildings here contain additions to the front. This ensures a sense of simplicity is maintained, which gives insight into the historical composition of the built environment.
10. The sunroom projects beyond the front of the property and sits close to the adjacent Rose Cottage **and the road of Adam's Hill to the front**. Rose Cottage is a white rendered, two storey house which sits below the appeal site, such that the floor level of the sunroom sits broadly level with the adjacent **property's** first floor level. The contemporary design of the sun room with its aluminium frames and large expanses of glazing, coupled with its height and proximity to the road, means it appears as a dominant and incongruous feature within the street scene.
11. I conclude, therefore, that the development does not preserve or enhance the character or appearance of the Clent Conservation Area, in conflict with BDP Policy BDP20 which reflects the statutory duty set out in section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.
12. Paragraph 196 of the Framework states that, where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits. Nevertheless, there is little evidence before me from the appellant setting out that the development will result in any public benefits that would outweigh the harm. Great weight is to be afforded to the failure to conserve the heritage asset.

Other Considerations

13. It is argued that the July 2016 permission forms an available fallback position for the appellant. Nevertheless, for significant weight to be afforded to a fallback position, there needs to not only be a greater than theoretical possibility that the development might take place, but also that it would be equally or more harmful than the development subject of the notice.
14. It seems to me that the July 2016 development would deliver the additional floor space sought by the appellant. However, the approved scheme would have lesser volume than the development before me here due to the flat roof and lack of canopy. As a result, the 2016 scheme would have a less harmful effect on the Green Belt and the Clent Conservation Area than the appeal development. It would not, therefore, justify the harm I have identified as

arising from the development as enforced against and thus, I afford it very limited weight.

Conclusion

15. The development is inappropriate development and the Framework establishes that substantial weight should be given to any harm to the Green Belt. It also results in harm to the openness of the Green Belt to which I afford substantial weight. Moreover, I afford great weight to the failure of the development to conserve the significance of the heritage asset.
16. Consequently, whilst I have considered all matters in support of the development, I conclude that, collectively, they do not clearly outweigh the harm I have identified in relation to the Green Belt by reason of inappropriateness, the harm to openness and other harm. Accordingly, very special circumstances do not exist and the proposal would conflict with BDP Policy BD4.4 and the Framework.
17. Section 177(1)(a) allows permission to be given under the appeal on ground (a) to any part of the matters alleged in the notice. To that end, the appellant has advanced four alternative schemes to that subject of the notice.

Alternative Development 'A'

18. The appellant advances, largely under the appeal on ground (f), that alterations could be made to the sun room to make it acceptable in planning terms. Those alterations comprise the removal of the part of the roof which provides a canopy over the front of the sun room. The sun room would otherwise be retained in its current form. The canopy had been removed at the time of my site visit.
19. It seems to me that the sun room with the canopy removed would form part of the matters stated in the notice and it is therefore open to me to grant planning permission for it under the ground (a) appeal.
20. Nevertheless, the alternative would retain significant amounts of glazing set in amongst the modern and slick appearance of the aluminium frame. This would appear in stark contrast to the traditionally proportioned, timber windows found on the appeal and surrounding properties. Moreover, the scale of the sun room is particularly large in the context of the size of the original building. Thus, even with the removal of the canopy, it would appear as a dominant and incongruous feature.
21. I accept that planning permission was previously granted for the erection of an extension of similar footprint and design. However, the 2016 scheme would be slightly lower than that as built and would contain a flat roof rather than the pitched roof of the development as enforced against.
22. I conclude, therefore, that the alternative would not overcome the harm I have identified in respect of the effect of the development on the Green Belt and the Clent Conservation Area.

Alternative Development 'B'

23. The appellant advances, largely under the appeal on ground (f), that alterations could be made to the sun room to make it acceptable in planning terms. Those alterations comprise the removal of the entire roof and its

replacement with a flat, glazed roof. The resultant extension would be a similar footprint, height, shape and design as that which was granted permission in 2016.

24. However, to carry out such an alteration, the canopy would be removed as well as the sloping roof, together with the upper glazed panels on the front and side elevation. The roof would be replaced with a new flat, glazed roof. Given that, as the appellant accepts, the alternative would require the addition of a flat roof, it seems to me that it cannot, by definition of the fact they are new works, form part of the sun room as enforced against. Consequently, I find that the alternative development would not form part of the matters as enforced against in the notice.
25. Regardless of the merits of the alternative, it is not, therefore, open to me to grant planning permission for it under the appeal on ground (a).

Alternative Development 'C'

26. The third alternative put forward is for the development to be altered such that it is in accordance with the 2016 permission. This would involve the addition of an upper section which is flat-roofed in line with the approved drawings. The proposal is for this to be aluminium framed and glazed to match the rest of the sun room.
27. This too would require the removal of the sloping roof and its replacement with a flat roof in line with the approved plans of the 2016 permission. Again, as this would involve new works in the formation of a roof, it seems to me that works would be required that do not form part of the sun room as enforced against. Consequently, I find that the alternative development would not form part of the matters of the notice and it is not, therefore, open to me to grant planning permission for it under the appeal on ground (a).

Alternative Development 'D'

28. **Alternative 'D' would necessitate the installation of folding doors within the external wall of the building.** The installation of folding doors within the front elevation of the building does not form part of the development enforced against. Regardless of the merits of the alternative, it is not, therefore, open to me to grant planning permission for it under the appeal on ground (a).

Overall Conclusion on Appeal A on ground (a)

29. For the reasons given above, I conclude that the appeal on ground (a) should not succeed and I refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act.

Appeals A, B and C on ground (f)

30. An appeal on ground (f) is made on the basis that the requirements of the notice exceed what is necessary. Section 173(4) of the 1990 Act sets out the purposes which an enforcement notice may seek to achieve. They are either (a) remedying of the breach of planning control or (b) remedying any injury to amenity which has been caused by the breach.
31. The notice does not specify which of the two purposes it seeks to achieve. Nevertheless, the requirements are to completely remove the unauthorised development. I am satisfied, therefore, that the purpose of the notice falls

- solely within section 173(4)(a), that being remedying the breach by restoring the land to its condition before the breach took place. To that end, the requirements to not go beyond what is necessary to remedy the breach.
32. Case law has nevertheless established that it is open to me to consider clear and obvious alternatives that would overcome the planning harm at less cost and disruption to the appellant than total demolition. The appellants have put forward four alternatives, which I have considered in Appeal A on ground (a).
 33. Taking each in turn, **Alternative 'A'** would retain much of the extension as enforced against, absent only of the canopy. It would not therefore remedy the breach of planning control.
 34. The appellants indicate that **Alternative 'B' would retain the sun room as constructed**, save for the canopy and the sloping roof. The approach would not therefore remedy the breach of planning control.
 35. **Alternative 'C'** would retain part of the unauthorised development, as indicated by the appellants. It would not, therefore, remedy the breach of planning control.
 36. **Alternative 'D' would necessitate** the installation of folding doors within the external wall of the building. The installation of folding doors within the front elevation of the building does not form part of the development enforced against. Thus, whilst the alternative would remove the sunroom subject of the notice, the variation of the notice to require the installation of folding doors would go beyond what is necessary to restore the land to its condition before the breach took place.
 37. Section 173(4)(a) of the 1990 Act does allow for the breach of planning control to be remedied by making any development comply with the terms (including conditions and limitations) of any planning permission which has been granted in respect of the land.
 38. Case law has established that a planning permission cited in a requirement of a notice must be extant and must not have lapsed. In order for the July 2016 permission to be extant, it therefore needs to have lawfully commenced on or before 6 July 2019.
 39. Section 56 of the 1990 Act states that development shall be taken to be begun on the earliest date on which any material operation comprised in the development begins to be carried out. Case law has established that deciding whether the operations done were comprised within the development allowed by the 2016 permission involves looking at what has been done as a whole and reaching a judgement as a matter of fact and degree upon that whole.
 40. Case law has also established that it is possible to commence a development for the purposes of section 56 of the 1990 Act and thereby meet a deadline imposed by a condition on the permission, and then later deviate from the permission in a manner without retrospectively altering the fact that the commencement of the development had occurred for the purposes of section 56.
 41. The determining consideration is a comparison between the 2016 scheme and the scheme as built. In this instance, I note that the extension that has been built on a similar, if not the same footprint, as that which was granted in 2016.

However, it is not possible to ascertain from the approved drawings whether what has been constructed are building operations which can be construed to amount to a commencement of the 2016 scheme. Neither of the main parties have provided sufficient substantive evidence to that effect. The planning permission granted in July 2016 is therefore now time expired.

42. Moreover, condition 4 of the 2016 permission required details of the joinery at a scale of 1:20 should be submitted to and approved in writing by the Council prior to the commencement of development. Whilst evidence has been provided that such details were submitted to the Council, there is no evidence that the Council approved the details in writing.
43. The appellants invite me to use my power under section 177(1)(b) of the 1990 Act to discharge condition 4 of the 2016 permission. However, the notice is clear that the breach of planning control falls within section 171A(1)(a) of the 1990 Act, that being development without planning permission, rather than section 171A(1)(b), a breach of condition or limitation on a planning permission.
44. Thus, having regard to section 177(5) of the 1990 Act, the appeal made under section 174(2)(a) is that planning permission ought to be granted for the breach of planning control constituted by the matters stated in the notice. The appeal is not brought on the basis that the condition or limitation concerned ought to be discharged, because the breach falls within 171A(1)(a), not 171A(1)(b) – the notice does not allege a breach of condition. To my mind, the inclusion of the phrase, as the case may be, in section 174(2)(a) distinguishes between the powers available under sections 177A(1)(a) and 177A(1)(b).
45. It can therefore logically be construed that the power to discharge any condition or limitation subject to which planning permission was granted under section 177(1)(b) relates to appeals made under section 174(2)(a) relating to a breach of planning control which falls within section 171A(1)(b). That is not the case here. I therefore, am unable to discharge condition 4 on the 2016 permission in the powers afforded to me under this appeal.
46. As a consequence, taking all of the above into account, I cannot be satisfied, on the balance of probabilities, that on the evidence before me, the permission was lawfully commenced and therefore remains capable of implementation in accordance with its conditions.
47. Therefore, is not open to me to vary the requirement in the way suggested by the appellants. There is no extant planning permission that could be cited as an alternative.
48. As a result, the appeals on ground (f) fail.

Appeals A, B and C on ground (g)

49. The appeals on ground (g) are that the time limit given for compliance with the notice is too short.
50. The notice gives a time period of three months for compliance with its requirements. The appellants initially suggested a period of six months would be more appropriate to allow sufficient time for the requirements to be undertaken without disrupting the business operating from the premises. In

their later statement, it is put forward that a period of 18 months would be more appropriate. However, I have been provided with little evidence as to how the removal of the extension within a period of three months would unduly **affect the appellants' business**. Moreover, a period of 18 months would amount to a grant of temporary planning permission and would not satisfactorily deal with the need for expediency.

51. Nonetheless, it is clear by the grant of planning permission in 2016 that the Council considers some form of extension on this footprint is acceptable in terms of its impact on the Green Belt and the character and appearance of the area. There are several alternatives which the appellants have put forward, three of which I have been unable to consider the planning merits of because they do not form part of the development as enforced against. It therefore seems to me that it would be reasonable to extend the time period for compliance to nine months to allow the parties the opportunity to explore alternatives which would overcome the harm I have identified in respect of the appeal on ground (a).

52. Consequently, the appeal on ground (g) succeeds to a limited extent.

Formal Decisions

Appeal A

53. It is directed that the enforcement notice is varied by the deletion of the words **"3 months" from section 6** of the notice and the substitution of **"9 months"** as the period for compliance. Subject to the variation, the appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Appeal B

54. It is directed that the enforcement notice is varied by the deletion of the words **"3 months" from section 6 of the notice and the substitution of "9 months"** as the period for compliance. Subject to the variation, the enforcement notice is upheld.

Appeal C

55. It is directed that the enforcement notice is varied by the deletion of the words **"3 months" from section 6 of the notice and the substitution of "9 months"** as the period for compliance. Subject to the variation, the enforcement notice is upheld.

J Whitfield

INSPECTOR

IMPORTANT - THIS COMMUNICATION AFFECTS YOUR PROPERTY

TOWN AND COUNTRY PLANNING ACT 1990
(as amended by the Planning and Compensation Act 1991)

ENFORCEMENT NOTICE

ISSUED BY: **Bromsgrove District Council** ("the Council")

1) **THIS NOTICE** is issued by the Council because it appears to them that there has been a breach of planning control, within paragraph (a) of section 171A(1) of the above Act, at the land described below. The Council considers that it is expedient to issue this notice, having regard to the provisions of the development plan and to other material planning considerations. The Appendices at the end of this notice contain important additional information.

2) THE LAND AFFECTED

Land at Four Stones Restaurant, Adams Hill, Clent, Stourbridge Worcestershire DY9 9PS shown edged red on the attached plan ("the Land").

3) THE BREACH OF PLANNING CONTROL ALLEGED

Without planning permission the erection of a replacement glazed sunroom ("the unauthorised development").

4) REASONS FOR ISSUING THIS NOTICE

It appears to the Council that the above breach of planning control has occurred within the last four years.

The Land is situated within the Green Belt and the Clent Conservation Area ("the CA"). Planning permission was granted under planning application 16/0403 for a replacement sunroom ("the permitted scheme") but the development has not been built in accordance with the approved plans. The unauthorised development has been dismissed at Appeal Reference APP/P1805/W/3191833. The unauthorised development comprises a contemporary design sunroom attached to the front of the restaurant which is glazed on all sides and has an over-sailing roof that slopes upwards away from the main elevation. The canopy created by the over-sail is supported by posts that sit forward of the sunroom's front elevation. The unauthorised development represents a disproportionate addition to a building which is inappropriate in the Green Belt as it is materially taller and deeper than the permitted scheme. The sunroom's over-sailing roof and extent of its forward projection give it a greater volume and presence at the front of the main building in comparison to the permitted scheme having a greater effect

Continued.....

on the openness and thereby harming the openness of the Green Belt. No very special circumstances exist that clearly outweigh the harm caused.

The unauthorised development has a visually dominant appearance that is out of place in the CA. It does not preserve or enhance the character or appearance of the CA. The unauthorised development conflicts with Policy BDP20 of the Bromsgrove District Plan 2017 Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1992 and the National Planning Policy Framework .

The Council does not consider that planning conditions could overcome these problems.

5) WHAT YOU ARE REQUIRED TO DO

As the person responsible for the breach of planning control specified in paragraph 3 of this notice, you are required to take the following steps:-

1. Remove the unauthorised development from the Land;
2. Remove from the Land all building materials and rubble arising from compliance with the requirements of step 1 above.

6) TIME FOR COMPLIANCE:

3 months after this Notice takes effect.

7) WHEN THIS NOTICE TAKES EFFECT

This Notice takes effect on **3 January 2019** unless an appeal is made against it beforehand.

Dated: *27 November 2018*

Signed: *Clare Flanagan*

Clare Flanagan
Principal Solicitor
Bromsgrove District Council
Parkside
Market Street
Bromsgrove
B61 8DA

Appendix 1

The Town and Country Planning (Enforcement Notices and Appeals) (England) Regulations 2002; Part 2, 5 (c)

ENFORCEMENT NOTICE

LIST OF PERSONS UPON WHOM THE NOTICE WAS SERVED

The following person(s) have been served with a copy of the Enforcement Notice relating to the above land:

1. Amrik Singh Bhandal, The Bhandal Dental Practice, 74 Birmingham Road, Rowley Regis B65 9BA
2. Amrik Singh Bhandal, Four Stones Restaurant, Adams Hill, Clent, Stourbridge DY9 9PS
3. Balbir Singh Bhandal, The Bhandal Dental Practice, 74 Birmingham Road, Rowley Regis B65 9BA
4. Balbir Singh Bhandal, Four Stones Restaurant, Adams Hill, Clent, Stourbridge DY9 9PS
5. Baljit Singh Bhandal, The Bhandal Dental Practice 74 Birmingham Road, Rowley Regis B65 9BA
6. Baljit Singh Bhandal, Four Stones Restaurant, Adams Hill, Clent, Stourbridge DY9 9PS
7. Lloyds Bank PLC, Dept. No. 9612 of Pendeford Securities Centre, Pendeford Business Park, Wobaston Road, Wolverhampton WV9 5HZ
8. The Owner(s) / Occupier(s), Four Stones Restaurant, Adams Hill, Clent, Stourbridge DY9 9PS

Appendix 2

YOUR RIGHT OF APPEAL

Bromsgrove District Council has issued an enforcement notice relating to the land detailed in 2) above. I now serve on you a copy of that notice in view of your interest in the land. Copies of the notice may also be served on other parties identified as having an interest in the land. Any other persons served with a copy are shown on a separate sheet attached to the notice.

There is a right of appeal to the Secretary of State through the Planning Inspectorate against the Council's decision to issue the notice. Unless an appeal is made as described below, the notice will take effect on **3 January 2019** and you must then ensure that the required steps, for which you may be held responsible, are taken within the period(s) specified in the notice.

The web links below provide advice about how to appeal against this notice

<https://www.gov.uk/appeal-enforcement-notice>

<https://www.gov.uk/government/publications/enforcement-appeals-procedural-guide>

<https://www.gov.uk/government/publications/enforcement-notice-appeals-how-to-complete-your-appeal-form>

Alternatively you can contact the Planning Inspectorate by phone or e-mail:

Please see the enclosed information sheet from The Planning Inspectorate which tells you how to make an appeal.

If you decide that you want to appeal against the enforcement notice you must ensure that you send your appeal soon enough so that normally it will be delivered by post/electronic transmission to the Secretary of State (at The Planning Inspectorate) before **3 January 2019**

Under section 174 of the Town and Country Planning Act 1990 (as amended) you may appeal on one or more of the following grounds:-

- (a) that, in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted or, as the case may be, the condition or limitation concerned ought to be discharged;
- (b) that those matters have not occurred;
- (c) that those matters (if they occurred) do not constitute a breach of planning control;
- (d) that, at the date when the notice was issued, no enforcement action could be taken in respect of any breach of planning control which may be constituted by those matters;
- (e) that copies of the enforcement notice were not served as required by section 172;
- (f) that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control

which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach;

- (g) that any period specified in the notice in accordance with section 173(9) falls short of what should reasonably be allowed.

Not all of these grounds may be relevant to you.

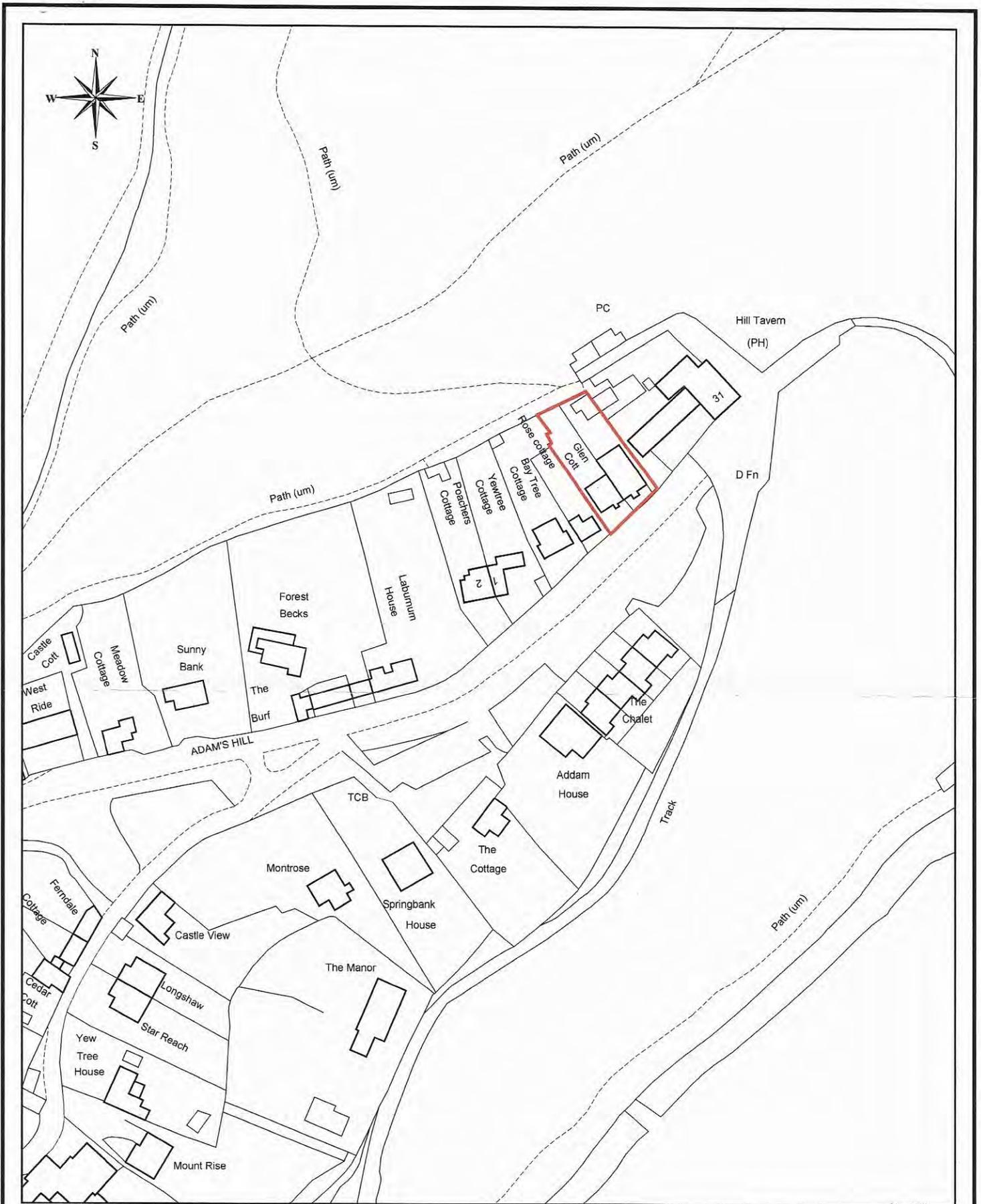
If you decide to appeal, when you submit your appeal you should state in writing the ground(s) on which you are appealing against the enforcement notice and briefly state the facts on which you intend to rely on in support of each of those grounds. If you do not do this when you make your appeal the Secretary of State will send you a notice requiring you to do so within 14 days.

If your appeal includes a submission under Ground (a) as outlined above, this is the equivalent of making an application for planning permission for the development alleged in the notice. That carries a fee which is double the standard fee for such an application. Accordingly, you will have to pay a fee of £468.00 which should be paid to Bromsgrove District Council. Joint appellants need only pay one fee.

WHAT HAPPENS IF YOU DO NOT APPEAL

If you do not appeal against this enforcement notice, it will take effect on the date specified in paragraph 7 of the notice and you must then ensure that the required steps for complying with it, for which you may be held responsible, are taken within the period[s] specified in paragraph 6 of the notice.

Failure to comply with the requirements of an enforcement notice which has taken effect can result in prosecution and/or remedial action being taken by the Council.



  <p>Bromsgrove District Council www.bromsgrove.gov.uk</p>	<p>Project: Four Stones, Adams Hill Clent, Stourbridge DY9 9PS</p>	<p>Drawn: KAB</p>	<p>Planning Services Town Hall Walter Stranz Square Redditch Worcs B98 8AH</p> <p><small>© Crown Copyright and database rights 2018 Ordnance Survey 100024252</small></p>
	<p>Drawing: Location Details</p>	<p>Scale: 1/1250 @ A4</p>	
	<p>Drawing No: P2234/7</p>	<p>Date: Nov 2017</p>	

DATE 2 January 2019

**MESSRS BALJIT SINGH, AMRIK SINGH AND BALBIR SINGH BHANDAL
AND
BROMSGROVE DISTRICT COUNCIL
FOUR STONES RESTAURANT, ADAMS HILL, CLENT, STOURBRIDGE DY9 9PS**

**APPELLANT'S GROUNDS FOR APPEAL
AGAINST THE ENFORCEMENT NOTICE
REFERENCE 17/00076/PLAN**

**FBC Manby Bowdler LLP
Routh House
Hall Court
Hall Park Way
Telford
Shropshire
TF3 4NJ**

Ref: SRT/971789/8

- 1) This Appeal is made on behalf of Messrs Bhandal (“the Appellant”) against an Enforcement Notice issued by Bromsgrove District Council (“the Council”) dated 27 November 2018 under reference 17/00076/PLAN (“the Notice”) in relation to the sun room development at Four Stones Restaurant, Adams Hill, Clent, Stourbridge, as is identified on the plan annexed to the Notice (“the Sun Room”).
- 2) The following represents a brief summary of the Appellant’s grounds of appeal; further detail will be set out in the Appellant’s Statement of Case.
- 3) **Background.** Planning Permission was granted on 6 July 2016 for ‘Demolition of front sun room and replace with new flat roof sun room’ under Planning Reference 16/0403 (“the Permission”). Approved Plan references FS/10 and FS/11 Rev A illustrate the approved scheme.
- 4) The Appellant procured the construction of a sun room in the location of that authorised by the Permission, and of the same footprint, save that the development that was built differed from the Permission in the following aspects:
 - i. The front elevation of the sun room comprises four glazed panels rather than 5 as shown on the approved plans; this is not considered to be a material difference;
 - ii. The upper section of the front elevation of the sun room (above the main glazed panels) is glazed, whilst the approved plans do not specify the proposed material; and
 - iii. The roof of the sun room slopes upwards, away from the main building, rather than being flat, and extends forwards, beyond the permitted extent of the sun room, to provide an oversailing canopy supported by columns.

The glazed design, aluminium frame, bi-fold doors, size, scale and mass of the sunroom ‘as-built’ are otherwise in accordance with the Permission.

- 5) A retrospective planning application was submitted to seek to regularise the development; it was made for the ‘Demolition of existing sunroom and erection of a replacement glazed sunroom (retrospective)’, allocated reference 17/00646/FUL, for which permission was refused on 19 July 2017. The Appellants appealed that refusal to the Secretary of State which was considered under Appeal Reference APP/P1805/W/17/3191833 (“the Appeal”); the Appeal was dismissed on 9 April 2018.
- 6) On 27 November 2018, the Council issued the Notice in relation to the Property.
- 7) The Notice describes the ‘unauthorised development’ as *‘Without planning permission the erection of a replacement glazed sunroom’* and requires that the unauthorised development be removed together with all building materials and rubble arising from compliance with that requirement.
- 8) **The Appellant appeals under Grounds (a), (f) and (g).**

- 9) **Ground (f)** The Appellant submits that the steps required to comply with the requirements of the Notice in respect of the alleged breach are excessive and lesser steps would overcome the breach and any harm to amenity, to the Green Belt and to the Conservation Area.
- 10) The principle of a glazed sun room, of very similar scale and design, being located in the position of the 'unauthorised development', is established by the Permission which forms a fall-back position in relation to this appeal.
- 11) The key concern raised by the Inspector in the Appeal was as to the visual impact of the sunroom's sloping over-sailing roof and canopy supports (without which the sun room, but for some minor detailing, would have accorded with the Permission).
- 12) In light of the extant Permission, it is submitted that the Notice as drawn represents over-enforcement, and that consideration should be given to the amendment of the Notice such that the steps to be complied with provide instead for the removal of the 'canopy' section of the existing development (that part which is oversailed by the glazed roof, but which is not enclosed within the sunroom itself) such that the roof to the sun room would continue to be slightly sloping, but the degree of projection from the main building be would significantly reduced (i.e. would accord with the Permission); the overall appearance of scale would also be reduced and the degree to which the upper floor window would be obscured from view would also be considerably reduced. Further details of the proposed alterations will be provided with the Appellant's Statement of Case, together with drawings to identify those proposals, and the proposed amendments to the wording of Paragraph 5 of the Notice to give effect to this proposal.
- 13) Such an amendment to the Notice would present a much more reasonable and proportionate response to the issue of the unauthorised development, it would minimise the harms identified by the Inspector in the Appeal, and would avoid the waste of materials that would necessarily arise from the demolition of the sun room in its entirety, only for it to be subsequently replaced pursuant to the Permission.
- 14) In the alternative, if the Inspector were of the view that the first proposed alternative scheme would represent an unacceptable degree of harm, the Inspector is invited to consider an alternative amendment to the Notice such that the steps to be complied with provide instead for the removal of the roof of the sun room, to be replaced with a flat (glazed) roof which is at the same height and in the same position and alignment as that authorised by the Permission. Again, further details of the proposed alterations will be provided with the Appellant's Statement of Case, together with drawings to identify those proposals and the proposed amendments to the wording of Paragraph 5 of the Notice to give effect to this proposal.
- 15) The result of such alterations would be that the overall scheme would be in accordance with the Permission and so similar to it, that it would inherently be acceptable in planning terms.

- 16) Whilst there would remain some minor differences as compared with the scheme authorised by the Permission (i.e. the number of glazed panes forming the front elevation of the sun room would be 4 rather than 5), the overall visual impression and design would be as per the Permission, and the size and scale would be in accordance with the Permission so that the harm identified by the Inspector in the Appeal would be avoided such that the development would be acceptable in planning terms, without necessitating the removal of the sun room in its entirety.
- 17) It is submitted that such an amendment to the Notice would present a much more reasonable and proportionate response to the issue of the unauthorised development, it would eradicate the harms identified by the Inspector in the Appeal, and would avoid the waste of materials that would necessarily arise from the demolition of the sun room in its entirety, only for it to be subsequently replaced pursuant to the Permission.
- 18) The Appellant's preferred position would be that described at paragraph 12 above, but it is submitted that in the event that in the Inspector's judgment, such an alternative scheme would not be acceptable, then the steps for compliance with the Notice at paragraph 5 of the Notice should be amended to provide for the alternative described at paragraph 14 above.
- 19) In the event that the Inspector is minded to amend paragraph 5 of the Notice as proposed at either paragraph 13 or 15 above, the effect, pursuant to s173(11) Town and Country Planning Act 1990, would be that those elements and the remaining elements of the sun-room development, not required to be altered by the steps set out in the amended paragraph 5, would be deemed to benefit from planning permission.
- 20) **Ground (a)** The Appellant appeals under Ground (a) (that planning permission ought to be granted) only to the extent that it is necessary to do so in order to give effect to the proposals set out above in relation to Ground (f). The Inspector's decision in the Appeal is acknowledged and so permission is not being sought under Ground (a) to retain the development as exists presently; but rather it is submitted, that with some alterations, the development can be made to be acceptable, and that permission ought to be granted for the resulting development.
- 21) Further details of the proposed conditions to be attached to any grant of permission pursuant to Ground (a) will follow in the Appellant's Statement of Case.
- 22) **Ground (g)** The Appellant submits that the time given to comply with the requirements relating to the breach is too short.
- 23) In the event that operational works are required in order to comply with the Notice in accordance with the above submissions, or if, notwithstanding the above submissions, the Notice requires the demolition of the Sun Room in its entirety, the Appellant would require additional time within which to effect the works required in a manner which respects the ongoing business operation and would not unduly prejudice the business activity. It is

submitted that the time for compliance in the Notice be amended to allow six months for the steps to be undertaken.

Dated 2 January 2019

Suzanne Tucker
FBC Manby Bowdler LLP
Telford

8 MAY 2019

MESSRS BALJIT SINGH, AMRIK SINGH AND BALBIR SINGH BHANDAL

AND

BROMSGROVE DISTRICT COUNCIL

FOUR STONES RESTAURANT, ADAMS HILL, CLENT, STOURBRIDGE DY9 9PS

**APPELLANT'S STATEMENT OF CASE
AGAINST THE ENFORCEMENT NOTICE
LPA REFERENCE: 17/00076/PLAN**

**APPEAL REFERENCES:
APP/P1805/C/19/3219678
APP/P1805/C/19/3219679
APP/P1805/C/19/3219680**

**FBC Manby Bowdler LLP
Routh House
Hall Court
Hall Park Way
Telford
Shropshire
TF3 4NJ**

Ref: SRT/971789/8

- 1) This Appeal is made on behalf of Messrs Bhandal (“the Appellant”) against an Enforcement Notice issued by Bromsgrove District Council (“the Council”) dated 27 November 2018 under reference 17/00076/PLAN (“the Notice”) in relation to the replacement glazed sun room (“the Sun Room”) at Four Stones Restaurant, Adams Hill, Clent, Stourbridge, as is identified on the plan annexed to the Notice (“the Property”).
- 2) The Notice required the removal of the Sun Room and the removal of all building materials and rubble arising from compliance with that requirement.
- 3) The Appellant repeats its grounds for appeal, which are made under **Grounds (a), (f) and (g)**.
- 4) The fee for Ground (a) has been paid only once, in respect of Appeal Reference 3219678 in the name of Mr Baljit Singh Bhandal.

Background.

- 5) The basic background to this case is set out in the Appellant’s Grounds for Appeal, however additional detail is necessary to enable a full understanding of the current position, and is set out below.
- 6) Planning permission was granted on 6 July 2016 for the ‘Demolition of front sun room and replace with new flat roof sun room’ under reference 16/0403 (“the Permission”). Annexed at **Appendix A** to this Statement is a photograph of the conservatory that was in situ at the Property prior to the grant of the Permission, thought to have been in situ since the 1970s, the replacement of which the Permission authorised.
- 7) The principle of the Sun Room development is therefore accepted by the Council; the concerns relate to the differences between the development for which the Permission was granted and the development as constructed at the Property.
- 8) It is therefore important to establish the exact nature of the development at the Property and that authorised by the Permission.
- 9) The Permission was granted subject to four conditions, including:

Condition 2, which required as follows:

The development hereby permitted shall be carried out in accordance with the Approved Plans / Drawings and documents listed in this notice:

Drawing Numbers:

FS/10

FS/11 Rev a

Design and Access Statement

Condition 3 required that:

All new external walls and roofs shall be finished in materials to match in colour, form and texture those on the existing building.

Condition 4 required that:

Prior to the commencement of development, details of the joinery at a scale of 1:20 should be submitted to and approved in writing by the LPA.

- 10) An extract of the Application form submitted in relation to the Permission is annexed at **Appendix B**, which shows the description of the materials to be used in the proposed development as:

Walls:	Red brick
Roof:	Flat roof GRP (<i>fibreglass</i>) & glazed roof
Windows:	Timber and anodised aluminium
Doors:	Timber and anodised aluminium

However, the Design and Access Statement (a copy of which is annexed at **Appendix C**) made clear that the intention was for the design to reflect the local vernacular but also to introduce contemporary design and that the details of materials were to be dealt with by condition.

- 11) It is understood that the development applied for changed during the course of the application, having originally included a balcony over the Sun Room, a glazed box garden room to the rear and glass fronted balconies to the front, as described in the Design and Access Statement; these aspects were removed from the application after submission, so that only the replacement sun room was considered. The references to brick materials are therefore thought to be unconnected to the Sun Room element of the scheme. The proposed material for the Sun Room was initially intended to be timber framed glazing, with bi-fold doors (as is evidenced by the email correspondences passing between the Appellant's representative and the Council set out at **Appendix D, Fig.1.** in particular refers).
- 12) Accordingly, the requirement of Condition 2 to the Permission for the development to be carried out in accordance with the Design and Access Statement is assumed to relate only to the aspects of the scheme as detailed in the Design and Access Statement as have been authorised by the Permission i.e. the Sun Room; and of course as noted above, the Design and Access Statement did not purport to specify definitively, the materials to be used.

- 13) The Appellant engaged closely with the Council following the grant of the Permission, as to the details of the scheme and the steps required to secure approval of them. Annexed at **Appendix D** are some of the email communications but it is clear that discussions and site meetings were also held. The Appellant indicated in the email of 1 December 2016 (**Fig. 1 to Appendix D**) that they had been advised that timber was not appropriate for the proposed bi-fold design and approval to alter the design to an aluminium-framed alternative was put. The Council's email of 5 December 2016 times at 15:26 (annexed at **Fig.2 to Appendix D**) indicated that the submission of 'samples / a drawing / a website address' to illustrate the aluminium design now proposed, together with joinery details. Application for discharge of Condition 4 was then submitted, following which, on 26 January 2017 an email was submitted on behalf of the Appellant to the Council which attached an image to demonstrate the design, materials, construction and colour of the proposed Sun Room, a copy of the email is annexed at **Fig.4. to Appendix D**, and a copy of the image that was attached to it is annexed at **Fig.5 to Appendix D**. The proposal was for a dark grey aluminium frame and glazed design with bi-folding doors to the front and side elevations.
- 14) The On 27 January 2017 the Council's Ruth Lambert responded by email to confirm that the aluminium frame construction and the colour were acceptable, and required only receipt of the joinery details (copy email annexed at **Fig.6. to Appendix D**); details of the joinery were duly submitted on 14 February 2017 (copy email is annexed at **Fig.7 to Appendix D** and the joinery details submitted are annexed at **Fig.8 to Appendix D**). The Appellant does not have a record of the Council's response.
- 15) The design, comprising a dark grey aluminium-framed structure, with 4 glazed panels on each side, folding doors on two sides, and glazed roof panels had therefore been confirmed to be acceptable to the Council, and following submission of the joinery details, it was assumed that the scheme was approved.
- 16) The Appellant proceeded with the development in accordance with the Permission and the details subsequently submitted, save that during the course of constructing the Sun Room, design changes to the roof structure were implemented which included the sloping roof and canopy. The canopy was added in order to provide a covered area outside of the Sun Room where customers could sit with their dogs under cover (the Property is a popular restaurant with walkers).
- 17) The differences between the development as shown on approved Drawing reference FS11 Rev a and the development as implemented are:
- i. **Number of Glazed panels.** The front elevation of the Sun Room as shown on Dwg FS/11 Rev a shows 5 glazed panels (the side elevations of the Sun Room itself are not shown); the Sun Room as constructed comprises 4 glazed panels on each

elevation. This change was considered to have been approved, after the grant of the Permission, through the submission and approval of the design indicated on the image submitted on 27 January 2017, and in any event, is not considered to be a material difference.

- ii. **The materials of the upper section of the front elevation of the Sun Room** as shown on Dwg FS/11 Rev a (above the main glazed panels) are not specified on the drawing, but this section was not *originally* intended to have been glazed. This part of the Sun Room, as implemented, is glazed, however, it is evident from the email correspondence between the Appellant and the Council as set out in **Appendix D** that whilst the original intention had been a timber-glazed construction, following the advice of the builder the aluminium and glazed alternative was proposed and is considered to have been approved (in light of the Council's email of 27 January).
- iii. **Sloped Roof.** The roof of the Sun Room as approved, is shown as flat on Dwg ref FS11 Rev a, but the development as implemented includes a sloped roof. It is acknowledged that at its highest point (at the front of the Sun Room) the roof is slightly higher than that shown on the approved plans, and it is sloped:
 - i) the approved height shown on Dwg FS11 Rev a is 2.9m;
 - ii) the height at the front of the Sun Room, at its highest point, without the canopy, is 3.05m)a difference of only 0.15m. ¹
- iv. However, whilst the height of Sun Room's front elevation appears to be marginally higher than the approved height, the sloped roof, as constructed, tapers down towards the main building, and the height where it meets the main building is 2.2m, which is therefore 0.7m lower than the 2.9m approved height of the flat roof. As indicated above, it is submitted that the use of aluminium and glazing for this section was approved; it is accepted however, that the sloped nature of the roof as constructed was not an approved detail, and that the height at the front of the main part of the current Sun Room is slightly higher than that approved. The approved height is marked (approximately), as compared with the development in situ at the time of the issue of the Notice, is shown on the elevations annexed at **Appendix G**.
- v. **Canopy.** When constructed, and at the time when the Notice was issued, a 'canopy' was added to the front – it extended forwards, beyond the permitted plane of the Sun Room, to provide a canopy supported by columns. It is accepted that this was outwith

¹ For comparison purposes all measurements of 'height' relate to the dimensions of the structure and are taken from the drawings FS11-a, FS20 and FS21 rather than height from actual ground levels (which are sloping)

the scope of the Permission. This element is scheduled to be removed imminently and in any event within the next 1-2 weeks.

- 18) A retrospective application was submitted on behalf of the Appellant with a view to retaining the structure as built, (in the form as can be seen in the image at **Appendix F**), permission for which was refused by the Council and dismissed by an Inspector for the Secretary of State at Appeal (reference APP/P1805/W/17/3191833 (“the Appeal”); a copy of the decision letter is annexed at **Appendix E**).²
- 19) Whilst it may be concluded that, in the absence of the formal approval of the joinery details submitted under Condition 4, and/or in light of the elements of the scheme which have not been built in accordance with the approved drawings (the sloped roof and canopy), the Permission has not been lawfully implemented, the Permission nonetheless remains extant and implementable.
- 20) It is clear that in dismissing the Appeal, the Appeal Inspector’s concern was overwhelmingly in relation to the canopy and the sloping roof elements of the development.
- 21) The canopy, extending forwards of the front elevation of the Sun Room, supported by columns, is due to be removed shortly. Drawings showing the development that will remain following that work are annexed at **Appendix H**. Accordingly the only element of the development which shall remain on site and which is unauthorised, is the sloping element of the roof, the full extent of which is shown edged green on the side elevation of the annotated Drawing FS20 annexed at **Appendix G**, although it should be noted, as described above, that the Permission authorised a height which extended above the top of the main glazed panels, so that only a small portion of the ‘as built’ structure extends beyond the scope of the permission in terms of its height - the extent to which the approved height is exceeded is as indicated above and is shown approximately shaded green on the side elevation at **Appendix H**.
- 22) The height of the whole of the upper (sloping) section of roof, as is shown edged green in **Appendix G**, at the front (highest point), is 84.3cm, which tapers down to adjoin the main building at a height which is aligned with the top of the glazed door panels is therefore small. Again, it should be noted, that the approved scheme allowed for additional volume above the top of the main glazed panels, albeit that what was authorised was a flat roof, rather than this sloped configuration. Whilst an accurate calculation has not been carried out, it is clear that the height at the highest point of the as built structure is only marginally higher than that which was approved, and so the additional volume which extends higher than that which was authorised, is negligible (as illustrated by the area shown approximately shaded green on the

² This firm were not instructed in relation to that Appeal; the appeal submissions made on behalf of the Appellant in that Appeal were limited in scope.

side elevation at **Appendix H**); and indeed the effect of the sloped roof is that the overall volume of the 'as built' scheme (excluding the canopy) is less than the approved scheme.

- 23) The Appellant, through its agent, has been seeking to liaise with the Council in respect of their key concerns, with a view to identifying a mutually acceptable alternative approach to avoid removing the Sun Room in its entirety. Preliminary discussions with the Council indicated that they might consider the Sun Room acceptable if the canopy and sloped roof were removed, but drawings were requested to facilitate further consideration.
- 24) We would like, at this point, to correct the assertion made by the Council in the Questionnaire, that the unauthorised development comprises 39m² floorspace. The floorspace of the Sun Room is c.15.6m², and the footprint overhung by the front canopy is c.4.8m². The reference to 39m² is thought to be to the total additional floorspace created by all of the various elements of development originally proposed prior to the alteration of the application, as referenced in the Design and Access Statement.

The requirements of the Notice

- 25) As drafted, the Notice requires the demolition of the Sun Room and the removal of all resultant building materials and rubble. This is considered to be excessive to remedy the breach of planning control and the injury to amenity, and would also leave the Property with a large opening in the front elevation: as shown on approved drawing FS11 Rev a, the access to the Sun Room from the main building is a large opening which would require operational works to enclose.

Grounds (a) and (f)

- 26) The Appellant appeals under Ground (a), not with a view to retaining the whole of the development as described in the Notice and as existed at the time of the Notice, but instead seeks that planning permission be granted under Ground (a) for part of the development complained of in the Notice; the Appellant also appeals under Ground (f) that the steps required by the Notice exceed those necessary to remedy the breach of planning control and the injury to amenity caused by that breach. Taken together, Grounds (a) and (f) have been found to be capable of granting planning permission for part of a scheme, and that the enforcement notice may be varied as to the steps required to be taken to remedy the breach of planning control and/or the injury to amenity.
- 27) The Appellant proposes a series of alternative options for the variation of the Notice and the grant of planning permission subject to conditions. Options A-C are in order of preference:

- A. Firstly, it is the Appellant's case that any injury to amenity which has been caused by the breach of planning control can be remedied by the removal of the front canopy; so that the requirement of the Notice to remove the Sun Room, in its entirety, is excessive to remedy the injury to amenity, and the Notice could be varied to require only the removal of the canopy; which proposal is shown on the attached drawing named 'DWG A – Proposed Alterations - Option A' ("**Option A**"). The breach of planning control arising from the resultant scheme is negligible; or
- B. Secondly, if that is not accepted, the Appellant submits that, in light of the Permission, the removal of the unauthorised section (that part shown edged green on **Appendix G**) would remedy the breach of planning control. The Sun Room as constructed would be retained, save that the canopy and the sloping roof (together with the upper glazed panels on the front and side elevations) would be removed, and provision made for the completion of the Sun Room with a flat glazed roof; which proposal is shown on Drawing Ref FS/21 (shown in **Appendix I**, and also separately annexed). ("**Option B**");
- C. Thirdly, if neither of the above are accepted, it is submitted that the breach of planning control may be remedied by the removal of the unauthorised section (that part shown edged green on **Appendix G**), and the completion of the development in accordance with the Permission i.e. with the addition of an upper section which is flat-roofed in line with the approved drawings; the proposal would be for this to be aluminium framed and glazed to match the rest of the Sun Room, on the basis that such a design and materials is considered to have been approved by the Council. The approved drawing in this regard is FS11 Rev a, but it may assist the inspector to review and reference DWG B submitted herewith in this regard, which also shows this scheme ("**Option C**")
- D. Fourthly, if none of the three alternatives above are accepted, and the requirement to remove the Sun Room in its entirety is to be upheld, it is submitted that, in order to ensure that the Appellant is not prejudiced, provision should be made to enable the enclosure of the large opening that would result from the removal of the Sun Room ideally through the installation of one set of the large bi-folding doors currently comprised in the Sun Room, within the building frontage, and otherwise making good the frontage using bricks and other materials as required to match the main building (an alternative scheme could be required to be submitted and approved if necessary) ("**Option D**").

- E. Fifthly, to the extent that the Inspector considers it to be outwith his powers to grant permission for the works required to fulfil the proposals comprised in Options A, B, C or D above (or such other variation that the Inspector consider appropriate) the Inspector is invited to consider varying the Notice to allow more time within which the Appellant may submit a planning application for the development as may be required to give effect to, and to enable the authorisation of, the works required. Sufficient time will be needed to allow for discussions to be held between the Appellant and the Council as to an alternative scheme (instead of complete demolition of the Sun Room), for a planning application to be submitted (and taken to appeal if necessary), and any permission implemented, all within the time allowed for compliance, which will need to be quite lengthy to accommodate all of these elements (“**Option X**”).

Legal Principles as to the application of grounds (a) and (f)

28) The relevant sections of the Town and Country Planning Act 1990 (“the Act”) include the following:

- i. Section 172 empowers the local planning authority to issue an enforcement notice where it appears to them that there has been a breach of planning control and that it is expedient to issue the notice, having regard to the provisions of the development plan and to any other material considerations. Section 173 of the Act is concerned with the contents and effect of a notice and provides in particular:

"173

- (3) *An enforcement notice shall specify the steps which the authority require to be taken, or the activities which the authority require to cease, in order to achieve, wholly or partly, any of the following purposes.*
- (4) *Those purposes are:*
- (a) *remedying the breach by making any development comply with the terms (including conditions and limitations) of any planning permission which has been granted in respect of the land, by discontinuing any use of the land or by restoring the land to its condition before the breach took place; or*
- (b) *remedying any injury to amenity which has been caused by the breach."*

Thus the legislation envisages that a local planning authority may decide to ‘under-enforce’ by only seeking to remedy part of any breach of planning control and/or injury to amenity caused thereby. Section 173(11) of the Act may operate so as to give deemed planning permission for development which has not been enforced against in relation to matters which were in existence when the enforcement notice was issued and which formed part:

"(11) Where-

(a) an enforcement notice in respect of any breach of planning control could have required any buildings or works to be removed or any activity to cease, but does not do so; and

(b) all the requirements of the notice have been complied with, then then so far as the notice did not so require, planning permission shall be treated as having been granted by virtue of section 73A in respect of development consisting of the construction of the buildings or works or, as the case may be, the carrying out of the activities."

- ii. Section 173(12) of the Act envisages that an enforcement notice may require for the construction of a replacement building, and provides for deemed permission to be granted for the resultant development:

"(12) Where-

(a) an enforcement notice requires the construction of a replacement building; and

(b) all the requirements of the notice with respect to that construction have been complied with,

planning permission shall be treated as having been granted by virtue of section 73A in respect of development consisting of that construction."

- iii. The grounds on which an appeal may be brought are set out in section 174(2) of the Act and include:

"(a) that, in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted ...;

(f) that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach."

- iv. Section 176 contains general provisions relating to the determination of appeals and includes the following:

"176(1) On an appeal under section 174 the Secretary of State may -

(a) correct any defect, error or misdescription in the enforcement notice; or

(b) vary the terms of the enforcement notice,

if he is satisfied that the correction or variation will not cause injustice to the appellant or the local planning authority.

(2) *Where the Secretary of State determines to allow the appeal, he may quash the notice.*

(2A) *The Secretary of State shall give any directions necessary to give effect to his determination on the appeal."*

- v. Section 177 relates to the grant or modification of planning permission on appeals against enforcement notices and includes the following:

"177(1) On the determination of an appeal under section 174, the Secretary of State may -

(a) grant planning permission in respect of the matters stated in the enforcement notice as constituting a breach of planning control, whether in relation to the whole or any part of those matters or in relation to the whole or any part of the land to which the notice relates

(b) discharge any condition or limitation subject to which planning permission was granted

...

(2) In considering whether to grant planning permission under subsection (1), the Secretary of State shall have regard to the provisions of the development plan, so far as material to the subject matter of the enforcement notice, and to any other material considerations.

[(3) The planning permission that may be granted under subsection (1) is any planning permission that might be granted on an application under Part III.]

(4) Where under subsection (1) the Secretary of State discharges a condition or limitation, he may substitute another condition or limitation for it, whether more or less onerous.

[(4A) Section 100ZA (which makes provision about restrictions on the power to impose conditions or limitations on a grant of planning permission in relation to land in England) applies in relation to conditions substituted under subsection (4) as it applies in relation to conditions imposed on a grant of planning permission to develop land which is granted on an application made under Part 3.]

(5) [[Where—

(a) an appeal against an enforcement notice is brought under section 174, and

(b)] the statement under section 174(4) specifies the ground mentioned in section 174(2)(a),

the appellant] shall be deemed to have made an application for planning permission [in respect of the matters stated in the enforcement notice as constituting a breach of planning control].

(6) Any planning permission granted under subsection (1) on an appeal shall be treated as granted on the application deemed to have been made by the appellant.

29) To the extent that the Inspector considers that the joinery details submitted by the Appellant may not have been approved by the Council in satisfaction of Condition 4, section 177(1)(b) of the Act as cited above empowers the Inspector to discharge that condition if he is content with the details submitted (as set out at **Fig. 8 to Appendix D**). Pursuant to the 'Whitley

principle³ such a discharge is capable of having retrospective effect to regularise the development carried out pursuant to the Permission.

- 30) **It is submitted that in this case, the alternative Options proposed all comprise the retention of part of the breach of planning control complained of in the Notice, and as such are capable of benefiting from deemed planning permission under the operation of Ground (a), following the exercise of Ground (f) to vary the terms of the Notice.** Option B provides for the completion of the retained part (following the removal of the canopy and sloping roof) by the addition of a flat roof, and Option D provides for the main building to be made good following compliance with the Notice (which work also must be provided for, it is suggested, in the default alternatives under Options A, B and C as set out in **Appendix J**). Provided that the Notice is appropriately varied, the statutory powers under the Act (including s173(12)) allow this to be achieved.
- 31) As noted by Lindblom LJ, in the case of Miaris⁴, “ As the authorities show, there will be many cases where grounds (a) and (f) can be used together to achieve more than could be gained under ground (f) alone.”
- 32) Carnwath LJ noted in Tapecrown⁵:

[30] *The enforcement provisions, in their present form, largely follow the recommendations of my 1989 report Enforcing Planning Control. They in turn took account of amendments made in 1981, which I regarded as useful but “somewhat confused”. There remained an unresolved dispute as to the extent to which the authority could (a) “under-enforce”, that is, require something less than a complete remedy of the breach of planning control; or (b) impose alternative requirements to alleviate the effects of the breach. I proposed that there should be “a broad discretionary power to deal with the effects of a breach”, and that the grounds of appeal should reflect that approach (Enforcing Planning Control HMSO 1989 pp 73-4).*

[31] *I believe that this objective has been achieved, although the drafting might perhaps have been clearer. Section 173(3) allows the steps required by the enforcement notice to be directed to achieving “wholly or partly” any of the purposes referred to in sub-s (4). Those purposes are, in summary, remedying the breach, or remedying “any injury to amenity” caused by the breach. In so far as the notice requires less than a full remedy of the alleged breach, there is provision for a deemed permission for what is left after compliance (s 173(11)).*

[32] *There is a possible gap here. Repairing the damage to amenity may be only part of what is needed. Even a physically unobtrusive development may be objectionable in planning terms, but it may be made more acceptable by steps short of total demolition. That is the province of ground (a), which needs to be read with s 177. The latter makes clear that, on an enforcement appeal, planning permission may be granted in respect of the matters alleged in the notice “in relation to the whole or any part of those matters” (s*

³ Established in the case of *F G Whitley & Sons v SSW and Clwyd County Council* [1992] JPL 856; the *Whitley principle* itself is regarded as “a clear legal principle of general application” per *Greyfort Properties Limited v SSCLG* [2011] EWCA Civ 908

⁴ *Miaris v Secretary of State for Communities and Local Government and another* [2016] EWCA Civ 75, at para 27

⁵ *Tapecrown Ltd v First Secretary of State* [2007] 2 P & C R 7, at paras 30-33

177(1)(a)); that for this purpose ordinary planning considerations (including the development plan) must be taken into account (s 177(2)); and that the permission is to be treated as though granted on an application (s 177(3)(6)), and so (at least by implication) may be subject to any necessary conditions.

[33] *In short, the inspector has wide powers to decide whether there is any solution, short of a complete remedy of the breach, which is acceptable in planning terms and amenity terms. If there is, he should be prepared to modify the requirements of the notice, and grant permission subject to conditions (or to accept a s 106 agreement, if offered). I would emphasise, however, that his primary task is to consider the proposals that have been put before him. Although he is free to suggest alternatives, it is not his duty to search around for solutions. I will return to the latter point in connection with the grounds of appeal.”*

- 33) Recent caselaw has examined the extent to which an enforcement appeal may result in the regularisation of an ‘alternative scheme’ to that enforced against and the extent of powers available under Ground (f) in that regard.
- 34) The key issues arising in such cases include seeking to rely on ground (f) to secure lesser steps in relation to an alternative scheme that would remedy injury to amenity but without having appealed under ground (a) to enable the breach of planning control and planning merits of the scheme to be considered (Miaris); and seeking to secure deemed planning permission for an alternative scheme under Ground (f) where that scheme falls outwith the matters stated in the notice (Ioannou⁶). Neither of those difficulties apply here.
- 35) The Court of Appeal decision in the case of Ahmed⁷ is particularly pertinent to the issues arising in this case, and is worthy of consideration in some detail:
- i. **Facts.** Planning permission was granted in 2005 for a replacement building (residential flats). The development commenced in 2007 and was completed in 2009 but the replacement was not constructed in accordance with the approved plans as to the style of the roof and an additional storey was constructed.
 - ii. Retrospective planning permission was sought for the retention of the structure but permission was refused.
 - iii. An enforcement notice was issued which required complete demolition.
 - iv. The planning permission was deemed to have lapsed as the construction was not in accordance with the approved scheme and the permission became time expired.
 - v. Mr Ahmed appealed on Grounds (a), (g) and (f).
 - vi. The appeal on ground (a) was expressed only so as to seek permission for the retention of the whole structure as built.
 - vii. The Inspector in the appeal considered the ‘as built’ structure to be contrary to policy such that permission could not be granted under Ground (a), and with regard to Ground

⁶ Secretary of State for Communities and Local Government v Ioannou [2014] EWCA Civ 1432

⁷ Ahmed v Secretary of State for Communities and Local Government [2014] 2 EGLR 197

(f) he found that the breach of planning control could only be remedied by demolishing the whole building since the 2005 permission had lapsed so that no fall-back position existed.

- viii. That decision was quashed in the High Court, where the Judge held that the Inspector should have considered exercising his powers under 177(1) and 176(1)(b) of the 1990 act, retrospectively to grant planning permission in alignment with the 2005 consent, and vary the EN to require partial demolition and remodelling to conform to that consent.
- ix. The High Court decision was appealed, but the Court of Appeal dismissed that appeal.
- x. It was held that the Inspector should have been open to considering solutions short of a complete remedy of the breach which were acceptable in planning and amenity terms; and if there were such a solution, they should have been prepared to modify the requirements of the notice and grant planning permission subject to conditions.
- xi. It was found that the Inspector had erred in law for failing to consider the obvious alternative i.e. granting planning permission for the 2005 scheme under Ground (a) with a consequential variation of the enforcement notice under Ground (f) in respect of the steps required to be taken to remedy the breach and harm to amenity.

36) There are therefore some significant similarities and some clear distinctions between the Ahmed case and this Appeal:

- i. here, the Permission remains extant and capable of being implemented in the event that the Notice is upheld without variation and therefore serves as a strong and significant fall-back position (which will be considered further below); and
- ii. here, consideration has been given to the method by which the injury to amenity arising from the breach of planning control, and the breach of planning control itself, may be remedied: alternative schemes have been provided, with proposed draft conditions for consideration by the Inspector (a key finding of Ahmed having been that the Inspector should have identified the alternative for himself).

37) This is clearly particularly and directly relevant to and supportive of Option C. The other alternative schemes put forward represent the retention of part of the breach complained of in the Notice and so their retention is capable of being authorised under Ground (a) following variations to the steps required to that effect, and variations and/or the use of conditions may regulate the completion of the schemes proposed under Options A, B, C and D as may be required.

38) A series of proposed variations to the Notice are set out at **Appendix J** and are intended to enable the grant of permission to be effective to achieve each of the Options, and the Inspector is invited to bear in mind the powers under s173(11) and (12) in this regard which should enable deemed permission to be granted, provided that various requirements of the notice have been carried out. However, to the extent that it assists the Inspector, a series of

proposed draft Conditions are also set out at **Appendix K** which it is considered would (if considered necessary) enable the deemed planning permissions sought to be achieved in a manner acceptable in planning terms.

Proposed Variations to the Notice

Option A

- 39) In order to achieve Option A, the Notice could have required the removal of the canopy and supporting pillars only, within a specified period, and in order to guard against non-compliance it could have provided that if that work was not completed within the specified time the Notice would take effect to require the full removal of the Sun Room and the closure of the resultant opening in the frontage. The Inspector is therefore invited to vary the Notice to this effect. To assist the Inspector, we set out a proposed form of words at **Appendix J** which we consider appropriate in this regard, to replace that at section 5 of the Notice.
- 40) Consequential amendments to paragraph 6 of the Notice would be required (time for compliance) which will be addressed in relation to Ground (g) below.
- 41) It is not considered that such a variation would give rise to any injustice to the appellant or the local planning authority.
- 42) Had the Council taken this approach it would have represented under-enforcement, as it is acknowledged that the sloping roof is outwith the scope of the Permission and that it is conceivable that the development proceeded without prior discharge of a pre-commencement condition (condition 4).
- 43) Whilst this proposal does not fully remedy the breach of planning control, it is considered by allowing this Appeal and varying the Notice as proposed at paragraph 39 above, would remove any harm to amenity. The planning merits of Option A are examined below.

Option B

- 44) In order to achieve Option B the Notice could have required the removal of the canopy, the supporting pillars and sloped roof (to include the upper glazed panels in the front and side elevations) and their replacement with a flat glazed roof of the same design and materials as the existing Sun Room, within a specified period, and again, that if that work was not completed within the specified time the Notice would take effect to require the full removal of the Sun Room and the closure of the resultant opening in the frontage.
- 45) This would fully remedy the breach of planning control, and therefore any harm to amenity arising therefrom.
- 46) The Inspector is therefore invited to vary the Notice to this effect in the event that Option A is not considered acceptable. To assist the Inspector, we set out a proposed form of words at **Appendix J** which we consider appropriate in this regard, to replace that at section 5 of the Notice.

- 47) Consequential amendments to paragraph 6 of the Notice would be required (time for compliance) for which draft wording is also provided at **Appendix J** and which will be addressed in relation to Ground (g) below.
- 48) It is not considered that such a variation would give rise to any injustice to the Appellant or the local planning authority.
- 49) This proposal retains part of the unauthorised development complained of in the notice; it remedies the current breach of planning control; and the requirement to install a flat roof allows the development to be completed and thus the injury to amenity arising as a consequence of the current breach to be remedied without the requirement to remove the Sun Room in its entirety.
- 50) To the extent that the Inspector considers that this may not be achieved through the operation of Ground (f) alone, the planning merits of Option B are examined below in the context of the grant of permission under Ground (a), in conjunction with Ground (f), and to assist the Inspector proposed draft conditions are also set out in **Appendix K** to the extent that they may be considered necessary.

Option C

- 51) Option C provides for compliance with the planning permission and would also achieve a complete remedy of the breach of planning control through the operation of Grounds (f) and (a). This scheme has already been found to be acceptable in planning terms through the grant of the Permission, which remains extant and implementable.
- 52) To assist the Inspector, we set out a proposed form of words at **Appendix J** which we consider appropriate to effect this Option to replace that at section 5 of the Notice. Consequential amendments to paragraph 6 of the Notice would be required (time for compliance) for which draft wording is also provided at **Appendix J** and which will be addressed in relation to Ground (g) below.
- 53) It is not considered that such a variation would give rise to any injustice to the appellant or the local planning authority.

Option D

- 54) Option D seeks to achieve what it is assumed would have been intended by the Local Authority (or should have been), in that the removal of the Sun Room in its entirety would necessitate further works to the main building to close the opening left in the frontage which currently provides access into the Sun Room.
- 55) In order to avoid the waste of all or the materials utilised in the current structure, the proposal would be to install one of the sets of bi-folding doors within the front elevation of the main building, however, an alternative would be instead to require details to be submitted for approval and in default, require the a window to be installed, with materials design and joinery

to match those existing in the main building. Conditions may assist in achieving this option also.

- 56) To assist the Inspector, we set out a proposed form of words at **Appendix J** which we consider appropriate in this regard, to replace that at section 5 of the Notice. Consequential amendments to paragraph 6 of the Notice would be required (time for compliance) for which draft wording is also provided at **Appendix J** and which will be addressed in relation to Ground (g) below. Draft Conditions are also set out **Appendix K**. The Inspector will note that this form of words is also considered to be appropriate for use in connection with Options A and B, in the context of the default of the full removal of the Sun Room in the event that the alternative schemes are not completed, and so has been reflected in the draft variations for those options also.
- 57) It is not considered that such a variation would give rise to any injustice to the appellant or the local planning authority.

Option X

- 58) Option X, would involve the variation of the Notice to allow sufficient time for the submission of a planning application in order to achieve the Options as set out above, or any alternative scheme that might be construed as more appropriate. Whilst this Option benefits from simplicity, and is submitted to assist the Inspector, it is not favoured by the Appellant. It is considered preferable to have clarity as to the preferred form of development for the site, rather than leave matters open, particularly given the Permission that has already been granted, and the degree of similarity between the structure in situ (following the removal of the canopy) and that authorised. It is considered that the uncertainty and additional cost of embarking on further applications, unless they are deemed necessary, may cause prejudice to the Appellant's business operation. However, Option X would of course be preferred to the Notice being upheld as originally drawn.

Development Plan Policy and Material Considerations.

- 59) Section 177(2) of the Act provides that *In considering whether to grant planning permission under subsection (1) the Secretary of State shall have regard to the provisions of the development plan, so far as material to the subject matter of the enforcement notice and to any other material considerations.*
- 60) The **Bromsgrove District Plan** 2011-2030, adopted January 2017 (BDP) sets out the relevant Development Plan policies pertinent to this scheme. The policies of **the National Planning Policy Framework** adopted February 2019 (NPPF) fall to be considered as material considerations. Further, the fact that the Permission stands as a valid and implementable planning permission provides a strong fall-back position which is a significant material consideration in this case.

- 61) **BDP4** relates to development in the Green Belt and in particular policy **BDP4.4** –provides that the development of new buildings in the Green Belt is considered to be inappropriate, except in specified circumstances, which include “*d) Proportionate extensions to non-residential buildings taking into account the potential impact on the openness and the purposes of including the land in Green Belt. Proposals that can demonstrate significant benefits to the local economy and/or community will be considered favourably*”.
- 62) The key relevant **NPPF** policies as to Green Belt include **para 143**: “*Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances*” and **para145** which provides a series of exceptions to general presumption that new development in the Green Belt is inappropriate, which include “*c) the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building*”.
- 63) The Property is also located within the Clent Conservation Area, in relation to which there is only a brief appraisal available. Listed Buildings and Conservation Areas are designated heritage assets for planning policy purposes and are afforded special protection in planning decisions. There are two strands to their protection:
- i. The duty imposed by **s72 Planning (Listed Buildings and Conservation Areas) Act 1990** which states that ‘*special attention should be paid to the desirability of preserving or enhancing the character or appearance of the area*⁸; and
 - ii. The **NPPF** which requires Local Authorities to ‘*conserve heritage assets in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations*’ (para 184). Para 193 the NPPF states that ‘*When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation (and the more important the asset, the greater the weight should be). Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting.*’
 - iii. Para 196 provides that ‘*Where a development proposal will lead to less than substantial harm to the significance of the heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimal viable use*’.
- 64) **BDP20** relates to **Managing the historic environment**. The most relevant provisions being:
- i. **BDP20.3** “*Development affecting Heritage Assets, including alterations or additions as well as development within the setting of Heritage Assets, should not have a detrimental*

⁸ One of the 12 Core Principles at Para 17 of the National Planning Framework adopted March 2012.

impact on the character, appearance or significance of the Heritage Asset or Heritage Assets.”;

- ii. **BDP20.4** “*Applications to alter, extend, or change the use of Heritage Assets will be required to provide sufficient information to demonstrate how the proposals would contribute to the asset’s conservation whilst preserving or enhancing its significance and setting.”; and*
- iii. **BDP20.6** “*Any proposal which will result in substantial harm or loss of a designated Heritage Asset will be resisted unless a clear and convincing justification or a substantial public benefit can be identified in accordance with current legislation and national policy.”*

- 65) **BDP19** relates to High Quality Design, and deals with practical matters; it is not considered that the Sun Room development presents any conflict with this policy.
- 66) Aside from the policies referenced by the Council, the **NPPF** expresses a general requirement for supporting a prosperous rural economy and in particular those policies supporting and promoting sustainable rural tourism are relevant to this appeal (**NPPF para 83**).
- 67) The Permission plainly represents a scheme which the Council considered to be appropriate and in accordance with these policies, including the impact on openness and the visual impression within the Conservation Area. Green Belt principles are widely known and understood. The Sun Room clearly provides a significant benefit to the local economy, allowing the Four Stones restaurant to accommodate local custom and to attract visitors and tourists to the locality. The principle, design and materials of the Sun Room have been approved, as has the footprint of the enclosed part of the Sun Room.
- 68) The Permission therefore stands to present ‘very special circumstances’ weighing strongly in favour of allowing the alternative Options A – C now proposed, as well as constituting an important material consideration.
- 69) Heritage Asset. Given the limited degree to which Option A differs from the approved scheme, it is not considered to have a materially different impact on the heritage asset than the scheme authorised by the Permission. Option C accords with the Permission in all respects, and Option B represents a lesser scale of development, both in terms of height and volume, whilst retaining the design and materials approved by the Council. Accordingly, the impact on the heritage asset is considered to be neutral.
- 70) Applying the statutory test to this proposal therefore, it is clear that it is met. The character and appearance of the area is preserved and enhanced through the use of high quality materials, and a design and specification which represents a contemporary design appropriate to its function which the Council have in essence approved. The Conservation Area will not be affected such that it shall be preserved for future generations.

- 71) In considering the NPPF tests, the impact of the proposal clearly falls within the category of leading to '*less than substantial harm*' to the significance of the heritage asset (indeed it is submitted that there will be no harm arising from the scheme). Given the limited (if any) harm arising, the degree of public benefit that is required to counter-balance that harm is low. There are public benefits arising from the proposals in that the improved thermal efficiency of the new windows and door gives rise to an environmental benefit in supporting the move to a low carbon future and helping to combat climate change (fulfilling the environmental role of sustainable development). In addition, allowing such high quality replacements will provide longevity, thus protecting the appearance of the Property for the future.
- 72) The only differences between the 'as built' scheme and that which is authorised by the Permission are those elements set out above, the key element of which, the canopy, which extended the footprint, height and volume of the overall development beyond that approved, is due to be removed very shortly.
- 73) Option A eliminates this key element of difference. Whilst the remaining part of the Sun Room as proposed under Option A would extend marginally higher at its highest point than that authorised by the Permission, its overall volume is less, such that the impact on openness is arguably also less. The resulting scheme would be of the same footprint, design and materials as the approved scheme. The benefits of the sloping roof are to create a feeling of openness and to maximise the customers' view out of the restaurant. The differences between Option A and the scheme authorised by the Permission are not considered to be sufficiently material in terms of the height, volume, or design as to be in conflict with the policies set out above and/or to have the effect of making the development unacceptable in planning terms.
- 74) Option B presents a lesser scale and volume of development than that authorised by the Permission whilst utilising the design and materials approved pursuant to the Permission, it therefore must also inherently be considered compliant with the above policies and acceptable in all respects. The impact on openness is reduced and the visual impression lessened. The fact that the Permission remains extant and implementable is significant in this context, as it would enable the construction of a scheme which it is conceivable may be construed as having a greater impact on openness.
- 75) Option C (to allow the development to be altered to comply with the Permission) must plainly represent an alternative which is policy-compliant and inherently acceptable in planning terms.
- 76) Option D is both a standalone proposal, in the event that the primary requirements of the Notice are upheld, and a proposal to be utilised in conjunction with Options A-C in the event of a failure to implement the proposed alternative schemes. In all cases, it must be assumed that it is appropriate to enable the gap in the frontage of the main building to be closed up satisfactorily, in a way which facilitates the continuing business activity at the Property, which is visually acceptable and which preserves and enhances the heritage asset. The principal

proposal, being to utilise the existing bi-fold doors to achieve this, is assumed to present an scheme which would be acceptable in design and visual terms, given the approval of this feature under the permission, and this solution would allow the degree of wasted materials and resources arising from the removal of the Sun Room to be mitigated to a degree.

- 77) Fall-back. As indicated above, the extant Permission presents a strong fall-back position in this case and represents a significant material consideration.
- 78) The test of materiality is whether there is a realistic prospect of the construction proceeding, and the weight to be attached to it is a continuum for the Inspector to consider. The test has been expressed in different ways in different cases. A modern statement of the threshold is to be found in R (on the application of Zurich Assurance Limited) v North Lincolnshire Council⁹: *'The prospect of the fall back position does not have to be probable or even have a high chance of occurring; it has to be only more than a merely theoretical prospect. Where the possibility of the fall back position happening is "very slight indeed", or merely "an outside chance", that is sufficient to make the position a material consideration*¹⁰.
- 79) The benefits that the Sun Room provides to the rural restaurant business, allowing additional accommodation to locals, visitors and tourists are such that in the event that the Notice is upheld, unvaried, the Appellant would take steps to implement the Permission in accordance with the approved details. The assessment of Options A-C and whether they would be acceptable in planning terms must therefore be considered by comparison with the approved scheme.
- 80) In the very least, for the Appellant to be forced into taking this option, to implement the Permission having first had to comply with the Notice, would be wasteful of materials and resources. It would also seem particularly punitive, given that Option A is not significantly distinct from the approved scheme; Option B represents lesser development than is allowed under the Permission, and Option C would permit the alteration of the 'as built' scheme to accord with the Permission. The comments of Carnwath LJ in the Tapecrowne¹¹ case are pertinent in that context: *"the inspector should bear in mind that the enforcement procedure is intended to be remedial rather than punitive"*.

Ground (g) - the time given to comply with the requirements relating to the breach is too short

- 81) In the event that operational works are required in order to comply with the Notice in accordance with the above submissions, or if, notwithstanding the above submissions, the

⁹ [2012] EWHC 3708 (Admin)

¹⁰ see Samuel Smith Old Brewery (Tadcaster) v Secretary of State for Communities and Local Government' [2009] All ER (D) 159 (Mar)

¹¹ Para 46, Op. Cit.

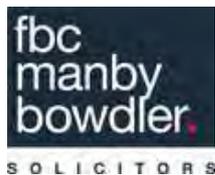
Notice requires the demolition of the Sun Room in its entirety and the consequential alterations to the frontage of the main building, the Appellant would require additional time within which to effect the works required in a manner which respects the on-going business operation and would not unduly prejudice the business activity. It is submitted that the time for compliance in the Notice, currently 3 months, be amended to allow for the steps to be undertaken.

- 82) To assist the Inspector, we set out at **Appendix J**, draft wording which is considered appropriate to give effect to each of the proposed variations to the Notice.

Conclusion

- 83) In summary, it is submitted that the imminent removal of the canopy will remove the primary element of concern in terms of visual and design concerns and impact on openness and the heritage asset. The resulting development (Option A) is not considered to be materially different to that authorised by the Permission and can be authorised through the variation of the steps required in the Notice, and the grant of deemed planning permission.
- 84) If the Inspector considers the differences to be material and/or that the breach of planning control must be fully remedied, Options B and C are proposed, in turn, to enable the retention of part of the Sun Room and can be authorised through the variation of the steps required in the Notice, and the grant of deemed planning permission subject to conditions.
- 85) All Options proposed are acceptable in planning terms.
- 86) Grounds (a) and (f) can properly be applied in conjunction to achieve the proposed Options, such that the removal of the Sun Room in its entirety may be avoided without prejudice. To the extent that this may not be accepted, additional time may be allowed for an application for planning permission to be made to enable one of the alternative Options to be effective.
- 87) If those submissions are not accepted, the Inspector is in the least invited to allow more time within which the removal work may be carried out, and to vary the Notice such that the restaurant building is not left with a gaping opening in its frontage.

Suzanne Tucker
FBC Manby Bowdler LLP
8 May 2019



8 MAY 2019

MESSRS BALJIT SINGH, AMRIK SINGH AND BALBIR SINGH BHANDAL

AND

BROMSGROVE DISTRICT COUNCIL

FOUR STONES RESTAURANT, ADAMS HILL, CLENT, STOURBRIDGE DY9 9PS

APPENDIXCES TO APPELLANT'S STATEMENT OF CASE

AGAINST THE ENFORCEMENT NOTICE

LPA REFERENCE: 17/00076/PLAN

APPEAL REFERENCES:

APP/P1805/C/19/3219678

APP/P1805/C/19/3219679

APP/P1805/C/19/3219680

FBC Manby Bowdler LLP

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Hall Park Way

Telford

Shropshire TF3 4NJ

SRT/971789/8

Appendix A

Previous conservatory which the Sun Room replaced



Appendix B

Extracts of Application for (ref 16/0403)



Bromsgrove District Council
www.bromsgrove.gov.uk

Application for Planning Permission and for relevant demolition of an unlisted building in a conservation area
Town and Country Planning Act 1990

You can complete and submit this form electronically via the Planning Portal by visiting www.planningportal.gov.uk/apply
Publication of applications on planning authority websites

Please note that the information provided on this application form and in supporting documents may be published on the Authority's website. If you require any further clarification, please contact the Authority's planning department.

Please complete using block capitals and black ink. It is important that you read the accompanying guidance notes as incorrect completion will delay the processing of your application.

<p>1. Applicant Name and Address</p> <p>Title: <input type="text" value="DR"/> First name: <input type="text" value="BALJIT"/></p> <p>Last name: <input type="text" value="BHANDAL"/></p> <p>Company (optional): <input type="text" value="BHANDAL DENTAL SURGERY"/></p> <p>Unit: <input type="text"/> House number: <input type="text" value="74"/> House suffix: <input type="text"/></p> <p>House name: <input type="text"/></p> <p>Address 1: <input type="text" value="BIRMINGHAM ROAD"/></p> <p>Address 2: <input type="text" value="POWLEY REGIS"/></p> <p>Address 3: <input type="text"/></p> <p>Town: <input type="text"/></p> <p>County: <input type="text" value="WEST MIDLANDS"/></p> <p>Country: <input type="text" value="ENGLAND"/></p> <p>Postcode: <input type="text" value="B65 9BA"/></p>	<p>2. Agent Name and Address</p> <p>Title: <input type="text" value="MR"/> First name: <input type="text" value="NEIL"/></p> <p>Last name: <input type="text" value="RANFOLD"/></p> <p>Company (optional): <input type="text" value="NCR ARCHITECTURE"/></p> <p>Unit: <input type="text"/> House number: <input type="text" value="8"/> House suffix: <input type="text"/></p> <p>House name: <input type="text"/></p> <p>Address 1: <input type="text" value="WINDSOR ROAD"/></p> <p>Address 2: <input type="text"/></p> <p>Address 3: <input type="text"/></p> <p>Town: <input type="text" value="HALLEDOWN"/></p> <p>County: <input type="text" value="WEST MIDLANDS"/></p> <p>Country: <input type="text" value="ENGLAND"/></p> <p>Postcode: <input type="text" value="B63 4BE"/></p>
<p>3. Description of the Proposal</p> <p>Please provide a description of the proposal, including details of the proposed demolition:</p> <p><input type="text" value="1. DEMOLITION OF FRONT SUN ROOM (WAINB AREA) AND REBUILD A NEW FLAT ROOF SUN ROOM"/></p> <p>_____</p> <p>_____</p> <p>Has the building, work or change of use already started? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <small>If Yes, please state the date when building, works or use were started (DDMM/YYYY): (date must be pre-application submission)</small> <input type="text"/></p> <p>Has the building, work or change of use been completed? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <small>If Yes, please state the date when the building, work or change of use was completed (DDMM/YYYY): (date must be pre-application submission)</small> <input type="text"/></p>	

9. Explanation for Proposed Demolition Work
 Why is it necessary to demolish all or part of the building(s) and/or structure(s)?

THE EXISTING FRONT SUN ROOM (WAITING AREA) IS POORLY CONSTRUCTED, OF POOR DESIGN AND DATED.

10. Materials
 If applicable, please state what materials are to be used externally. Include type, colour and name for each material:

	Existing (where applicable)	Proposed	Not applicable	Don't Know
Walls	RED BRICK & WHITE RENDER	RED BRICK	<input type="checkbox"/>	<input type="checkbox"/>
Roof	SLATE & FLAT ROOFS	FLAT ROOF G/P & GLAZED ROOF	<input type="checkbox"/>	<input type="checkbox"/>
Windows	TIMBER	TIMBER & ANODISED ALUMINIUM	<input type="checkbox"/>	<input type="checkbox"/>
Doors	TIMBER	TIMBER & ANODISED ALUMINIUM	<input type="checkbox"/>	<input type="checkbox"/>
Boundary treatments (e.g. fences, walls)	EXTB.	EXTB.	<input type="checkbox"/>	<input type="checkbox"/>
Vehicle access and hard-standing	N/A	N/A	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Lighting	EXTB. LAMPS	EXTB. LAMPS	<input type="checkbox"/>	<input type="checkbox"/>
Others (please specify)			<input checked="" type="checkbox"/>	<input type="checkbox"/>

Are you supplying additional information on submitted plan(s)/drawing(s)/design and access statement? Yes No

If Yes, please state references for the plan(s)/drawing(s)/design and access statement:

D & A STATEMENT & HERITAGE STATEMENT
 PLANS FS/10 & FS/11

11. Vehicle Parking - PUBLIC CAR PARK OPPOSITE ON ADAMS HILL.

Please provide information on the existing and proposed number of on-site parking spaces:

Type of Vehicle	Total Existing	Total proposed (including spaces retained)	Difference in spaces
Cars	0	0	0
Light goods vehicles/ public carrier vehicles			
Motorcycles			
Disability spaces			
Cycle spaces			
Other (e.g. Bus)			
Other (e.g. Bus)			

Form: 2015-04-29 Rev: 0141

Appendix C
Design and Access Statement

DESIGN AND ACCESS STATEMENT

The Four Stones Restaurant, Adams Hill, Clent, DY9 9PS.
Proposed Alterations & Extensions.

ASSESSMENT OF SITE AND SURROUNDINGS

Clent is often described as being a 'hilly parish.'

The settlement contains a number of hamlets (Upper Clent, Lower Clent, Holy Cross, Adams Hill and Walton Pool.)

Part of Clent was designated as a Conservation Area in 1981.

The conservation area contains a number of listed buildings of architectural and historical merit.

Clent is located about two miles from the edge of the West Midlands conurbation.

The Four Stones Restaurant is located at the very top of Adams Hill at the foot of the Clent Hills.

The restaurant is long established and was created from the joining together of two small cottages. Additional extensions were added (to the front, side and rear of the building) during the 1970's and 1980's. The add-ons could be considered to be 'of the time' and of poor design and quality.

The restaurant site slopes steeply from front to back and side to side.

The original cottages were constructed from red brick with slate tiled roofs and painted timber windows. More recently a substantial part of the building has been rendered and painted.

There is parking for several vehicles along Adams Hill opposite the restaurant.

INVOLVEMENT

We have read and taken note of the relevant policies within the Bromsgrove District Local Plan and the Clent Conservation Area Document.

EVALUATION & PROPOSAL

The proposal is for the demolition of the existing front sun room (waiting area) and replacement with a new sun room area with a balcony over.

In addition, the proposal is for a new glazed box garden room to the rear and glass fronted balconies to the front of the building.

The proposed extensions are modest in scale adding an additional 39m² to the gross internal floor area. The proposal takes a creative approach that respects the local context in terms of scale, mass, footprint and layout.

DESIGN AND APPEARANCE

The proposed extensions and alterations respect the local vernacular while introducing a contemporary approach that compliments neighbouring buildings and the wider street scene.

It is proposed to use building materials that are consistent with the original cottages i.e. red brick, slate roof tiles, timber painted windows etc.

The addition of glass balconies and a glass box garden room will give the restaurant a more contemporary feel while being respectful of the architectural features of the original cottages.

High quality sustainable building materials will be agreed with the local authority planning department at a later date (all materials can be conditioned as part of any planning approval.)

ACCESS

Access to the restaurant is via front and rear doors.

However, the topography of the site means that access to the restaurant is via a series of steps.

There is car parking space for several vehicles on the Adams Hill car park opposite.

DISABLED ACCESS STATEMENT

The scheme has been designed to take account of and be compliant with The Building Regulations Part M.

The scheme has been designed to enable the reasonable provision of access and use of the buildings facility for people with a disability.

HERITAGE STATEMENT

The Four Stones Restaurant is located on the northern edge of the conservation area at the top of Adams Hill.

The nearest heritage asset is the Folly Tower on Adams Hill.

The proposal has no detrimental impact upon the conservation area or any heritage assets.

Indeed, the demolition of the 1970's sun room and replacement with a more contemporary addition will positively enhance the appearance of the restaurant and the greater conservation area.

Appendix D

Email exchange between the Appellant and the Council as to the details of the material pursuant to Condition 4

Fig. 1: Email Appellant to Council, 1 December 2016

From: Claire Leddington [mailto:claireleddington@gmail.com]
Sent: 01 December 2016 14:10
To: Ruth Lambert
Subject: The Four Stones

Hi Ruth,

Lovely to speak with you earlier.

With reference to our conversation, we will be replacing all of the restaurants doors and windows like for like in wood. We would like to replace the conservatory with bi-fold doors to provide a space for walkers with dogs visiting the Clent hills during the summer months as the front terrace has very limited seating capacity. However the advice from the joiner (who's making the new sash windows and doors) is that he does not recommend the use of wood as a suitable material for external bi-fold doors. We are therefore looking for a suitable substitute material that will provide good operation and longevity whilst satisfying the needs of the conservation authority.

Our builder is recommending the construction of an aluminium conservatory as the most practical solution. Are you happy for us to go ahead or can you suggest another alternative?

Look forward to hearing from you.

--

Kind Regards,

Claire Leddington

Fig.2: Email exchange between Appellant and Council, 5 December 2016

On 5 December 2016 at 10:15, Ruth Lambert <r.lambert@bromsgroveandredditch.gov.uk> wrote:

Claire,

Apologies for the delay in getting back to you. With regard to the materials for the conservatory, on the application form it states that the materials to be used would be timber and aluminium and there is a condition on the permission which requires you to submit joinery details prior to commencement-this is so I can get it approved by the Conservation Officer. You have to complete the form attached to do this and pay a fee of £97. I am guessing the architect will need to do this for you and when he does, he can provide me with the material details for the conservatory. I think the point is, do not order anything until you have formally discharged the conditions with us.

I hope that helps.

Regards

Ruth

Ruth Lambert

Planning Officer, Bromsgrove District and Redditch Borough Councils

Tel: (01527)881373

From: Claire Leddington [mailto:claireleddington@gmail.com]

Sent: 05 December 2016 11:55

To: Ruth Lambert

Subject: Re: The Four Stones

Hi Ruth

Thank you so much for getting back to me. I have forwarded the information to our architect so he can submit the required information.

Thanks again for your help with this.

Kind Regards

Claire

On 5 December 2016 at 11:55, Ruth Lambert <r.lambert@bromsgroveandredditch.gov.uk> wrote:

Great. Thanks Claire ☺

Ruth Lambert

Planning Officer, Bromsgrove District and Redditch Borough Councils

Tel: (01527)881373

Email: r.lambert@bromsgroveandredditch.gov.uk

Bromsgrove District Council

From: Claire Leddington [mailto:clareleddington@gmail.com]
Sent: 05 December 2016 14:17
To: Ruth Lambert
Subject: Re: The Four Stones

Hi Ruth

Sorry to bother you again however I have a further few questions if you can help me?

Do you need samples of the windows and stain too or solely the conservatory?

If the conservatory has already been approved in a timber and aluminium frame do we still need to submit the form or would you be happy just to see the joinery?

Do you need a drawing of the conservatory?

I can bring in samples as soon as they're available, where should I bring them too?

Thanks so much for all your help, Claire

----- Forwarded message -----

From: Ruth Lambert <r.lambert@bromsgroveandredditch.gov.uk>
Date: Mon, 5 Dec 2016 at 15:26
Subject: RE: The Four Stones
To: Claire Leddington <clareleddington@gmail.com>

Claire,

As the window replacement was not included within the previous application, you will need to submit another planning application for this.

The materials approved for the conservatory are stated as timber and aluminium on the forms however, the previous condition states that materials should match the existing so if they do not i.e. you want to introduce aluminium then I will need to see samples/a drawing/a website address where I can look at it plus the joinery details. If you use timber then I just need joinery details.

Hope that makes sense.

Regards

Ruth

Ruth Lambert

Planning Officer, Bromsgrove District and Redditch Borough Councils

Tel: (01527)881373

Email: r.lambert@bromsgroveandredditch.gov.uk

Bromsgrove District Council

Fig. 3: Email Council to Appellant, 26 January 2017

----- Forwarded message -----

From: **Ruth Lambert** <r.lambert@bromsgroveandredditch.gov.uk>

Date: Thu, 26 Jan 2017 at 09:41

Subject: 16/0403 The Four Stones

To: Claire Leddington (claireleddington@gmail.com) <claireleddington@gmail.com>

Morning Claire,

I have got your DOC form but I will need the joinery details at a scale of 1:20. With regard to the materials for the conservatory, condition 3 states that the materials should match the existing but in the application form, it states that timber and aluminium will be used. I need to clarify with you the proposed colour, style and materials you want to use for the conservatory? Did you say you were replacing the windows aswell? I know you have workmen on site so if we can sort this out, I am happy for you to carry on and I'll wait for the joinery plan (subject to the materials being satisfactory obviously).

Regards

Ruth

Ruth Lambert

Planning Officer, Bromsgrove District and Redditch Borough Councils

Tel: (01527)881373

Email: r.lambert@bromsgroveandredditch.gov.uk

Bromsgrove District Council

Parkside,

Fig. 4: Email Appellant to Council, 26 January 2017

> -----Original Message-----
> From: Claire Leddington [mailto:claireleddington@gmail.com]
> Sent: 26 January 2017 16:44
> To: Ruth Lambert
> Subject: The four stones
>
> Hi Ruth
>
> This would be a similar construction and colour to what we are ultimately asking to erect. The roof would be flatter however but the frame as per the picture.
>
> Kind regards
>
> Claire
>
> *****

Fig. 5. Image attached to Appellant's Email to Council of 26 January 2017



Fig. 6. Email exchange of 27 January 2017

> On 27 Jan 2017, at 08:18, Ruth Lambert <r.lambert@bromsgroveandredditch.gov.uk> wrote:
>
> Morning Claire,
>
> I would be happy to accept the aluminium frame for the conservatory and I think the windows look nice too so will put that in writing when I have received the joinery details and sign them off. I think overall it would have been better if the conservatory could have matched the windows but understand your point with regard to weathering so if the frame has to be grey then I accept that. The joinery detail is something which Mary (the Conservation lady) asks for and I suspect you will need to get your architect to do this for you. I look forward to receiving these in due course
>
> Regards
>
> Ruth
>
> Ruth Lambert
> Planning Officer, Bromsgrove District and Redditch Borough Councils
> Tel: (01527)881373
> Email: r.lambert@bromsgroveandredditch.gov.uk

----- Forwarded message -----
From: **Claire Leddington** <claireleddington@gmail.com>
Date: Fri, 27 Jan 2017 at 10:33
Subject: Re: The four stones
To: Ruth Lambert <r.lambert@bromsgroveandredditch.gov.uk>

Morning Ruth

Oh that's excellent news! Thank you!

I'll get those drawings to you ASAP. With regards to the joinery details is that for the windows only or the conservatory too?

Kind regards

Claire

Sent from my iPhone

Fig. 7. Email of 14 February 2017

----- Forwarded message -----
From: **Claire Leddington** <claireleddington@gmail.com>
Date: Tue, 14 Feb 2017 at 13:06
Subject: Re: The Four Stones
To: Ruth Lambert <r.lambert@bromsgroveandredditch.gov.uk>

Hi Ruth

Nice to finally meet you the other day and thank you for your confirmation that you're happy with the works carried out to the rear.

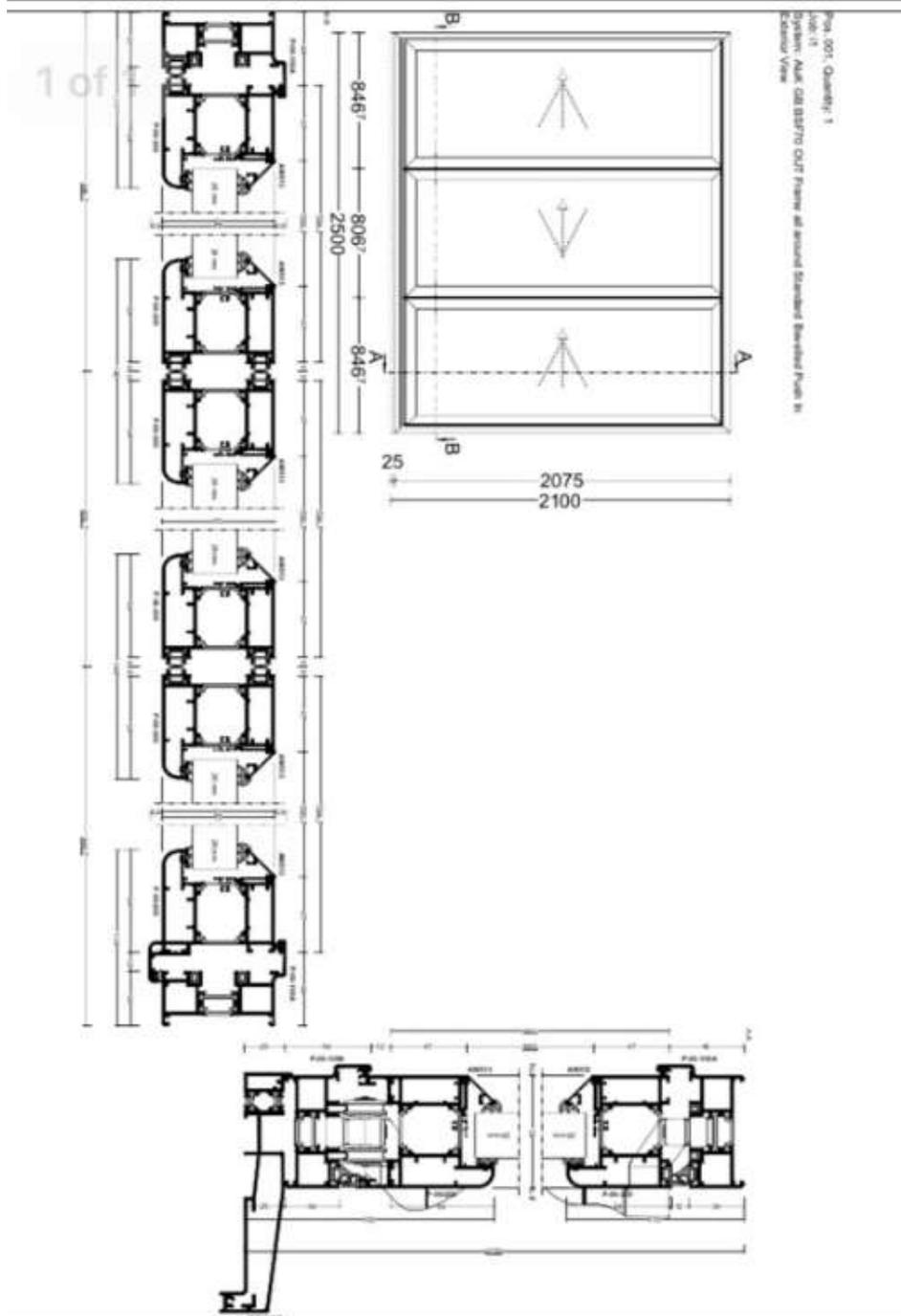
Would you be able to advise also whether we will need to put in extra planning should we wish to use the rest of the garden in the future please?

I have also received this from the company installing the new conservatory. I hope this is what you need with reference to the joinery details but if there's a problem please let me know.

Kind Regards

Claire

Fig. 8 - Joinery details submitted with the Email of 14 February 2017



Appendix E

Appeal Decision ref APP/P1805/W/17/3191833



The Planning Inspectorate

Appeal Decision

Site visit made on 3 April 2018

by **H Baugh-Jones BA(Hons) DipLA MA CMLI**

an Inspector appointed by the Secretary of State

Decision date: 09 April 2018

Appeal Ref: APP/P1805/W/17/3191833

Four Stones Restaurant, Adams Hill, Clent DY9 9PS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Dr Baljit Bhandal against the decision of Bromsgrove District Council.
 - The application Ref 17/00646/FUL, dated 6 June 2017, was refused by notice dated 19 July 2017.
 - The development proposed is demolition of existing sunroom and erection of a replacement glazed sunroom (retrospective).
-

Decision

1. The appeal is dismissed.

Procedural Matter

2. As the description of development in the above heading indicates, the sunroom has already been built. I have taken this into account in my decision.

Main Issues

3. The site lies within the Green Belt. The main issues in this appeal are
 - whether the appeal scheme comprises inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies
 - whether any harm by reason of inappropriateness including (i) loss of openness; (ii) whether the appeal scheme preserves or enhances the character or appearance of the Clent Conservation Area (CA); and (iii) its effect on the character and appearance of the host building, is clearly outweighed by other considerations
 - if so, would this amount to the very special circumstances required to justify the proposal.

Reasons

Background

4. Planning permission was granted for a replacement sunroom and whilst the building has been constructed following that permission, it has not been done so in accordance with the approved plans.

<https://www.gov.uk/planning-inspectorate>

Inappropriate development in the Green Belt

5. The appeal scheme comprises a sunroom of contemporary design attached to the front of the restaurant building. It is glazed on all sides and has an over-sailing roof that slopes upwards away from the front elevation of the main building. The canopy created by the over-sail is supported by posts that sit forward of the sunroom's front elevation.
6. Policy BDP4.4 of the Bromsgrove District Plan (2017) (BDP) says that the development of new buildings in the Green Belt is considered to be inappropriate except in certain circumstances. BDP4.4d states that this includes proportionate extensions to non-residential buildings taking into account openness and the Green Belt purposes. The policy gives favourable consideration to proposals that can demonstrate significant benefits to the local economy and/or community.
7. Policy BDP4.4 closely reflects the Framework, which says that the construction of new buildings is inappropriate in the Green Belt unless in accordance with specific exceptions. The third bullet point in paragraph 89 of the Framework states that the one of the exceptions is the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building.
8. The available evidence indicates that the restaurant building was originally a pair of dwellings extended and converted to an alternative use. It is clear that incrementally, the original building has been very substantially increased in size. The Council considers that the cumulative scale of those additions is disproportionate and thus inappropriate. The appellant has not put forward any contrary evidence and I have no reason to take an alternative view to that of the Council. The appeal scheme therefore comprises inappropriate development in the Green Belt.

Openness of the Green Belt

9. The sunroom's over-sailing roof and extent of its forward projection give it a greater volume and presence at the front of the main building in comparison to the permitted scheme. In my view, it therefore has a greater effect on openness and thus harms the fundamental Green Belt aim of keeping land permanently open.

Clent CA

10. The CA's character in the vicinity of the appeal site derives from its variously sized but simply designed brick or rendered cottages set either side of a wide open area that provides parking for vehicles. Notably, there are no visually significant front projecting elements on other surrounding buildings and their absence therefore heightens the sunroom's presence in the street scene.
11. The sunroom is positioned next to a neighbouring small white rendered cottage such that in views from the north-eastern part of Adams Hill, it stands out against the white backdrop of the neighbouring building. From the other direction, because it sits above a raised terrace, the adverse effects of its height are magnified. Overall, the sunroom has a visually dominant, overly assertive appearance that is out of place in the CA. It does not preserve or enhance the character or appearance of the CA and thus harms the significance of this designated heritage asset counter to policy BDP20, which amongst other

things reflects the statutory duty relating to CAs in Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1992 and seeks to resist such harm resulting from alterations or additions.

12. Whilst the level of harm would not reach the high hurdle of substantial harm for the purposes of paragraph 133 of the Framework, it would nonetheless result in serious harm that requires clear and convincing justification. Framework paragraph 134 says that where a development proposal would lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the scheme, including securing its optimum viable use.
13. The appellant has not put forward any evidence to demonstrate that the sunroom has greater public benefit than that of the permitted scheme. The appeal scheme therefore conflicts with the Framework.

Character and appearance of the host building

14. The sunroom's sloping over-sailing roof and canopy supports give it a bulky and fussy appearance that does not reflect the general simplicity of the host building. As I have already mentioned, this simplicity is typical of buildings in Adams Hill. In direct views towards the building, the sunroom's rising roof form obscures one of the upper floor windows and appears as a dominant addition to the area immediately in front of the building. For similar reasons, in other views from both higher and lower parts of Adams Hill, it appears as an obtrusive and discordant addition to the building.
15. Thus, the sunroom does not represent good design and causes serious harm to the host building's character and appearance thereby running counter to policy BDP19, which broadly seeks high quality design.

Other considerations

16. The appellant argues that the sunroom as built, enhances the visual appearance of the host building and its contemporary design respects the local context and the character and appearance of the CA. However, for the reasons already given, I take an alternative view. Whilst I have no doubt that a more contemporary design would represent an improvement on the 1970's structure it would replace, a compelling case for the appeal scheme has not been put forward.
17. The harm to the Green Belt attracts substantial weight. I also give substantial weight to the harm to the significance of a designated heritage asset and to the adverse effects on the host building.
18. From all that is before me, there are no other considerations that override these harms and thus the very special circumstances necessary to justify the appeal scheme do not exist. Consequently, the appeal does not succeed.

Hayden Baugh-Jones

Inspector

Appendix F
Photograph of the Property



Appendix G

As Built Scheme (Prior to the removal of the canopy)

'AS BUILT SUNROOM'

Height of Sun Room roof as authorised by the Permission (approx.): c.2.9m

Unauthorised part remaining (approx.) edged green

H: c.0.85m
W: c.4.0m
D: c.3.9m



Note: The view of this side elevation is obscured by the pre-existing brick wall (see the side elevation as shown on Dwg FS11 Rev a)

DATE	DESCRIPTION	BY
As Built Sun Room	The Four Seasons Restaurant	
Address Hill		
Client	DVF9 SPS	
DATE	DESCRIPTION	BY
29/20		
DATE	DESCRIPTION	BY
April 2019		
SCALE	1:50	
NCR ARCHITECTURAL DESIGN & TOWN PLANNING 4th & 2nd Floors 24 Crown High Street West Midlands B24 1JA Mobile: 07546 803316 email: info@ncrad.com		

Appendix H

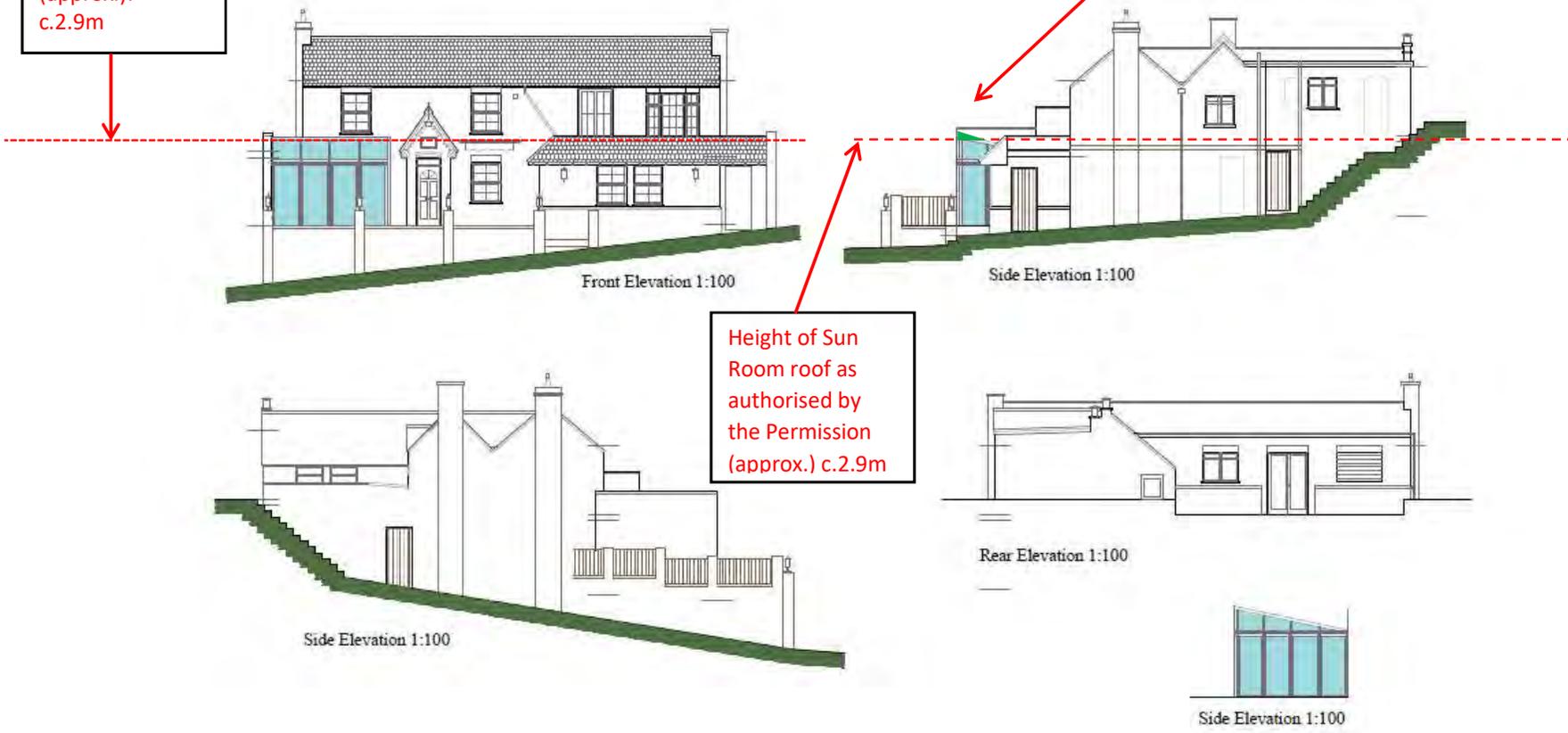
Proposed Scheme OPTION A (annotated)

(Full drawing also submitted separately for scaling purposes - 'DWG A')

PROPOSED ALTERATIONS

Height of Sun Room roof as authorised by the Permission (approx.): c.2.9m

Approx. extent to which authorised height is exceeded: c.0.15m



Appendix I

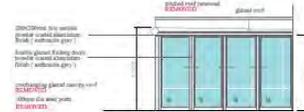
Proposed Scheme OPTION B (annotated) - (Full drawing also to be submitted separately for scaling purposes)

Height of Sun Room roof as authorised by the Permission (approx.) c2.9m

PROPOSED ALTERATIONS



Front Elevation 1:50



Side Elevation 1:50

Note: The view of this side elevation would be obscured by the pre-existing brick wall (see the side elevation as shown on Appendix G above)



Ground Floor Plan 1:50



Side Elevation 1:50

Height of Sun Room roof as authorised by the Permission (approx.) c2.9m

Title	
Proposed Alteration To Sun Room	
The Four Seasons Restaurant	
Adrian Hill	
Client	
DVS/SPG	
Drawn by	FS/21
Date	April 2019
Scale	1:50
NCR ARCHITECTURAL DESIGN & TOWN PLANNING	
11 & 2nd Floor	
St. Andrew's Place	
Southbridge	
West Midlands	
B15 2TA	
Mobile	07956 803116
Email	andrew@ncrplanning.com

Appendix J

Proposed Draft Variations to Paragraphs (5) and (6) to the Notice

Option A (removal of canopy only)

(5) WHAT YOU ARE REQUIRED TO DO

As the person responsible for the breach of planning control specified in paragraph 3 of this notice, you are required to take the following steps:-

1. *Remove the unauthorised canopy and supporting pillars from the Land in accordance with Drawing A.*
2. *Remove from the Land all building materials and rubble arising from compliance with step 1.*
3. *[Insert either Alternative i or Alternative ii set out below]:*

Alternative (i)

3. *If the works identified in steps 1 and 2 above have not been completed within the time for compliance specified at paragraph 6(i) below remove the unauthorised development from the Land;*
4. *install the bi-fold doors comprising part of the Sun Room within the resultant opening on the front elevation of the main building and make good the brickwork using materials to match the existing; and*
5. *Remove from the Land all building materials and rubble arising from compliance with steps 3 and 4*

Alternative (ii):

3. *If the works identified in steps 1 and 2 above have not been completed within the time for compliance specified at paragraph 6(i) below submit to the Local Planning Authority a detailed scheme for the closure of the opening within the front elevation of the main building, to include details of any proposed window or door features and the external materials to be used, indicating types, colours and finishes of bricks and fenestration and joinery to be used, and if approved, remove the unauthorised development from the Land and carry out the works to close the resultant opening in the frontage of the main building in accordance with the approved scheme, but if not approved then reinstate the frontage with*

a window of a scale, design, materials and joinery detail to match those in the existing windows to the main building; and

4. *Remove from the Land all building materials and rubble arising from compliance with step 3.*

(6) TIME FOR COMPLIANCE

Alternative i

(i) 3 months after this Notice takes effect, unless the circumstances under step 3 of paragraph (5) above apply, in which case the time for compliance shall be

(ii) 6 months after this Notice takes effect.

Alternative ii

(i) 3 months after this Notice takes effect, unless the circumstances under step 3 of paragraph (5) above apply, in which case the time for compliance shall be

(ii) 9 months after this Notice takes effect.

Option B (removal of canopy and sloped roof and replace with flat glazed roof)

(5) WHAT YOU ARE REQUIRED TO DO

As the person responsible for the breach of planning control specified in paragraph 3 of this notice, you are required to take the following steps:-

1. *Remove the unauthorised canopy and supporting pillars, and upper glazed panels to front and side elevations from the Land*
2. *Replace the roof with a flat glazed roof of the same design materials colour and finish as the existing sun room in accordance with Drawing Ref FS/21*
3. *Remove from the Land all building materials and rubble arising from compliance with steps 1 and 2*
4. [\[Insert either Alternative i or Alternative ii set out below\]:](#)

[Alternative \(i\)](#)

4. *If the works identified in steps 1 and 2 and 3 above have not been completed within the time for compliance specified at paragraph 6(i) below remove the unauthorised development from the Land;*
5. *install the bi-fold doors comprising part of the Sun Room within the resultant opening on the front elevation of the main building and make good the brickwork using materials to match the existing; and*
6. *Remove from the Land all building materials and rubble arising from compliance with steps 4 and 5.*

[Alternative \(ii\)](#)

4. *If the works identified in steps 1 and 2 and 3 above have not been completed the time for compliance specified at paragraph 6(i) below submit to the Local Planning Authority a detailed scheme for the closure of the opening within the front elevation of the main building, to include details of any proposed window or door features and the external materials to be used, indicating types, colours and finishes of bricks and fenestration and joinery to be used, and if approved, remove the unauthorised development from the Land and carry out the works to close the resultant opening in the frontage of the main building in accordance with the approved scheme, but if not approved then reinstate the frontage with a window of a scale, design, materials and joinery detail to match those in the existing windows to the main building; and*

5. *Remove from the Land all building materials and rubble arising from compliance with step 4.*

(6) TIME FOR COMPLIANCE

Alternative (i)

(i) 4 months after this Notice takes effect, unless the circumstances under step 4 of paragraph (5) above apply, in which case the time for compliance shall be

(ii) 6 months after this Notice takes effect.

Alternative (ii)

(i) 4 months after this Notice takes effect, unless the circumstances under step 4 of paragraph (5) above apply, in which case the time for compliance shall be

(ii) 9 months after this Notice takes effect.

Option C (completion pursuant to the Permission)

(5) WHAT YOU ARE REQUIRED TO DO

As the person responsible for the breach of planning control specified in paragraph 3 of this notice, you are required to take the following steps:-

1. *Remove the unauthorised canopy and supporting pillars, and upper glazed panels to front and side elevations from the Land*
2. *Complete the development in accordance with planning permission reference 16/403 and in accordance with the plans and documents approved pursuant to that permission, using materials to match the main sun room structure*
3. *Remove from the Land all building materials and rubble arising from compliance with steps 1 and 2*
4. [\[insert either Alternative i or Alternative ii set out below\]](#)

Alternative (i)

4. *If the works identified in steps 1 and 2 and 3 above have not been completed within the time for compliance specified at paragraph 6(i) below remove the unauthorised development from the Land;*
5. *install the bi-fold doors comprising part of the Sun Room within the resultant opening on the front elevation of the main building and make good the brickwork using materials to match the existing; and*
6. *Remove from the Land all building materials and rubble arising from compliance with steps 4 and 5.*

Alternative (ii):

4. *If the works identified in steps 1 and 2 and 3 above have not been completed the time for compliance specified at paragraph 6(i) below submit to the Local Planning Authority a detailed scheme for the closure of the opening within the front elevation of the main building, to include details of any proposed window or door features and the external materials to be used, indicating types, colours and finishes of bricks and fenestration and joinery to be used, and if approved, remove the unauthorised development from the Land and carry out the works to close the resultant opening in the frontage of the main building in accordance with the approved scheme, but if not approved then reinstate the frontage with*

a window of a scale, design, materials and joinery detail to match those in the existing windows to the main building; and

5. *Remove from the Land all building materials and rubble arising from compliance with step 4.*

(6) TIME FOR COMPLIANCE

Alternative (i)

(i) 4 months after this Notice takes effect, unless the circumstances under step 4 of paragraph (5) above apply, in which case the time for compliance shall be

(ii) 6 months after this Notice takes effect.

Alternative (ii)

(i) 4 months after this Notice takes effect, unless the circumstances under step 4 of paragraph (5) above apply, in which case the time for compliance shall be

(ii) 9 months after this Notice takes effect.

Option D (enable the works to close up the opening in the frontage of the main building resultant from the removal of the Sun Room)

(5) WHAT YOU ARE REQUIRED TO DO

As the person responsible for the breach of planning control specified in paragraph 3 of this notice, you are required to take the following steps:-

Alternative (i):

1. *Remove the unauthorised development from the Land;*
2. *Install the bi-fold doors comprising part of the Sun Room within the resultant opening on the front elevation of the main building and make good the brickwork using materials to match the existing; and*
3. *Remove from the Land all building materials and rubble arising from compliance with the requirements of steps 1 and 2 above.*

Alternative (ii):

1. *Submit to the Local Planning Authority a detailed scheme for the closure of the opening within the front elevation of the main building, to include details of any proposed window or door features and the external materials to be used, indicating types, colours and finishes of bricks and fenestration and joinery to be used, and if approved, remove the unauthorised development from the Land and carry out the works to close the resultant opening in the frontage of the main building in accordance with the approved scheme, but if not approved then reinstate the frontage with a window of a scale, design, materials and joinery detail to match those in the existing windows to the main building; and*
2. *Remove from the Land all building materials and rubble arising from compliance with step 1.*

(6) TIME FOR COMPLIANCE

Alternative (i)

6 months after this Notice takes effect

Alternative (ii)

9 months after this Notice takes effect

Option X – (allow for Planning Application to be submitted simply by extending the time for compliance)

(6) TIME FOR COMPLIANCE

18 months after this Notice takes effect

Appendix K
Proposed Draft Conditions

Option A – Removal of canopy and supporting pillars

- 1) The development hereby permitted shall be carried out in accordance with the following Approved Plans / Drawings and documents:

Drawing 'A'

Option B – Addition of flat glazed roof to existing sun room (following the removal of canopy, supporting pillars, sloped roof and upper glazed panes to the front and side elevations)

- 1) The development hereby permitted shall be carried out in accordance with the following Approved Plans/ Drawings and documents:

FS21

- 2) The roof shall be finished in materials to match in colour, form and texture those on the existing sun room.

Option C – Completion pursuant to the Permission (following the removal of the canopy, supporting pillars, sloped roof and upper glazed panes to the front and side elevations)

- 1) The development hereby permitted shall be carried out in accordance with the following Approved Plans/ Drawings and documents:

[FS/11 Rev a] OR [DWG B]

And if required:

- 2) Before commencing the development hereby approved, a detailed scheme for the upper section and roof of the sun room, to include details of the design and external materials to be used, indicating types, colours and finishes to be used, shall be submitted to and approved in writing by the Local Planning Authority, and the approved design and materials shall be used in the implementation of the development and thereafter so retained.

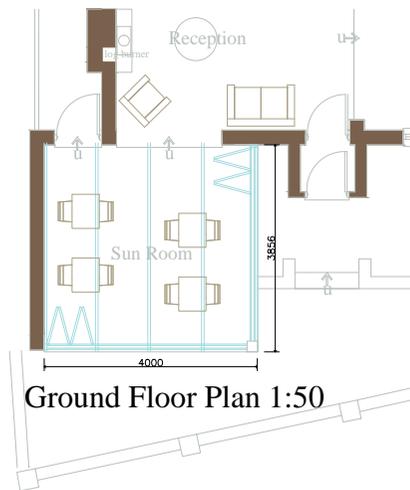
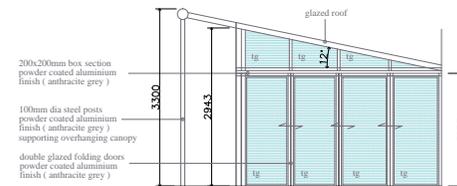
Option D – Alterations to close up the opening in the front elevation of the main building following removal of Sun Room

- 1) The development shall be finished in materials to match in colour, form and texture those on the existing sun room and where relevant the main building

OR

- 1) Before commencing the development hereby approved, a detailed scheme for the closure of the opening on the frontage of the main building, to include details of any window or door features and the external materials to be used, indicating types, colours and finishes of bricks and fenestration and joinery to be used, shall be submitted to and approved in writing by the Local Planning Authority, and the approved design and materials shall be used in the implementation of the development and thereafter so retained.

'AS BUILT SUNROOM'



TITLE:
As Built Sun Room
The Four Stones Restaurant
Adams Hill
Clent
DY9 9PS

DRAWING NO. FS/20 REV: -

DATE: April 2019

SCALE: 1:50

NCR ARCHITECTURAL DESIGN &
TOWN PLANNING

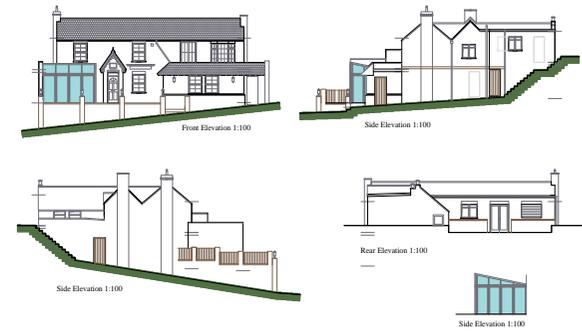
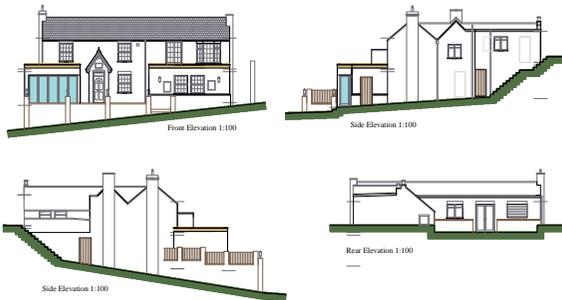
1st & 2nd Floor
34 Lower High Street
Stourbridge
West Midlands
DY8 1TA

Mob : 07956 805316 neilranford@btintc 73

APPROVED SCHEME

'AS BUILT SUNROOM'

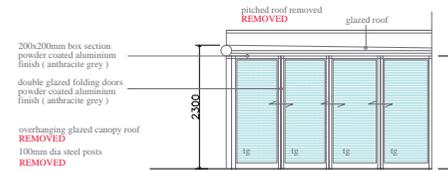
PROPOSED ALTERATIONS



PROPOSED ALTERATIONS



Front Elevation 1:50



Side Elevation 1:50



Ground Floor Plan 1:50



Side Elevation 1:50

TITLE:
Proposed Alteration To Sun Room
The Four Stones Restaurant
Adams Hill
Client
DY9 9PS

DRAWING NO. FS/21 REV: -

DATE: April 2019

SCALE: 1:50

NCR ARCHITECTURAL DESIGN & TOWN PLANNING

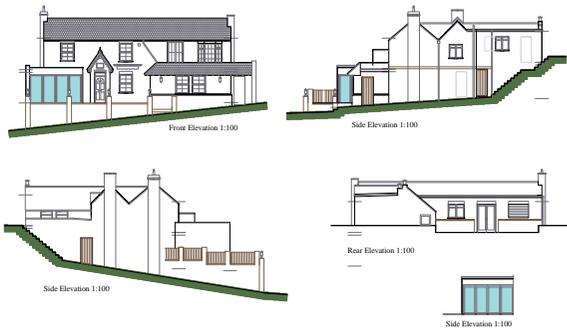
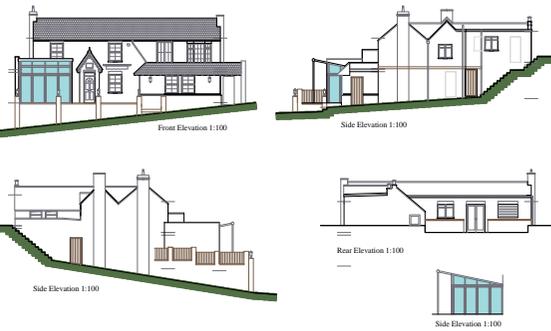
1st & 2nd Floor
34 Lower High Street
Stourbridge
West Midlands
DY8 1TA

Mob : 07956 805316 neilranford@btint 75

APPROVED SCHEME

'AS BUILT SUNROOM'

PROPOSED ALTERATIONS



The Planning Inspectorate

QUESTIONNAIRE (s174) ENFORCEMENT NOTICE (Online Version)

You must ensure that a copy of the completed questionnaire, together with any enclosures, is sent to the appellant/agent. Any documents which you have indicated as 'To follow' should also be sent to the case officer by the date given in the start letter.

If notification or consultation under an Act, Order or Departmental Circular would have been necessary before granting permission and has not yet taken place, please inform the appropriate bodies of the appeal now and ask for any comments to be sent direct to us within 6 weeks of the 'starting date'.

Appeal Reference

APP/P1805/C/19/3219678

Appeal By

MR BALJIT SINGH BHANDAL

Site Address

Four Stones Restaurant
Adams Hill
Clent
Stourbridge, Worcestershire
DY9 9PS

PART 1

- 1.a. Do you agree to the written representation procedure? Yes No
- Note: If the written procedure is agreed, the Inspector will visit the site unaccompanied by either party unless the relevant part of the site cannot be seen from a road or other public land, or it is essential for the Inspector to enter the site to check measurements or other relevant facts.
- 2.a. If the written procedure is agreed, can the relevant part of the appeal site be seen from a road or other public land? Yes No
- 2.b. Is it essential for the Inspector to enter the site to check measurements or other relevant facts? Yes No
- 2.c. Are there any known health and safety issues that would affect the conduct of the site inspection? Yes No
- Please describe:
- 2.d. Would the Inspector have to go onto any privately owned adjoining land as well as the appeal site itself? Yes No

PART 2

3. Are there any related appeals currently before the Secretary of State, e.g. under s.78, 174 or 195 of the Town and Country Planning Act 1990, s20 or 39 of the Planning (Listed Buildings and Conservation Areas) Act 1990 or orders under s102 of the Town and Country Planning Act 1990? If yes please provide reference number(s) Yes No

Please provide our reference numbers:

APP//1805/C/19/3219679 APP/P1805/C/19/3219680

- 4.a. Has the local planning authority received the correct fee payable for the deemed planning application/ground (a) to be considered? Yes No

5.a. Is the appeal site within a conservation area? Yes No

Please give the name of the conservation area, provide a plan and indicate when the conservation area was designated.

Conservation area:

Designated:

Plan of the conservation area:
 see 'Questionnaire Documents' section

5.b. Is the appeal site adjacent to a conservation area? Yes No

PART 3

6.a. Does the notice relate to building, engineering, mining or other operations? Yes No
 If YES, please state the area of the site shown in the notice plan, in hectares.

6.b. Is the area of the alleged breach different from the above? Yes No

6.c. Does the alleged breach create any floor space? Yes No
 If YES, please state the amount of gross floor space created, in square metres.

Does the enforcement notice relate to a change of use of land to use for:

7.a. the disposal of refuse or waste materials? Yes No

7.b. the deposit of materials remaining after mineral extraction? Yes No

7.c. the storage of minerals in the open? Yes No

8. If the enforcement notice relates to the erection of a building or buildings, is it accepted that their use is for purposes of agriculture on land used for agricultural purposes (not necessarily an agricultural unit as defined in the Agriculture Act (1947))? Yes No

9. Does the enforcement notice relate to the erection/change of use of a building which is a single private dwellinghouse, as defined in Regulation 2(1) of the Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) Regulations 2012? Yes No

PART 4

10. Has the local planning authority made a Local Development Order under sections 61A to 61C of the Town and Country Planning Act 1990 (as inserted by section 40 of the Planning and Compulsory Purchase Act 2004) in relation to the application site? Yes No

11. Has any planning permission been granted previously in respect of the development? Yes No
 If YES, please send a copy of the permission and all relevant documents e.g. the plans accompanying the application, or any other relevant correspondence about the application
 A copy of the permission and any documents necessary for its interpretation:

see 'Questionnaire Documents' section

12. Has the appellant applied for planning permission and paid the appropriate fee for the same development as in the enforcement notice? Yes No

If YES, please provide

12.a. the date of the relevant application

12/06/2017

12.b. the date of the LPA's decision (if any)

19/07/2017

12.c. a copy of the decision (if any)

see 'Questionnaire Documents' section

12.d. the reference number

17/00646/FUL

13. Has a planning contravention notice been served? Yes No

14.a. the appeal site is within 67 METRES OF A TRUNK ROAD? Yes No

14.b. the appeal site is CROWN LAND (as defined in s293 of the Act)? Yes No

14.c. a STOP NOTICE has been served in addition to the enforcement notice? Yes No

14.d. the appeal site is in or adjacent to or likely to affect a SSSI? Yes No

14.e. any protected species are likely to be affected by the alleged development? Yes No

14.f. the appeal site is in a Green Belt or AONB? Yes No

If YES, please state which one (name).

Green Belt

14.g. any part of the site is subject to a Tree Preservation Order? Yes No

14.h. the appeal site is within 400m of an area of underground or surface mineral interest? Yes No

14.i. the appeal site is within 250m of a waste landfill site? Yes No

14.j. does the development affect the setting of a listed building or ancient monument? Yes No

14.k. has importation of waste materials been involved in the development? Yes No

14.l. does the appeal involve persons claiming gypsy/traveller status, whether or not this is accepted by the planning authority? Yes No

PART 5

15. Please provide a plan of any public rights of way affected by the site.

see 'Questionnaire Documents' section

16.a. Is the appeal site subject to an ARTICLE 4 Direction? Yes No

17. Have any development rights been restricted by means of a planning condition? Yes No

18. Does the development relate to operational development for a disabled person, as defined by s29 of the National Assistance Act 1948? Yes No

19. Will any consultation be carried out on the possibility of planning permission being granted if the appeal is confirmed as valid? Yes No

Environmental Impact Assessment - Schedule 1			
20.a. Is the alleged development within Schedule 1 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011?	Yes	<input type="checkbox"/> No	<input checked="" type="checkbox"/>
Environmental Impact Assessment - Schedule 2			
20.b.i. Is the development Schedule 2 development as described in Column 1, Schedule 2 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011?	Yes	<input type="checkbox"/> No	<input checked="" type="checkbox"/>
Environmental Impact Assessment - Environmental Statement (ES)			
20.e. Has the appellant supplied an environmental statement?	Yes	<input type="checkbox"/> No	<input checked="" type="checkbox"/>

PART 6

- 21.a. a copy of the letter with which you notified people about the appeal.
 see 'Questionnaire Documents' section
- 21.b. a list of the people you notified and the deadline you gave for their comments to be sent to us.
 see 'Questionnaire Documents' section
- the deadline you gave for their comments to be sent to us.
- 21.c. the planning officer's report to committee or delegated report and any other relevant document/minutes.
- 21.d. where ground (a) (s174) has been pleaded and any fee required has been paid, a comprehensive list of conditions which you consider should be imposed if planning permission is granted. You need not attach this now, but it should reach us within 6 weeks of the starting date. The list must be submitted separately from your appeal statement.

Policies/Planning Guidance

- 22.a. extracts from any relevant statutory development plan policies (even if you intend to rely more heavily on the emerging plan). You must include the front page, the title and date of approval/adoption, and the status of the plan. Copies of the policies should include the relevant supporting text.
 see 'Questionnaire Documents' section
- 22.b. extracts of any relevant policies which have been 'saved' by way of a Direction.
- 22.c. extracts from any supplementary planning guidance, that you consider necessary, together with its status, whether it was the subject of public consultation and consequent modification, whether it was formally adopted, and if so when.
- 22.d. extracts from any supplementary planning document that you consider necessary, together with the date of its adoption. In the case of emerging documents, please state what stage they have reached.
- 22.e. if any Development Plan Document (DPD) or Neighbourhood Plan relevant to this appeal has been examined and found sound/met the basic conditions and passed a referendum, the date the DPD or Neighbourhood Plan is likely to be adopted and, if you consider this date will be before the Inspector's decision on this appeal is issued, an explanation of the Council's policy position in respect of this appeal upon its adoption. You should also include an explanation of the status of existing policies and plans, as they relate to this appeal, upon adoption and which (if any) will be

superseded;

22.f. if any DPD or Neighbourhood Plan relevant to this appeal has been submitted for examination, or in the case of a Neighbourhood Plan has been examined and is awaiting a referendum, an explanation of any substantive changes in the progress of the emerging plan, and their relevance to this appeal if it is considered that the plan will not be adopted before the Inspector's decision on this appeal is issued;

22.g. your Authority's CIL charging schedule is being/has been examined;

22.h. your Authority's CIL charging schedule has been/is likely to be adopted.

22.i. any other relevant information or correspondence you consider we should know about.

PART 7

23. A true copy of the Enforcement Notice

see 'Questionnaire Documents' section

24. The Enforcement Notice Plan (if applicable)

see 'Questionnaire Documents' section

25. A list of those served with the Notice

see 'Questionnaire Documents' section

26. Do you wish to attach your statement of case?

Yes

No

LPA Details

I certify that a copy of this appeal questionnaire and any enclosures will be sent to the appellant or agent today.

LPA's reference

17/00076/PLAN

Completed by

Katharine Burrell

On behalf of

Bromsgrove District Council

Please provide the details of the officer we can contact for this appeal, if different from the Planning Inspectorate's usual contact for this type of appeal.

Name

Katharine Burrell

Phone no (including dialling code)

01527 881332

Email

k.burrell@redditchandbromsgrove.gov.uk

Please advise the case officer of any changes in circumstances occurring after the return of the questionnaire.

Appeal Reference	APP/P1805/C/19/3219678
Appeal By	MR BALJIT SINGH BHANDAL
Site Address	Four Stones Restaurant Adams Hill Clent Stourbridge, Worcestershire DY9 9PS

The documents listed below were uploaded with this form:

- Relates to Section: PART 2
 Document Description: 5.a. Plan of the Conservation Area.
 File name: Clent.pdf
- Relates to Section: PART 4
 Document Description: 11. A copy of the permission and any documents necessary for its interpretation.
 File name: Decision Notice 16-0403.pdf
 File name: Plan FS -10.pdf
 File name: Plan FS-11 Rev a.pdf
- Relates to Section: PART 4
 Document Description: 12. A copy of the decision.
 File name: decision notice 17-00646.pdf
- Relates to Section: PART 6
 Document Description: 21.a. A copy of the letter with which you notified people about the appeal.
 File name: neighbour notification letter.pdf
- Relates to Section: PART 6
 Document Description: 21.b. A list of the people you notified and the deadline you gave for their comments to be sent to us.
 File name: List consultees.pdf
- Relates to Section: PART 6
 Document Description: 22.a. Extracts from any statutory development plan policy including the front page, title and date of approval/adoption and status.
 File name: Adopted-BDP-January-2017 Front Cover.pdf
 File name: Adopted-BDP-January-2017 BDP4 Green Belt.pdf
 File name: Adopted-BDP-January-2017 BDP20 Managing the Historic.pdf
 File name: Adopted-BDP-January-2017 BDP19 High Quality Design.pdf
- Relates to Section: PART 7
 Document Description: 23. A true copy of the Enforcement Notice.
 File name: Enforcement Notice plan.pdf
- Relates to Section: PART 7
 Document Description: 24. The Enforcement Notice Plan.
 File name: Enforcement Notice plan.pdf
- Relates to Section: PART 7

Document Description: 25. A list of those served with the Notice.
File name: Enforcement Notice plan.pdf

The documents listed below are to follow by post:

Relates to Section: PART 5
Document Description: 15. A plan of any public rights of way affected by the site.

Completed by Not Set

Date 02/04/2019 18:31:28

LPA Bromsgrove District Council



BDP4 Green Belt

8.18 Approximately ninety per cent of Bromsgrove District is currently designated as Green Belt, although this figure will reduce slightly with the release of land around Redditch. This forms an integral part of the West Midlands Green Belt, which was established to prevent the outward expansion of the conurbation. The NPPF requires Green Belt boundaries to be capable of enduring beyond the plan period and can only be altered in exceptional circumstances or through the preparation or review of the Local Plan. In view of the urgency to have an adopted up to date District Plan, the Council is progressing a plan that identifies sufficient land to deliver 4,700 of the 7,000 requirement by approximately 2023 without altering Green Belt boundaries. The Council acknowledges the remaining 2,300 homes cannot be delivered without altering Green Belt boundaries. A Green Belt Review will therefore be undertaken and then through a Local Plan Review sufficient land will be removed from the Green Belt to deliver the remaining 2,300 homes in the period up to 2030 and address the longer term development needs of Bromsgrove District and adjacent authorities based on the latest evidence at the time. The timing of this Review will be determined by updated evidence including the GBSLEP Strategic Housing Needs Study and/or the monitoring of housing delivery against the Council's projected housing trajectory.

10. based on net density 65% developable area for housing at 30dph and the remaining 35% used for supporting infrastructure) e.g. ((2,500/30)/65)x100
11. 367 dwellings per annum x 10 years

The Green Belt Review will take account of:

- ▶ the need to accommodate 2,300 dwellings in the period up to 2030;
- ▶ the need for identifying safeguarded land to meet longer-term development needs in Bromsgrove and possibly in the conurbation stretching 10 years beyond the plan period;
- ▶ the cross-boundary development needs of the conurbation in the plan period;
- ▶ Identification of the most sustainable sites to meet the needs identified

8.19 As mentioned in BDP 3 Future Housing and Employment Development, the amount of development required in relation to the conurbation is uncertain and will depend on the latest evidence available in the next District Plan review. For meeting the development needs in Bromsgrove, the total amount of land required will be approximately 320ha, including:

- ▶ 118ha¹⁰ to deliver 2,300 dwellings until 2030;
- ▶ 188ha of safeguarded land to deliver 3,680 dwellings¹¹ for the 10 years beyond 2030;
- ▶ 14ha of safeguarded land to meet employment needs for the 10 years beyond 2030



8.20 With Bromsgrove Town having a large variety of services and facilities and also the best access to regular public transport, it is currently thought to be a logical location for the largest proportion of growth. For example, further development consistent with the current expansion sites, and within the confines of the M5 and M42 which is a potential strong defensible long term Green Belt boundary could also provide additional capacity in future years. Some potential sites have already been submitted and assessed as part of the Strategic Housing Land Availability Assessment process. At this stage it is not considered appropriate to apportion a particular number or percentage of dwellings to tiers within the settlement hierarchy or individual settlements. This is considered to be inflexible and it is more important to focus on identifying the most suitable and sustainable sites for growth. The Council will work with neighbourhoods and consider Green Belt land around all identified settlements in the settlement hierarchy and potential sites identified in Neighbourhood Plans. This may lead to alterations to some settlement boundaries and some village envelopes where suitable sites for development are identified.

8.21 The Green Belt Review will also consider all land along the northern boundary of the District that adjoins the West Midlands conurbation to meet any growth needs arising from the conurbation. At this stage the quantum or location of development required is not yet known, however the Council is working with the local authorities in the Greater Birmingham and Solihull Local Enterprise Partnership (GBSLEP) under the duty to co-operate to address this issue. The ongoing GBSLEP Strategic Housing Needs Study will provide further evidence to help address this matter.

8.22 At this stage no further Green Belt alterations are proposed adjacent to Redditch Town, within Bromsgrove District. Redditch Borough Council has proposals for the future regeneration of Redditch Town Centre, which Redditch Borough Council believes would enable some longer term land availability to occur. Redditch Borough Council also considers that the likely deterioration of the 1960's and 1970's New Town areas may provide further regeneration scope within the next plan period.

8.23 Paragraphs 89 and 90 of the NPPF highlights the forms of development that are considered to be appropriate within the Green Belt. The Council intends to use this policy to provide a greater level of detail than what is provided within the NPPF which will aid decision making through the development management process.



8.24 The NPPF states that the extension or alteration of a building in the Green Belt is not inappropriate provided that it does not result in disproportionate additions over and above the size of the original building. In terms of residential dwellings this is interpreted by the Council as extensions up to a maximum increase of 40% of the original dwelling or a maximum total floor space of up to 140m² (i.e. the original dwelling plus extension). However, the Council acknowledges that a greater degree of extension may be allowed under Permitted Development rights. Only extensions built before 1st July 1948 (the date of the first modern Planning Acts), should be considered to be part of the original dwelling. Any proposed extensions above the identified thresholds will be viewed as inappropriate development and would therefore only be permitted where very special circumstances exist.

8.25 The proposed threshold is the same as that used within Supplementary Planning Guidance 7 - Extensions to Dwellings in the Green Belt (adopted in 2004), which will be superseded following the adoption of this Plan. The figure within SPG7 was determined after comprehensive analysis and an 8 week consultation. The Council considers that the situation in the District has not changed since then, that the principle was accepted in planning appeals and the same principle should therefore still apply.

8.26 As there are huge variations in terms of the size for non-residential buildings in the Green Belt across the District it is considered inappropriate to impose a percentage threshold on proportionate extensions. To ensure the openness and the purposes of including the land in Green Belt are maintained, all relevant proposals will be determined on their own merits to reflect what is considered to be proportionate in that particular instance. Issues that may be considered are the openness and the purposes of including the land in Green Belt, highway safety, visual amenities or environmental character resulting from additional traffic, parking facilities, provision of necessary services and amenity of nearby occupiers.



BDP4 Green Belt

BDP4.1 The Green Belt as indicated on the Policies Map will only be maintained as per BDP 4.2.

BDP4.2 A Local Plan Review including a full Review of the Green Belt will be undertaken in accordance with BDP 3 in advance of 2023 to identify:

- a) Sufficient land in sustainable locations to deliver approximately 2,300 homes in the period up to 2030 to deliver the objectively assessed housing requirement for Bromsgrove District.
- b) Safeguarded land for the period 2030-40 to meet the development needs of Bromsgrove District and adjacent authorities based on the latest evidence ; and
- c) Land to help deliver the objectively assessed housing requirements of the West Midlands conurbation within the current plan period ie. up to 2030.
The timing of the Green Belt Review will be determined by updated evidence such as the GBSLEP Strategic Housing Needs Study and the monitoring of housing delivery against the Council's projected housing trajectory. The outcomes of the Green Belt Review will then be incorporated into the Local Plan Review.

BDP4.3 The Green Belt boundary review will follow sustainable development principles and take into account up to date evidence and any proposals in Neighbourhood Plans. Where appropriate, settlement boundaries and village envelopes on the Policies Map will be revised to accommodate development.

BDP4.4 The development of new buildings in the Green Belt is considered to be inappropriate, except in the following circumstances:

- a) Buildings for agriculture and forestry;
- b) Appropriate facilities for outdoor sport and outdoor recreation, for cemeteries, which preserve the openness of the Green Belt and do not conflict with the purposes of including land in it;
- c) Extensions to existing residential dwellings up to a maximum of 40% increase of the original dwelling or increases up to a maximum total floor space of 140m² ('original' dwelling plus extension(s)) provided that this scale of development has no adverse impact on the openness of the Green Belt;
- d) Proportionate extensions to non-residential buildings taking into account the potential impact on the openness and the purposes of including the land in Green Belt. Proposals that can demonstrate significant benefits to the local economy and/or community will be considered favourably ;
- e) The replacement of a building provided the new building is in the same use and should not be materially larger than the building it replaces;
- f) Limited infilling in Green Belt settlements and rural exception sites in accordance with BDP 9 Rural Exception Sites;
- g) Limited infilling or the partial or complete redevelopment of previously developed sites that would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development.



BDP18 Local Centres

18.1 Within the areas defined on the Policies Map the District Council will allow proposals for retail development (Class A Uses) at ground floor level and retail, office, residential use or any other appropriate Town Centre use at upper floor level. These areas are defined as Local Centres for shopping purposes in accordance with the provisions of 'large settlements' identified in Policy BDP2.

18.2 The District Council will only allow retail proposals which are capable of being integrated with the existing shopping frontages and which do not extend the shopping area. Planning permission for new local shops will be granted provided they are of an appropriate scale and it can be demonstrated that they will not undermine the vitality or viability of existing village facilities or those in Local centres and that there are no adverse impacts on residential amenity and road safety.

18.3 Throughout the District, the loss of a shop or service falling within Class A Use will be resisted unless it is demonstrated to be unviable or not required by the community. It may be considered appropriate for a non-retail related facility or service, where there is a proven need and where the development has overwhelming benefits for the local centre and the community. Applications for alternative uses of land or buildings will be treated on their merits having regard to market signals and the relative need for different land uses to support sustainable Local centres and their communities.

BDP19 High Quality Design

Good design

8.189 Good design is a key aspect of sustainable development. Good design can help to create thriving places which are well designed, well built, inclusive and safe, well run, well connected, well served, environmentally sensitive and have the potential to improve life chances. Good design principles operate equally in urban, suburban and rural contexts. They operate at all scales of place - at the different scales of the town, the neighbourhood, the street, and the individual building. They relate to all forms of movement - on foot, by bicycle, by car, and by public transport. Good design has robustness - an inherent quality that will last beyond completion of construction of any particular building²⁴.

8.190 The Council will expect all developments to follow and apply tools, guidance and procedures to achieve good design at all scales. A list of useful tools and guidance is included in Table 6 on page 82, which will be updated as necessary. A Design Guidance Supplementary Planning Document will also be produced to provide further advice.

Local Distinctiveness

8.191 Different elements interacting with each other contribute to the local character of a place. In the macro level, the Landscape Character Assessment and Historic Landscape Character Assessment of Worcestershire define the elements that contribute to the local character in terms of settlement pattern, tree cover, land use and field morphology all underpinned and influenced by inherited and extant historic attributes. In the micro level, elements such as street pattern, building layout, building types, architectural styles and features, building materials, building line, individual trees and green spaces, key buildings, archaeology, boundary treatments also play a role in defining the character of an area. For example, Bromsgrove District is predominantly a 'red brick' area because of the minerals in the local clay.

24. Design Council (2012) "A Design Wayfinder"



8.192 The District has a variety of character, with those that have very special architectural or historic interest designated as Conservation Areas, Listed Buildings, Scheduled Ancient Monuments or Registered Parks and Gardens. Elsewhere there are landscape character areas and historic assets that significantly contribute towards the character of the District. However, many of the post war developments in the District are divorced from and out of scale with their surroundings. This also applies to the more recent housing estates which are built with standard house types and layout. They do not respond to local character and could be found anywhere in the Country. To enhance the local distinctiveness of Bromsgrove District, it is important that all new developments appraise its surrounding areas at the macro and micro level, identify the elements that would enhance the local distinctiveness of the area and incorporate them into the design of the development. The Council will expect all applications to explain how the design of the development recognises, relates to and enhances the local character of the area.

Spaces and places

8.193 Good design is important not only in buildings, but also in the public spaces between buildings - the public realm. Streets are the most common form of public space, and once designed and constructed they cannot easily be changed. Streets are social spaces as well as spaces for transport and movement, and part of good design is place-making - making spaces into places with identity and meaning. Public art can make a place distinctive. Streets, spaces and public art are therefore major elements of place-making and creating a successful neighbourhood.

8.194 Many poor connected developments with road-dominated layout encourage people to use car, which has led to fewer opportunities for people to meet and socialise. This can contribute to social exclusion, and a loss of local identity in neighbourhoods. To achieve well-designed homes and neighbourhoods, the Council will expect all housing developments to follow the design principles in the external environment section of the Standards and Quality in Development.



Table 6. Useful Tools, Guidance and Procedures

<p>Standards and quality in development - a good practice guide, 2nd edition (National Housing Federation, 2008)</p>	<p>The guide contains advice and standards in relation to the key skills needed in the development process. It provides an overview of urban design issues that should be considered when designing the external environment, shared and communal areas and the internal environment.</p>
<p>Urban Design Compendium (Homes and Communities Agency, 2000)</p>	<p>The two Urban Design Compendium publications outline the key aspects of urban design and how these can be applied to create places where people want to live, work and socialise. It also provides practical guidance on the steps that can be taken and barriers that need to be overcome during policy and project development to improve the quality of place delivered.</p>
<p>Better places to live by Design (Office of the Deputy Prime Minister and Commission for Architecture and the Built Environment, 2001)</p>	<p>The guide focuses on the attributes that underlie successful residential environments in order to provide guidance on implementing the new approach to planning for housing.</p>
<p>Manual for Streets (Communities and Local Government, Department for Transport, 2007)</p>	<p>The manual provides a set of principles that focus on lightly-trafficked residential streets, but many of its key principles may be applicable to other types of street (not trunk road network).</p>
<p>Manual for Streets 2 (Chartered Institution of Highways and Transportation, 2010)</p>	<p>The manual complements Manual for Streets and provides guidance that extends beyond residential streets to busier streets and roads both in urban and rural locations up to, but not including, trunk roads.</p>
<p>By Design. Urban design in the planning system: towards better practice (CABE, 2000)</p>	<p>The guide aims to encourage better design and to stimulate thinking about urban design. It covers all aspects of the built environment, from the design of buildings and spaces, landscapes, to transport systems; and for planning and development at every scale, from streets and their neighbourhoods, villages and cities.</p>
<p>Car parking: what works where (English Partnerships, 2006)</p>	<p>This toolkit highlights the most appropriate car parking approach according to density of development and housing typology.</p>
<p>Creating successful masterplans: a guide for clients (CABE, 2011)</p>	<p>A step by step guidance for creating a successful masterplan.</p>
<p>Design Review</p>	<p>The NPPF refers to design review arrangements to ensure high standards of design in developments. MADE in the West Midlands (www.made.org.uk) is part of an England-wide design review service which has signed-up to an agreed set of principles of quality design review.</p>



Sustainable Design and Construction

8.195 One of the purposes of the planning system is to contribute to the achievement of sustainable development. Using sustainable design and construction techniques ensures that the environmental impacts of buildings are minimised as far as possible. Buildings of all types and sizes have the potential to reduce their impact on the environment, including by minimising their contribution to climate change and by using less resources. This also includes the use of sustainable building materials having regard to sourcing materials in a responsible way and use of materials which have a low embodied impact over their life including extraction, processing, manufacture and recycling.

8.196 BREEAM is a widely adopted tool for rating and measuring the sustainability performance of non-domestic buildings. For non-residential development, the Council expects development to meet the BREEAM 'very good' standard.

Functional Residential Space

8.197 Adequate space is a pre-requisite for basic living. There should be enough room for residents to cook, eat, relax and socialise. There should be sufficient space for furniture and the storage of personal possessions. If homes are to have a long life, they must offer functional and adaptable spaces that meet the needs of families, children, older people and disabled residents. The Case for Space report²⁵ highlights that many new houses are failing to provide the space families need, both inside and outside. The Way We Live Now²⁶ report also shows how people live today, what they need and expect from their homes, and whether the design and delivery of new homes is fit for purpose. Other countries commonly set space standards, and research indicates that levels of space in homes in England are near the bottom of the range in comparison with other European countries²⁷. CABE recommends that local authorities should introduce or apply existing minimum space standards through their planning departments²⁸. Building to suitable space standards will ensure new homes provide sufficient space for everyday activities. Homes can also be used more flexibly and adapted more easily by their occupants to changing life circumstances.

25. Royal Institute of British Architects (2011) "The Case for Space - The size of England's new homes", RIBA

26. Royal Institute of British Architects (2012) "The way we live now: what people need and expect from their homes", RIBA

27. Swingacat website (http://www.swingacat.info/facts_figures.php)

28. Commission for Architecture and the Built Environment (2009) "Space in new homes: what residents think" CABE

29. <http://www.nactso.gov.uk/crowded-places>

The internal environment section of the Standards and Quality in Development: A good practice guide outlines a series of minimum sizes for essential items of furniture, and kitchen and bathroom fixtures and fittings; the space generated by their use; the areas needed for storage of general household items; circulation and access zones; and the main services and sound insulation levels from a resident-based 'functionality' perspective. To ensure sufficient functional space is provided for future residents, the Council will expect all residential developments to meet the minimum sizes in the guide.

Development in residential gardens

8.198 Homes with large back gardens are common feature in Bromsgrove District, and previously a notable number of housing completions have come from developments on garden land. Although garden land was previously defined as brownfield land in PPS3, the NPPF now states that local planning authorities should consider the case for setting out policies to resist inappropriate development of residential gardens. This does not mean that all development on garden land should be refused, but rather that careful consideration should be given to any proposals and whether there are any mitigating factors. One of the most important considerations for determining applications on garden land will be the retention of the existing character of residential areas. Development which significantly increases the proportion of ground coverage by buildings, or the scale of proposed buildings, is likely to be out of keeping with its surroundings and therefore is likely to be unacceptable and will be refused.

Design and criminal behaviour

8.199 The reduction of crime, and the fear of crime and anti-social behaviour are identified as important issues for Bromsgrove in the Sustainable Community Strategy. Previous consultations show that most people favour the promotion of designing out crime initiatives. The Council therefore supports the implementation of design principles consistent with the recommendations of 'Secured by Design', unless this contradicts with principles of good spatial design on site. Good crime prevention/ safety measures are also good counter terrorism protective security. For example, access control, blast resistant glazing and structural design can make unauthorised entry more difficult, and reduce casualties in case of gas explosion. So where relevant and appropriate, the Council will encourage developments in crowded locations, or those expected to become crowded, to take into account the design principles in Crowded Places: The Planning System and Counter-Terrorism and the relevant guidance²⁹.



Air noise pollution and land contamination

8.200 Air quality in the District is predominantly good and the air is mainly clean and unpolluted. There are however a few locations where the combination of traffic, road layout, geography, emissions from plant and machinery such as boilers has resulted in exceedences of the annual average for nitrogen dioxide (NO₂) and fine particulates (PM₁₀). Several areas in the District are closely monitored for their air quality level, and a few are designated as Air Quality Management Areas (AQMA).

8.201 The focus of action to improve air quality has predominantly been on road transport and therefore low emission transport and building strategies are encouraged. Noise pollution is also a problem for areas particularly near to busy roads. Soft landscaping, in particular trees, which deliver multiple benefits as mentioned in BDP24 Green Infrastructure, in some cases also provide some attenuation of noise levels. Many developments only incorporate protected trees in their design, leaving the development with only hard landscaping and limited soft landscaping which, compared to trees, are more expensive to maintain and produce fewer long term benefits. The Council expects substantial new planting to be provided in new developments where it is appropriate, to provide benefits of biodiversity, the absorption of carbon, noise attenuation, and visual pleasure.

All trees and woodland planting should take into account of Worcestershire County Council's guidance Trees and Woodland in Worcestershire³⁰.

8.202 Bromsgrove generally has good or excellent land quality but our industrial, commercial and agricultural heritage means that there are many sites which have had one or more industrial or commercial uses which may have resulted in soil and water contamination that may need to be addressed.

Residential density

8.203 As high quality design can only be achieved through careful consideration of the characteristics in the locality, density which measures the number of houses per hectare is only an outcome of the design process rather than an indicator of quality. The Council acknowledges in BDP4 Green Belt that the land identified in this Plan can only meet the housing needs till 2022/23, it is therefore important that when designing a development, the design should also aim to make the best use of land in accordance with BDP7 Housing Mix and Density.

30. <http://gis.worcestershire.gov.uk/website/woodlandguidelines/>

BDP19 High Quality Design

BDP19 .1 The Council will deliver high quality people focused space through:

- a. Requiring developments to use appropriate tools and follow relevant guidance and procedure to achieve good design;
- b. Preparing a Design Guide Supplementary Planning Document;
- c. Encouraging the use of sustainable construction methods and materials;
- d. Ensuring all non-residential developments meets BREEAM 'very good' standard or other successor guidance
- e. Ensuring development enhances the character and distinctiveness of the local area;
- g. Supporting all major developments that help facilitate interaction between future occupants;
- h. Promoting developments to include new Public Art;
- i. Creating and enhancing gateway locations and key approach corridors as well as protecting and enhancing important local and longer-distance visual corridors;
- j. Ensuring developments are accessible to all users;
- k. Ensuring permeable, safe and easy to navigate street layouts;
- l. Avoiding road-dominated layouts by supporting the design of streets to follow the user hierarchy: 1) pedestrian; 2) cyclists; 3) public transport users; 4) specialist service vehicles (e.g. emergency services, waste, etc.); 5) other motor traffic;



BDP19 High Quality Design *continued*

- m. Encouraging residential developments to provide sufficient functional space for everyday activities, meet people's needs and expectations from their homes, and to enable flexibility and adaptability;
- n. Development of garden land will be resisted unless it fully integrates into the residential area, is in keeping with the character and quality of the local environment;
- o. Designing out crime and the fear of crime by incorporating measures and principles consistent with those recommended by 'Secured by Design';
- p. Ensuring all trees that are appropriate (e.g. in terms of size, species, conditions and predicted climate) are retained and integrated within new development;
- q. Ensuring development incorporates sufficient, appropriate soft landscaping and measures to reduce the potential impact of pollution (air, noise, vibration, light, water) to occupants, wildlife and the environment;
- r. Ensuring development is made suitable for the proposed final use, for instance, in terms of land contamination and, where relevant, does not create an unacceptable risk to controlled waters (where relevant). The Council will determine whether reports detailing for example, site history; a preliminary risk assessment and where appropriate; a site investigation and remediation scheme along with long term monitoring and maintenance proposals, will need to be submitted in support of any planning application. Such reports will be prepared in accordance with best practice guidance;
- s. In relation to air quality all new developments with a floor space greater than 1000sqm or 0.5 hectare or residential developments of 10 or more units should not increase nitrogen dioxide (NO₂), particulate matter (PM₁₀) and carbon dioxide (CO₂) emissions from transport and should be accompanied by an assessment of the likely impact of the development on local air quality and comply with current best practice guidance:
 - i. All planning applications meeting the above criteria should be accompanied by an assessment of the likely impact of the development on local air quality and comply with current best practice guidance. The applicant will also take into account the cumulative impacts of validated developments in the local area. Additionally, the assessment should consider the impact of local air quality on the proposed development;
 - ii. Development with the potential to result in significant impact on air quality, either cumulatively or individually will be resisted unless appropriate measures to mitigate the impact of air pollutants are included. Development will be expected to contribute to the provision of adequate mitigation measures in accordance with BDP6;
- t. Development proposals should maximise the distance between noise sources (for example motorways) and noise sensitive uses (such as residential), whilst also taking into account the implications of the existing night time use of the locality;
- u. Ensuring a feasible and viable management plan is available for all the facilities and provisions arising from the development;
- v. Ensuring development makes the best use of land in accordance with BDP7 Housing Mix and Density.

BDP 19.2 For large scale developments, developers will need to prepare Design Codes for the area, which would then serve to inform all developments in that area as they come forward.



BDP20 Managing the Historic Environment

8.204 Bromsgrove District is a diverse, attractive area, which has a real sense of history with 12 designated conservation areas, over 469 statutorily listed buildings, 13 scheduled monuments and 2 historic parks and gardens. There are also hundreds of buildings of local interest and undesignated sites of archaeological interest which contribute to the local distinctiveness of our streets and spaces. The interaction of the natural and built environment is a key characteristic of the Bromsgrove District, with a range of surviving historic settlements and village cores surrounded by open countryside. Historic buildings and spaces are a key component of our shared cultural identity and are a visual representation of how we used to work and live.

8.205 The Council recognises that the historic environment is one of the important factors in making Bromsgrove unique and is a source of local identity and pride. It is therefore vitally important that this is reflected in our approach to the future management of historic assets and that it is given sufficient weight in development decisions. Not all the District's buildings or areas enjoy statutory protection and therefore consideration will be given to putting forward currently unlisted buildings for inclusion on the Statutory List and the designation of new conservation areas.

8.206 Furthermore it is acknowledged that an adopted local list is required to formally identify the locally important Heritage Assets within the District, although such a list can never be definitive. Many Heritage Assets within the District which do not currently meet national criteria for statutory listing are of local importance and are worthy of protection and conservation. In particular assets which are notable in terms of local character and distinctiveness are of great importance. Within the District examples would include, nailers cottages, assets associated with the scythe industry and assets associated with the use of the Worcester and Birmingham canal which runs the length of the District, to name but a few. The identification of Heritage Assets and their management is supported by tools such as the County Historic Environment Record and local area based assessments and audits. Information collected by owners, developers, historians and others is also of importance and continues to expand our knowledge and understanding of the historic environment.



BDP20 Managing the Historic Environment

BDP20.1 The District Council advocates a holistic approach to the proactive management of the historic environment which encompasses all Heritage Assets recognised as being of significance for their historic, archaeological, architectural or artistic interest.

BDP20.2 The District Council will support development proposals which sustain and enhance the significance of Heritage Assets including their setting. This includes:

- a. Designated Heritage Assets, including Listed Buildings, Conservation Areas, Scheduled Ancient Monuments, Registered Parks and Gardens;
- b. Non-designated Heritage Assets including (but not limited to) those identified on the Local List and assets recorded in the Historic Environment Record;
- c. The historic landscape of the District, including locally distinctive settlement patterns, field systems, woodlands and historic farmsteads;
- d. Designed landscapes, including parks and gardens, cemeteries, churchyards, public parks and urban open spaces;
- e. Archaeological remains of all periods from the earliest human habitation to modern times;
- f. Historic transportation networks and infrastructure including roads, trackways, canals and railways.

BDP20.3 Development affecting Heritage Assets, including alterations or additions as well as development within the setting of Heritage Assets, should not have a detrimental impact on the character, appearance or significance of the Heritage Asset or Heritage Assets.

BDP20.4 Applications to alter, extend, or change the use of Heritage Assets will be required to provide sufficient information to demonstrate how the proposals would contribute to the asset's conservation whilst preserving or enhancing its significance and setting.

BDP20.5 In considering applications regard will be paid to the desirability of securing the retention, restoration, maintenance and continued use of Heritage Assets, for example, the District Council will support the sensitive reuse of redundant historic buildings, and will encourage proposals which provide for a sustainable future for Heritage Assets, particularly those at risk.

BDP20.6 Any proposal which will result in substantial harm or loss of a designated Heritage Asset will be resisted unless a clear and convincing justification or a substantial public benefit can be identified in accordance with current legislation and national policy.

BDP20.7 Consideration will be given to the designation of new Conservation Areas. In order to define and protect the special character of Conservation Areas, the District Council will produce and regularly review character appraisals and management plans for designated Conservation Areas, and where necessary introduce Article 4 Directions based on an assessment of local identity and uniqueness.

BDP20.8 Where a detailed Conservation Area Appraisal Management Plan has been adopted, it will be a material consideration in determining applications for development within that Conservation Area.

BDP20.9 Development within or adjacent to a Conservation Area should preserve or enhance the character or appearance of the area.



BDP20 Managing the Historic Environment *continued*

BDP20.10 The demolition of buildings or the removal of trees and other landscape features which make a positive contribution to an area's character or appearance will be resisted.

BDP20.11 Outline planning permission will not be granted for development within Conservation Areas unless supported by detailed proposals showing siting, design, external appearance and the relationship with adjacent properties.

BDP20.12 The District Council will update the current draft local heritage list and formally adopt it. It would include all Heritage Assets recognised as being of local importance, including those which are locally distinctive such as nailers cottages, assets associated with the scythe industry and assets associated with the use of the Worcester and Birmingham canal which runs the length of the District, to name but a few.

BDP20.13 The District Council will support development that:

- i. Retains Heritage Assets on the Local List;
- ii. Involves sympathetic alterations and extensions to Heritage Assets on the Local List;
- iii. Does not have a detrimental impact on the setting or context of Heritage Assets on the Local List.

BDP20.14 In considering applications that directly or indirectly affect Heritage Assets, a balanced judgement will be applied having regard to the scale of any harm or loss as a result of proposed development and the significance of the Heritage Asset.

BDP20.15 The District Council will encourage opportunities to develop Green Infrastructure networks that can enhance the amenity value of the historic environment (refer to BDP24 Green infrastructure).

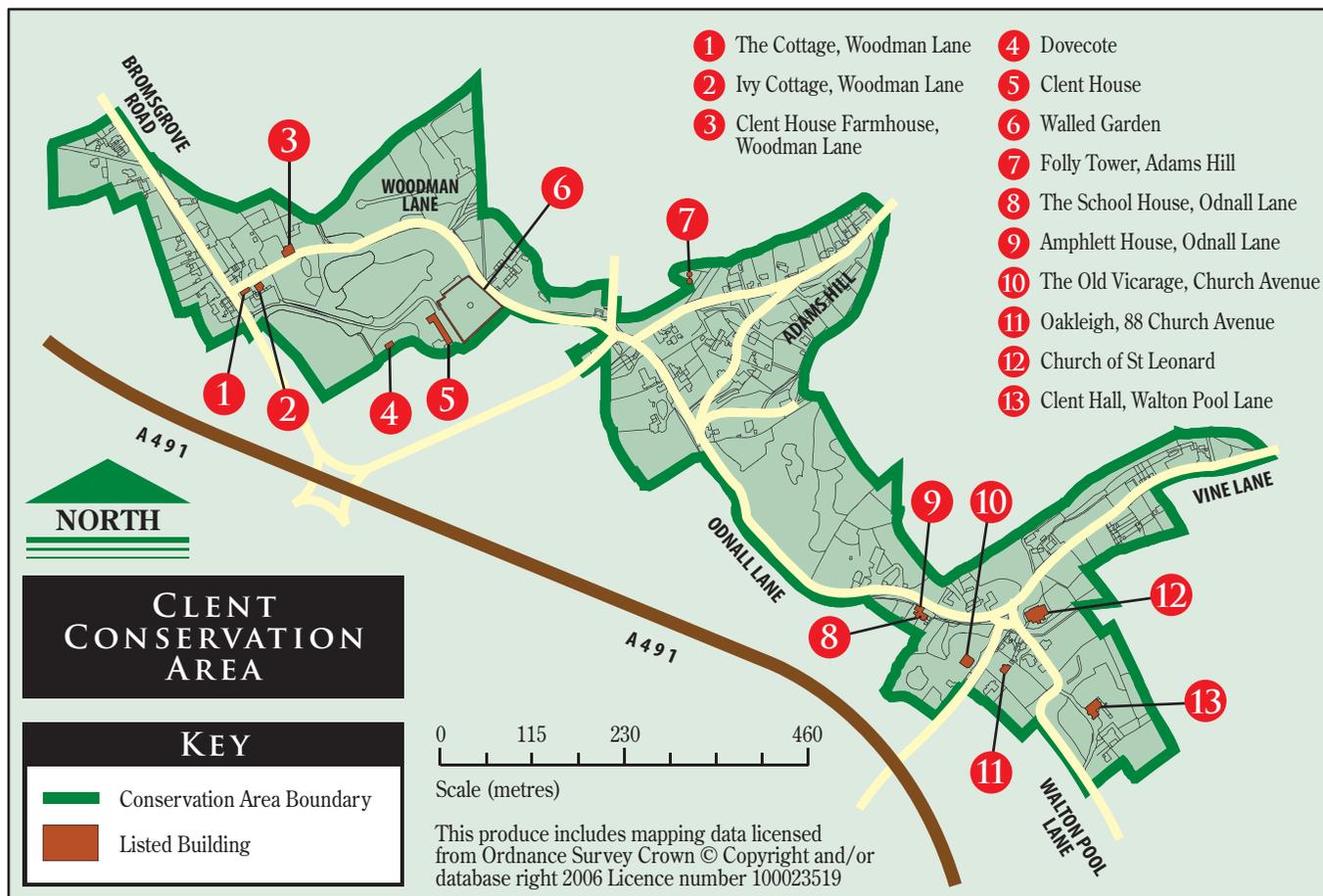
BDP20.16 The District Council will promote a positive interaction between historic sites and places and high quality modern developments which allows for evolution and positive change whilst preserving and respecting the significance and setting of existing Heritage Assets.

BDP20.17 Applications likely to affect the significance of known or potential Heritage Assets or their setting should demonstrate an understanding of their significance in sufficient detail to assess the potential impacts. This should be informed by available evidence and, where appropriate, further information to establish significance of known or potential Heritage Assets.

BDP20.18 Where material change to a heritage asset has been agreed, recording and interpretation should be undertaken to document and understand the asset's archaeological, architectural, artistic or historic significance. The scope of the recording should be proportionate to the asset's significance and the impact of the development on the asset. The information and understanding gained should be made publicly available, as a minimum through the relevant Historic Environment Record.

BDP20.19 The District Council will continue to undertake studies to inform local decision making and support the future growth of the Worcestershire Historic Environment Record. They will also encourage Neighbourhoods to address issues of character, heritage and design in their Neighbourhood Plans.

BDP20.20 The District Council will embrace opportunities to mitigate the effects of climate change by seeking the reuse of historic buildings and where appropriate their modification to reduce carbon emissions and secure sustainable development without harming the significance of the heritage asset or its setting.



CLENT CONSERVATION AREA

DESIGNATED
MARCH 1981



GRANTS

The Council can make grants available for the repairs of buildings of historic importance. Subject to funding, eligible work would include conservation repairs to the external structure, including the reinstatement of authentic architectural details. The Council also has provision to make grants available for conservation area enhancement schemes.

FURTHER INFORMATION

Advice can be obtained from the Planning and Environmental Services Department of Bromsgrove District Council and Worcestershire County Council.

Conservation Officer - Tel: (01527) 881326 Conservation Area consent, planning, listed building matters and historic building grants.

Tree Officers - Tel: (01527) 881321/1320 Tree matters including tree protection, consent and tree preservation orders.

Archaeology Officer - Tel: (01905) 855454 Archaeology protection/recording.

Clent Conservation Area

REFERENCES AND PUBLICATIONS

- Bromsgrove District Local Plan
- Worcestershire Structure Plan 1966 - 2011
- West Midlands Regional Spatial Strategy 2001 - 2021
- The Emerging Bromsgrove District Local Development Framework
- Planning Policy Guidance No 15 - Planning and the Historic Environment
- Planning Policy Guidance No 16 - Planning and Archaeology
- The Planning (Listed Buildings and Conservation Areas) Act 1990
- Guide to the Principles of the Conservation of Historic Buildings. BS 1793



BROMSGROVE DISTRICT COUNCIL
 HEAD OF PLANNING AND ENVIRONMENT SERVICES
 THE COUNCIL HOUSE, BURCOT LANE, BROMSGROVE B60 1AA



**BROMSGROVE
DISTRICT COUNCIL**

HISTORICAL CONTEXT



Adams Hill

In the Victoria County History of Worcestershire, Clent is described as a 'hilly Parish'. This is rather an understatement as the Clent Hills form the tallest range in the District with Walton Hill being over 1000 feet above sea level, one of the most visible landmarks in the area. The hills have been settled for thousands of years, shown by ancient remains such as Bronze Age burial mounds and flint implements. The hills themselves were reputedly the battleground between Ancient Britons and invading Saxons. Much of the land of the Clents now belongs to the National Trust having been sold by the Lytteltons who owned the manor of Clent for more than 300 years and still reside at Hagley Hall. The District's largest common on Clent Hill was grazed and its open appearance is now maintained within a Country Park. The settlement now contains a number of listed buildings of special architectural or historic interest and nearby, closely associated with Clent, is the Church of St. Kenelm, a Grade 1 building dedicated to the boy King Kenelm who was murdered in the Clent Hills in 819 AD at the word of his wicked sister Quendrya. The legend of Kenelm and his martyrdom may have been instrumental in the growth of Clent as the settlement was an important resting place for pilgrims visiting the hills in search of miracles and travelling to pay homage to the Saxon King. Another building of note is the church of St. Leonard dating from the 12th Century. St. Leonard is the patron saint of iron workers which is appropriate since the main industry of Clent in the 16th and 17th Centuries was scythe making, followed by nail making which died out in the late 19th Century. The remains of this activity can still be seen in the pools and forges along the streams which run off the hills and the scattered dwellings along the steep valleys.

Although the village is located barely 2 miles from the edge of the West Midlands conurbation, its architectural and historic interest has endured. The arrangement of Clent strung out at the foot of the Clent Hills has given it a distinct character, within its rural setting, which it is desirable to preserve. For this reason Clent was designated as a Conservation Area in 1981.

Clent Conservation Area



*'Church of St. Leonard'
Walton Pool Lane*

WHAT IS A CONSERVATION AREA



Conservation areas are designated by the District Council as areas of special architectural or historic interest, the character and appearance of which the Council considers desirable to preserve or enhance.

Designation gives additional planning controls, but the success of measures to protect and enhance an area depends on there being community support, particularly from property occupiers. It is the special quality and interest of the area, rather than the merit of individual buildings that is the prime consideration in identifying conservation areas.

It may be the group value of listed buildings, their relationship to each other, property boundaries, archaeology, spaces and landscape between the buildings and their materials and craftsmanship that are important.

The interest often extends beyond the physical character since the social and economic history is usually instrumental in how the area still appears today.

COUNCIL CONSERVATION AREA RESPONSIBILITIES

The Council has other duties in respect of conservation areas. These include the preparation of character appraisals, which say what is historically and architecturally special about the area and what detracts from it.

These are necessary before proceeding to the preparation of policies and proposal for preserving and enhancing the conservation area, which are a statutory requirement. These measures require public support and consultation is implicit.

Where the character of an area is threatened by development that is normally permitted, such as replacement of original windows with UPVC ones, the Council can instigate additional controls requiring planning permission for such changes.

CONSERVATION PLANNING POLICY

Planning policies effecting how the Council will deal with development proposals will be included within The Local Development Framework. Any policies affecting conservation areas will be produced in consultation with the public.

WHAT DOES DESIGNATION MEAN



The Council is required to pay special attention to the desirability of preserving or enhancing the character and appearance of conservation areas and their settings when determining planning applications.

The applications have to be advertised and the Council must take account of material objections in their decision.

Conservation area consent is required for the demolition or substantial demolition of buildings and complete boundary walls and gates.

Additional planning controls apply in conservation areas, which would normally be permitted in other areas. These relate to the size of extensions, the type of external cladding permitted, inserting dormer windows and satellite dishes.

TREES

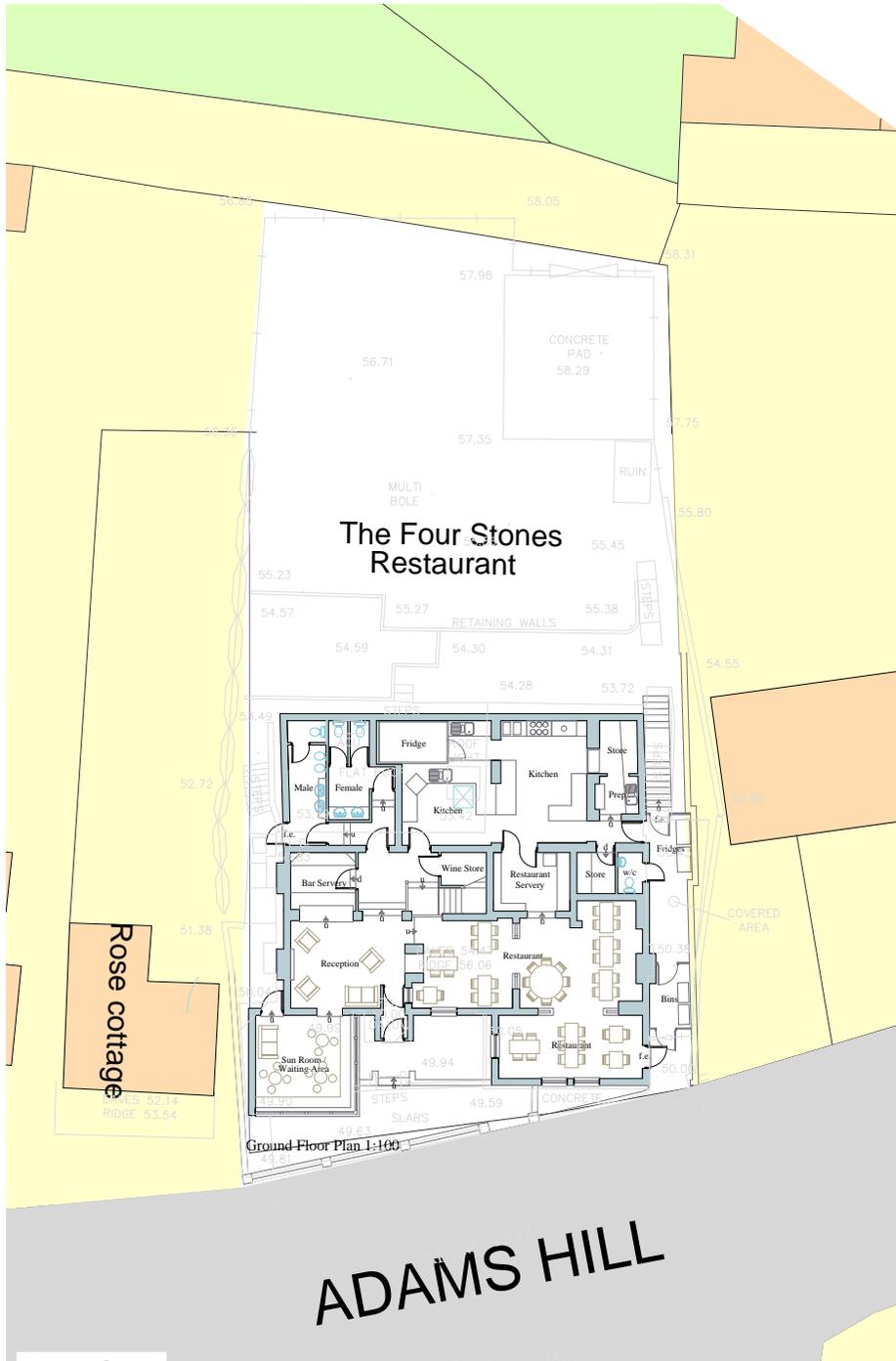
Trees can make a significant contribution to the character of Conservation Areas. You must give the Council six weeks' notice in writing if you want to carry out work on trees, which are more than 7.5 centimetres in diameter (measured 1.5 metres above the ground).

Non-compliance with this provision is an offence under the Town and Country Planning Act 1990.



These provisions are only a summary and full details of the exact legal wording can be obtained from the Council.

THE FOUR STONES RESTAURANT
ADAMS HILL, CLENT. DY9 9PS.



Ground-Floor Plan 1:100

ADAMS HILL

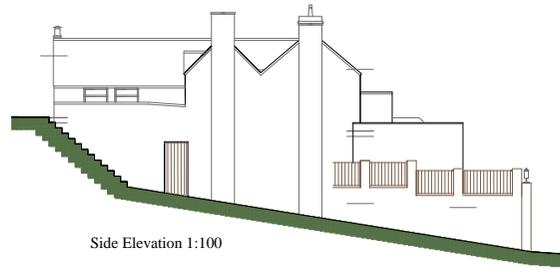
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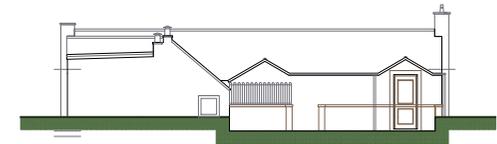
Front Elevation 1:100



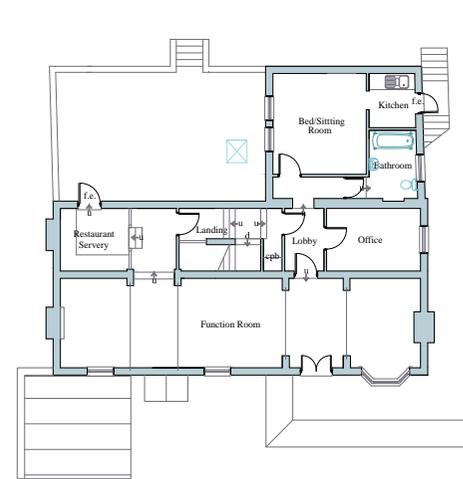
Side Elevation 1:100



Side Elevation 1:100



Rear Elevation 1:100



First Floor Plan 1:100



O.S. Plan 1:1250

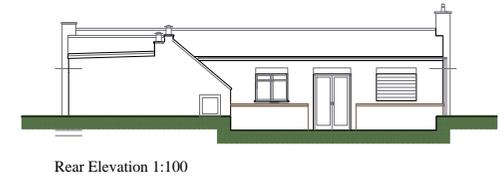
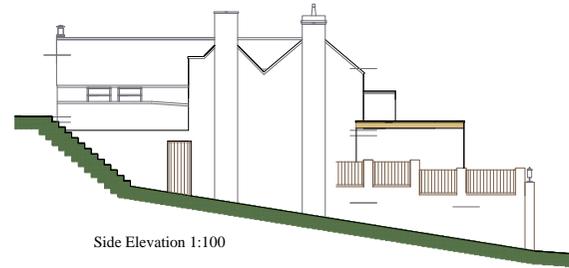
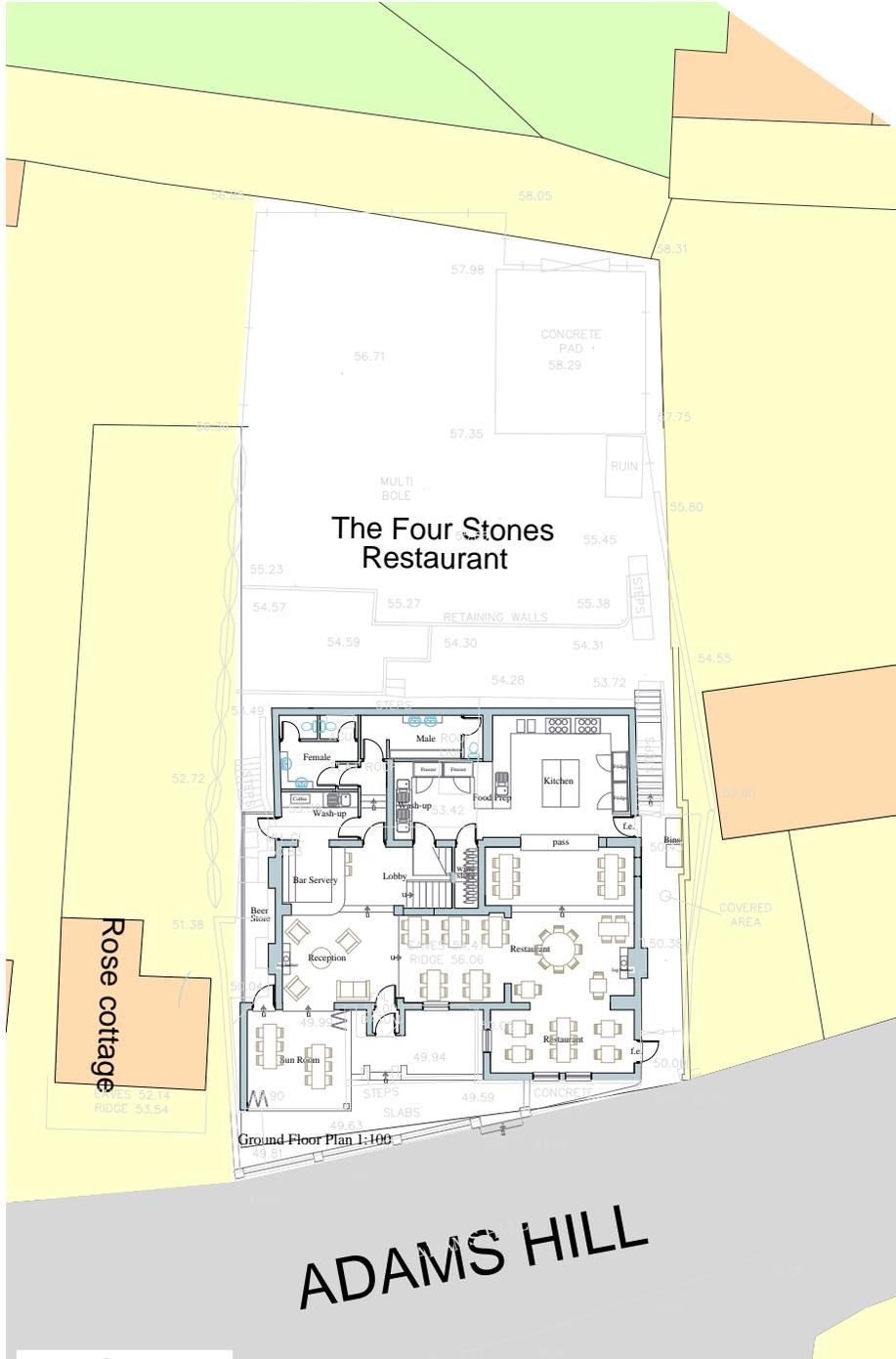
TITLE:	
Existing Floor Plans	
The Four Stones Restaurant	
Adams Hill	
Cleant	
DY9 9PS	
DRAWING NO. FS/10	
REV. -	
DATE: March 2016	
SCALE: 1:100	

NCR ARCHITECTURAL DESIGN & TOWN PLANNING

8 Windsor Road
Halesowen
West Midlands
B63 4BE

Mob : 07956 805316 neiranford@btinternet.com

THE FOUR STONES RESTAURANT
ADAMS HILL, CLENT. DY9 9PS.



a. 30/05/2016 - planning amendments

TITLE:
Proposed Floor Plans
The Four Stones Restaurant
Adams Hill
Cleat
DY9 9PS

DRAWING NO. FS/11 REV. a

DATE: March 2016

SCALE: 1:100

NCR ARCHITECTURAL DESIGN & TOWN PLANNING
8 Windsor Road
Halesowen
West Midlands
B63 4BE

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PLANNING DECISION NOTICE

Dr Baljit Bhandal
Bhandal Dental Surgery
C/O Mr Neil Ranford
NCR Architecture
8 Windsor Road
Halesowen
West Midlands
B63 4BE



Bromsgrove
District Council
www.bromsgrove.gov.uk

Approval of Planning Permission Subject to Conditions

APPLICATION REFERENCE: 16/0403
LOCATION: Four Stones Restaurant, Adams Hill, Clent, Stourbridge, Worcestershire. DY9 9PS
PROPOSAL: Demolition of front sun room and replace with new flat roof sun room.
DECISION DATE: 6th July 2016

Bromsgrove District Council, as the Local Planning Authority, approves planning permission for the proposal described above. This permission is subject to conditions, which must be complied with and are set out below.

Conditions

- 1) The development must be begun not later than the expiration of three years beginning with the date of this permission.

Reason: Required to be imposed pursuant to Section 51 of the Planning and Compulsory Purchase Act 2004

- 2) The development hereby permitted shall be carried out in accordance with the Approved Plans/ Drawings and documents listed in this notice:

Drawing Numbers:
FS/10
FS/11 Rev A
Design and Access Statement

Reason: For the avoidance of doubt and in the interests of proper planning.

- 3) All new external walls and roofs shall be finished in materials to match in colour, form and texture those on the existing building.

Reason: To protect the visual amenity of the area, in particular the character and appearance of the Conservation Area in accordance with policies DS13 and S35A of the Bromsgrove District Local Plan January 2004.

- 4) Prior to the commencement of development, details of the joinery at a scale of 1:20 should be submitted to and approved in writing by the LPA.

Reason: To protect the visual amenity of the area, in particular the character and appearance of the Conservation Area in accordance with policies DS13 and S35A of the Bromsgrove District Local Plan January 2004.



Ruth Bamford
Head of Planning and Regeneration

Reasons for granting planning permission

This proposal has been assessed against the following documents:

Bromsgrove District Local Plan 2004 (BDLP):

DS2 Green Belt Development Criteria
DS13 Sustainable Development
S35A Development in Conservation Areas
S36 Design of Development in Conservation Areas
C4 Criteria for Assessing Development Proposals
TR11 Access and Off-Street Parking

Others:

NPPF National Planning Policy Framework

This application has been assessed in accordance with the relevant local and national planning policies and is considered an acceptable form of development given the location and design. The proposed sun room would be a replacement of an existing conservatory which would not cause any additional impact on the amenities of the neighbouring properties than the existing. It would also have no greater impact on the character or appearance of the Conservation Area and this has been confirmed by the Conservation Officer raising no objections. A neighbour has raised concern with regard to the possible noise implications of the sun room having bi-folding doors but Worcester Regulatory Services have confirmed that noise within the restaurant would need to be controlled by the owners primarily and therefore raises no objections.

Informatives

- 1) The local planning authority is aware of the requirement in the NPPF and Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 to work with applicants in a positive and proactive manner, seeking solutions to problems arising from applications.

In this case the applicant:

- o sought detailed pre-application advice from the authority and acted upon this advice in advance of the application submission

The proposal therefore delivers a policy compliant sustainable form of development.

For your information

Appealing the planning conditions

If you feel that the conditions are not acceptable you can appeal to the Secretary of State through the Planning Inspectorate. This appeal should be made by 31st December 2016 unless supported by special circumstances. The appropriate form and further information on how to appeal can be found at

<http://www.planningportal.co.uk/planning/appeals/planningappeals> or by contacting the planning Inspectorate Customer Services Team on 0303 444 5000.

Purchase Notices

If Bromsgrove District Council or the Secretary of State has refused planning permission or granted it conditionally, the landowner may claim that the land is incapable of reasonable beneficial use, and for this reason may serve the District Council a purchase notice requiring them to purchase the land. In certain circumstances, a claim may be made against Bromsgrove District Council for compensation. Further information about purchase notices can be found at: <http://www.legislation.gov.uk/ukpga/1990/8/part/VI>

PLANNING DECISION NOTICE

Dr Baljit Bhandal
C/O Mr Neil Ranford
NCR Architectural Design Limited
8 Windsor Road
Halesowen
West Midlands
B63 4BE



Bromsgrove
District Council
www.bromsgrove.gov.uk

Refusal of Planning Permission

APPLICATION REFERENCE: 17/00646/FUL
LOCATION: Four Stones Restaurant, Adams Hill, Clent, Stourbridge
Worcestershire DY9 9PS
PROPOSAL: Demolition of existing sunroom and erection of a
replacement glazed sunroom (retrospective)
DECISION DATE: 19th July 2017

Bromsgrove District Council as the Local Planning Authority refuses planning permission in accordance with the Town and Country Planning Act 1990 and The Town and Country Planning (Development Management Procedure) (England) Order 2015 for the proposal described above. This is for the following reasons:

- 1) The development represents a disproportionate addition to a building which is inappropriate in the Green Belt. Inappropriate development is by definition harmful and should not be approved except in very special circumstances. The scheme is materially taller and deeper than application 16/0403 resulting in further harm to Green Belt openness. No fall back or very special circumstances in terms of local benefits exist. The development therefore fails to comply with Policy BDP 4.4d) of the Bromsgrove District Plan 2017 and Para 89 of the NPPF.
- 2) The development by virtue of its form and scale would neither preserve nor enhance the character or appearance of the Clent Conservation Area. The development therefore fails to comply with Policy BDP 20.3 and 20.9 of the Bromsgrove District Plan 2017, S72 of the Planning (Listed Buildings and Conservation Areas) Act 1992 and the NPPF.
- 3) The Sunroom by virtue of its scale, bulk, materials and siting will cause substantial harm to the character of the original buildings contrary to Policy BDP19.1e) of the Bromsgrove District Plan, the provisions of SPG1 and the NPPF.



Ruth Bamford
Head of Planning and Regeneration

How this decision was reached

This proposal has been assessed against the following documents:

Bromsgrove District Plan

BDP1 Sustainable Development Principles
BDP4 Green Belt
BDP19 High Quality Design
BDP20 Managing the Historic Environment

Others

NPPF National Planning Policy Framework
NPPG National Planning Practice Guidance
SPG1 Residential Design Guide

Planning Permission was granted under application 16/0403 for; '*Demolition of front sunroom and replace with new flat roof sunroom*'. The development has been implemented on site, but not in accordance with the approved drawing FS/11A.

This application has been submitted in order to regularise the development; the proposal raises issues associated with the sites location in the Green Belt and within the Clent Conservation Area.

With respect to Green Belt considerations, the premises were originally a pair of dwellings which have been extended and converted to an alternative use. With reference to policy BDP4.4 d) the cumulative scale of those additions is 'disproportionate' and thus inappropriate. The Framework states (Para 87) that inappropriate development is by definition harmful and should not be approved except in very special circumstances (VSC'S). Para 88 identifies that substantial weight should be attributed to this harm.

In terms of considering if VSC's exist, application 16/0403 allowed for the general extent of the sunroom as it reflected the floor space of a previous conservatory. However I note the current structure is taller than that previously approved and that the associated canopy also increases the depth of the compound building. This addition has a glazed roof and is open to the sides, but its resultant bulk and mass is markedly greater than that previously approved under 16/0403. These features materially impact upon openness and represent further harm. The application has not claimed any significant benefits to the local economy and or community as detailed in Policy BDP4.4d) and the Council is not aware of any. It is concluded therefore that the previous scheme does not represents a fall-back position of sufficient weight to represent a very special

circumstance that clearly outweighs the harm resulting from the inappropriate nature of the development and the additional impact the scheme has upon Green Belt openness.

With respect to design, Application 16/0403 allowed the replacement of a conservatory whilst retaining the character of the original cottages; this was achieved in part by the simplicity and height of the new sunroom sitting below the fenestration on the original building. In contrast the asymmetrical nature of the current sunroom roof means that when viewing the site from Adams Hill, the fenestration of the original building is truncated by the rising form of the sunroom roof. This impact is compounded by the addition of the canopy which sits in the foreground; collectively the development therefore appears as a discordant feature in relation to the scale and form of the original building, a matter which is further exacerbated by the sloping nature of Adams Hill. It is considered that the development is therefore poorly designed in relation to the host building.

Furthermore in the context of the Conservation Area (which is characterised by simple brick cottages with modest additions/porches of a domestic scale on their front elevations) the development appears overly large and dominant in the street scene. The development has attracted objections from the Conservation Officer; with respect to its impact upon the character and appearance of the Conservation Area, as well as from the Parish and interested parties.

In terms of the NPPF, as the harm to the Conservation Area is 'less than substantial', paragraph 134 of the Framework would be engaged. This requires that the harm be weighed against the public benefit of the proposal. The Council is not aware that this structure provides any public benefit which would outweigh harm to the Conservation Area.

The scheme does not raise any amenity issues, but this does not override the impacts of the scheme upon the openness of the Green Belt, its design or on the character and appearance of the Conservation Area as set out above.

Informatives

- 1) The Council have set out their concerns about the impact of the development and have encouraged the applicant to undertake onsite amendments in order that the scheme conforms to the approved plans. The applicant however chose to submit a revised application.

For your information

Appealing the decision

If you feel aggrieved by the decision of Bromsgrove District Council to refuse permission you can appeal to the Secretary of State through the Planning Inspectorate. This appeal should be made by 17th January 2018 unless supported by special circumstances. The appropriate form and further information on how to appeal can be found online at www.planningportal.gov.uk/pcs or by contacting the Planning Inspectorate Customer Services Team on 0303 444 5000.

If an enforcement notice is served relating to the same or substantially the same land and development as in your application and if you want to appeal against the decision of your local planning authority, the you must do so within: 28 days from when the enforcement notice is served, or within 6 months of the date of this decision, whichever expires earlier.

Purchase notices

If Bromsgrove District Council or the Secretary of State has refused planning permission or granted it conditionally, the landowner may claim that the land is incapable of reasonable beneficial use, and for this reason may serve the District Council a purchase notice requiring them to purchase the land. In certain circumstances, a claim may be made against Bromsgrove District Council for compensation. Further information about purchase notices can be found at: <http://www.legislation.gov.uk/ukpga/1990/8/part/VI>

**LOCAL PLANNING AUTHORITY
WRITTEN REPRESENTATIONS STATEMENT**

APPEAL BY:

**Messrs Baljit Singh Bhandal
Balbir Singh Bhandal & Amrik Singh Bhandal
(together the "Appellant")**

Site Address :

**Four Stones Restaurant, Adams Hill, Clent, Stourbridge,
Worcestershire DY9 9PS**

Inspectorate Ref:

APP/P1805/C/19/3219678

Local Authority Ref:

17/00076/PLAN

Statement prepared by:

**Katharine Burrell
Planning Enforcement Officer
Bromsgrove District Council**

WRITTEN REPRESENTATIONS STATEMENT

CONTENTS

- 1.0 Introduction
- 2.0 Site Description
- 3.0 Planning History
- 4.0 Enforcement History
- 5.0 Reasons for issuing Enforcement Notice
- 6.0 Comments of the grounds of appeal
- 7.0 Conclusion
- 8.0 Appendices

1.0 Introduction

- 1.1 My name is Katharine Burrell and I hold the post of Planning Enforcement Officer for Bromsgrove District Council ("the Council) and Redditch Borough Council. I have 19 years' experience in enforcement within a Local Government environment. I have held my current post since May 2000.

2.0 Site Description

- 2.1 The Appeal relates to a glazed single storey sun room of contemporary design attached to the front of the building known as Four Stones Restaurant, Adams Hill, Clent, Stourbridge, Worcestershire DY9 9PS (the "Site"). The Site falls within the Green Belt and the Clent Conservation Area.
- 2.2 The Site forms part of a larger detached building that was originally a pair of dwellings before being converted for the current commercial use in the ownership of the Appellants
- 2.3 Location Plan – The Site is shown hatched in blue on the plan appended hereto as (Appendix 1)

3.0 Planning history

- 3.1 There is significant planning history in relation to the Site. I list below only those matters I consider relevant but a full planning history is contained within the list of appendices. (Appendix 2)
- 3.2 Planning permission was granted on 6 July 2016 under planning application 16/0403 for demolition of front sun room and replacement with a new flat roof sun room. (Appendix 3)
- 3.3 Planning permission was refused on 19 July 2017 under planning application 17/00646 for demolition of existing sun room and erection of a replacement glazed sun room (retrospective) (Appendix 4)
- 3.4 An appeal against the refusal to grant planning was made under reference APP/P1805/W/17/3191833 and was dismissed on 9 April 2018. (Appendix 5)

4.0 Enforcement History

- 4.1 In July 2017 a complaint was received regarding the unauthorised development in so far as the development had not been built in accordance with the approved plans under planning application 16/0403.
- 4.2 The sun room as built is glazed on all sides and has an over sailing glazed roof that slopes upwards away from the front elevation of the main building. The canopy created by the over-sail is supported by posts that sit forward of the sun room's front elevation.
- 4.3 A retrospective planning application 17/00646/FUL was submitted in respect of the unauthorised development and was refused on 19 July 2017.
- 4.4 An Appeal against the above refusal was dismissed under reference APP/P805/W/17/3191833 on 9 April 2018 in relation to the unauthorised building which is the subject of this Appeal.
- 4.5 A letter dated 11 April 2018 was sent to the Appellant requiring the removal of the unauthorised development on or before 1 September 2018 (Appendix 6). This letter did not illicit a response from the Appellant.

- 4.6 A site visit made on 5 September 2018 confirmed that the unauthorised development remained in situ.
- 4.7 An Enforcement Notice dated 27 November 2018 was served in relation to the unauthorised development which is the subject of this appeal. (Appendix 7)

5.0 Reasons for issuing the Enforcement Notice

- 5.1 The Local Planning Authority (the "LPA") considers that operational development has been carried out on the Site.
- 5.2 The LPA considers that the operational development has been carried out within the last four years from the date it came to the attention of the LPA.
- 5.3 The LPA considers that the unauthorised development represents a disproportionate addition to a building which is inappropriate in the Green Belt as it is materially taller and deeper than the permitted scheme. The sun room's over-sailing roof and extent of its forward projection give it greater volume and presence at the front of the main building in comparison with the permitted scheme having a greater effect on the openness and thereby harming the Green Belt.
- 5.4 The LPA does not consider that planning conditions could overcome the inappropriate nature of the development

6.0 Comments on the grounds for appeal

- 6.1 The Appeal against the enforcement notice has been made on grounds (a) (f) and (g) only.
- 6.2 Ground (a) states "That planning permission should be granted for what is alleged in the notice "
- The Appellant states that planning permission ought to be granted only to the extent that is necessary to do so in order to give effect to the proposals set out by the Appellant in ground (f) as opposed to what is alleged in the notice. The Appellant is not seeking permission on ground (a) to retain the development as exists but for a modified scheme. The development as exists has been refused planning permission under planning application 17/00646/FUL and an appeal

against this refusal has been dismissed under Appeal Reference APP/P1805/W/17/3191833.

The LPA would contend that the new building on the site constitutes operational development which requires planning permission.

- 6.3 Ground (f) states that *"the steps required to comply with the requirements of the notice are excessive, and lesser steps would overcome the objections"*

The Appellant states that the development as built is of very similar scale and design and is located in the position as that approved under an earlier planning permission 16/0403 which forms a fall-back position in relation to this appeal.

The Appellant considers that the removal of the canopy section of the existing development would present a more reasonable and proportionate requirement or alternatively if this is not considered acceptable then for the removal of the roof of the sun room and the replacement with a flat glazed roof.

The LPA considers that the scheme as built is substantially different from that approved. (Appendix 8) The height of the sun room is increased by a wedge of additional form which projects forward by an over-sailing element with supporting posts. The development partially obscures the first floor window of the building creating a dominant feature on the front elevation. The adverse effects of the increase in height are magnified as the development sits on a raised terrace. The sun room is positioned next to a neighbouring small white rendered cottage and has a visually dominant and assertive appearance that is out of place in the Clent Conservation Area.

The LPA does not consider that either of the proposed alternatives are sufficient to address the harm caused to the Green Belt, designated heritage asset and the effects on the host building.

Whilst the removal of the over - sailing element assists in reducing the harm identified, the bulk of the retained roof/wall in comparison with the approved scheme still amounts to a harmful effect for which no special justification exists. The LPA considers that the additional volume and height created by the roof structure/wall will need to be removed in order to address the concerns raised by the Planning Inspector.

The LPA considers that the alternative proposals put forward by the Appellant would not be sufficient to reduce the appearance of the obtrusive and dominant appearance to the building and would be insufficient to reduce the harm caused to the character of the host building.

The LPA considers that the bulky and fussy appearance does not reflect the simplicity of the host building and does not represent good design.

- 6.4 Ground (g) states that *"the time given to comply with the notice is too short"*

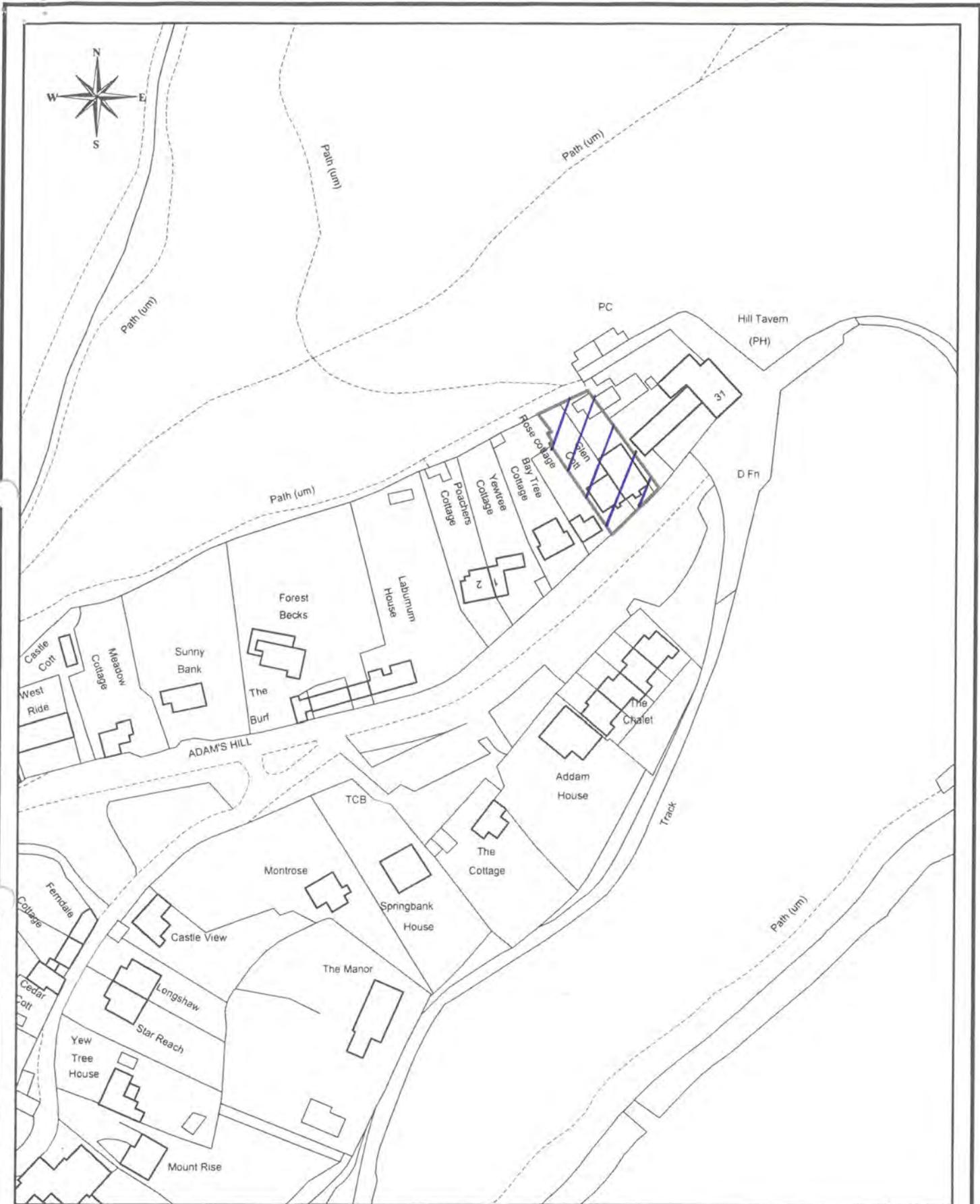
The LPA considers that 3 months is a sufficient time period for compliance with the notice. However, given the time of year pending a decision the LPA would be agreeable to an extension of the compliance time to 6 months.

7.0 Conclusions

- 7.1 The Council would respectfully request the Inspector to dismiss this Appeal.

8.0 Appendices

- 8.1 Appendix 1 – Location Plan showing the Site hatched in blue
- 8.2 Appendix 2 – Planning History of appeal site
- 8.3 Appendix 3 – Copy of Decision Notice 16/0403
- 8.4 Appendix 4 - Copy of Decision Notice 17/00646/FUL
- 8.5 Appendix 5 – Copy of Appeal Decision APP/P1805/W/17/3191833
- 8.6 Appendix 6 - Copy Of letter dated 11 April 2018
- 8.7 Appendix 7 – Copy of Enforcement Notice dated 27 November 2018
- 8.8 Appendix 8 – Digital Images numbered 1-6



  Bromsgrove District Council www.bromsgrove.gov.uk	Project: Four Stones, Adams Hill Clent, Stourbridge DY9 9PS	Drawn: KAB	Planning Services Town Hall Walter Stranz Square Redditch Worcs B98 8AH © Crown Copyright and database rights 2018 Ordnance Survey 100024252
	Drawing: Location Details	Scale: 1/1250 @ A4	
	Drawing No: P2234/7	Date: Nov 2017	

Planning History of Appeal Site

B138340/1986	Change of use from domestic to restaurant and extension Granted 19.5.86
B14647/1986	Change of Use from domestic premises to restaurant and extension Granted 19.1.87
B/1994/0680	Erection of conservatory. Granted 7.11.94
B/2002/1030	Demolition of existing timber garage within a conservation area and replacement with a traditionally constructed garage. Granted 29.10.02
B/2002/1031	Demolition of existing timber clad garage and construction of brick and tile garage. Refused 28.10.02
B/2003/1568	Reconstruction of timber clad garage. Refused 03.02.04
B/2004/0857	Retention of existing concrete hardstanding and erection of timber clad building on part of the retained hardstanding – resubmission of B/2003/1568 Part allowed on appeal 23.5.05
16/0403	Demolition of front sun room with new flat sun room Granted 4.7.16
17/00646	Demolition of existing sun room and erection of a replacement glazed sun room (retrospective) Refused 19.7.17 Dismissed on appeal



Bromsgrove
District Council

www.bromsgrove.gov.uk

Please reply to: Town Hall, Walter Stranz
Square, Redditch, Worcestershire B98
8AH
tel: (01527) 881288

REDDITCH BOROUGH COUNCIL



www.redditchbc.gov.uk

Town Hall, Walter Stranz Square,
Redditch, Worcestershire B98 8AH
tel: (01527) 64252

Mr Baljit Singh Bhandal
Four Stones Restaurant
Adams Hill
Clent
Stourbridge
Worcestershire
DY9 9PS

Case Officer: Paul Murphy
Telephone number: 01527 881201
e-mail: p.murphy@bromsgroveandredditch.gov.uk

Date: 11.04.2018

Dear Mr Bhandal,

Enforcement Reference	17/00076/PLAN
Alleged breach:	Development not in accordance with plans approved application 16/0403 granted 2nd July 2016.
Location:	Four Stones Restaurant Adams Hill, Clent Stourbridge Worcestershire DY9 9PS

Further to my letter dated 6th December 2017 and Planning Inspectorate appeal decision reference APP/P1805/W/17/3191833 dated 9th April 2018.

The Council require the removal of the unauthorised development on or before 1st September 2018. A further site visit will be conducted on or after this date to ascertain if this requirement has been carried out.

You may still implement the planning consent granted under application reference 16/0403 in accordance with the approved plans.

For avoidance of doubt It is the Council intention to issue an enforcement notice if the unauthorised development is still present after the deadline indicated above.

My contact details are provided above should you/ your representative require any clarification.

Yours sincerely

Paul Murphy
Enforcement Officer-Planning

IMPORTANT - THIS COMMUNICATION AFFECTS YOUR PROPERTY**TOWN AND COUNTRY PLANNING ACT 1990**
(as amended by the Planning and Compensation Act 1991)**ENFORCEMENT NOTICE**

ISSUED BY: **Bromsgrove District Council** ("the Council")

1) **THIS NOTICE** is issued by the Council because it appears to them that there has been a breach of planning control, within paragraph (a) of section 171A(1) of the above Act, at the land described below. The Council considers that it is expedient to issue this notice, having regard to the provisions of the development plan and to other material planning considerations. The Appendices at the end of this notice contain important additional information.

2) **THE LAND AFFECTED**

Land at Four Stones Restaurant, Adams Hill, Clent, Stourbridge Worcestershire DY9 9PS shown edged red on the attached plan ("the Land").

3) **THE BREACH OF PLANNING CONTROL ALLEGED**

Without planning permission the erection of a replacement glazed sunroom ("the unauthorised development").

4) **REASONS FOR ISSUING THIS NOTICE**

It appears to the Council that the above breach of planning control has occurred within the last four years.

The Land is situated within the Green Belt and the Clent Conservation Area ("the CA"). Planning permission was granted under planning application 16/0403 for a replacement sunroom ("the permitted scheme") but the development has not been built in accordance with the approved plans. The unauthorised development has been dismissed at Appeal Reference APP/P1805/W/3191833. The unauthorised development comprises a contemporary design sunroom attached to the front of the restaurant which is glazed on all sides and has an over-sailing roof that slopes upwards away from the main elevation. The canopy created by the over-sail is supported by posts that sit forward of the sunroom's front elevation. The unauthorised development represents a disproportionate addition to a building which is inappropriate in the Green Belt as it is materially taller and deeper than the permitted scheme. The sunroom's over-sailing roof and extent of its forward projection give it a greater volume and presence at the front of the main building in comparison to the permitted scheme having a greater effect

Continued.....

on the openness and thereby harming the openness of the Green Belt. No very special circumstances exist that clearly outweigh the harm caused.

The unauthorised development has a visually dominant appearance that is out of place in the CA. It does not preserve or enhance the character or appearance of the CA. The unauthorised development conflicts with Policy BDP20 of the Bromsgrove District Plan 2017 Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1992 and the National Planning Policy Framework .

The Council does not consider that planning conditions could overcome these problems.

5) WHAT YOU ARE REQUIRED TO DO

As the person responsible for the breach of planning control specified in paragraph 3 of this notice, you are required to take the following steps:-

1. Remove the unauthorised development from the Land;
2. Remove from the Land all building materials and rubble arising from compliance with the requirements of step 1 above.

6) TIME FOR COMPLIANCE:

3 months after this Notice takes effect.

7) WHEN THIS NOTICE TAKES EFFECT

This Notice takes effect on **3 January 2019** unless an appeal is made against it beforehand.

Dated: *27 November 2018*

Signed: *Clare Flanagan*

Clare Flanagan
Principal Solicitor
Bromsgrove District Council
Parkside
Market Street
Bromsgrove
B61 8DA

Appendix 1

The Town and Country Planning (Enforcement Notices and Appeals) (England) Regulations 2002; Part 2, 5 (c)

ENFORCEMENT NOTICE

LIST OF PERSONS UPON WHOM THE NOTICE WAS SERVED

The following person(s) have been served with a copy of the Enforcement Notice relating to the above land:

1. Amrik Singh Bhandal, The Bhandal Dental Practice, 74 Birmingham Road, Rowley Regis B65 9BA
2. Amrik Singh Bhandal, Four Stones Restaurant, Adams Hill, Clent, Stourbridge DY9 9PS
3. Balbir Singh Bhandal, The Bhandal Dental Practice, 74 Birmingham Road, Rowley Regis B65 9BA
4. Balbir Singh Bhandal, Four Stones Restaurant, Adams Hill, Clent, Stourbridge DY9 9PS
5. Baljit Singh Bhandal, The Bhandal Dental Practice 74 Birmingham Road, Rowley Regis B65 9BA
6. Baljit Singh Bhandal, Four Stones Restaurant, Adams Hill, Clent, Stourbridge DY9 9PS
7. Lloyds Bank PLC, Dept. No. 9612 of Pendeford Securities Centre, Pendeford Business Park, Wobaston Road, Wolverhampton WV9 5HZ
8. The Owner(s) / Occupier(s), Four Stones Restaurant, Adams Hill, Clent, Stourbridge DY9 9PS

Appendix 2

YOUR RIGHT OF APPEAL

Bromsgrove District Council has issued an enforcement notice relating to the land detailed in 2) above. I now serve on you a copy of that notice in view of your interest in the land. Copies of the notice may also be served on other parties identified as having an interest in the land. Any other persons served with a copy are shown on a separate sheet attached to the notice.

There is a right of appeal to the Secretary of State through the Planning Inspectorate against the Council's decision to issue the notice. Unless an appeal is made as described below, the notice will take effect on **3 January 2019** and you must then ensure that the required steps, for which you may be held responsible, are taken within the period(s) specified in the notice.

The web links below provide advice about how to appeal against this notice

<https://www.gov.uk/appeal-enforcement-notice>

<https://www.gov.uk/government/publications/enforcement-appeals-procedural-guide>

<https://www.gov.uk/government/publications/enforcement-notice-appeals-how-to-complete-your-appeal-form>

Alternatively you can contact the Planning Inspectorate by phone or e-mail:

Please see the enclosed information sheet from The Planning Inspectorate which tells you how to make an appeal.

If you decide that you want to appeal against the enforcement notice you must ensure that you send your appeal soon enough so that normally it will be delivered by post/electronic transmission to the Secretary of State (at The Planning Inspectorate) before **3 January 2019**

Under section 174 of the Town and Country Planning Act 1990 (as amended) you may appeal on one or more of the following grounds:-

- (a) that, in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted or, as the case may be, the condition or limitation concerned ought to be discharged;
- (b) that those matters have not occurred;
- (c) that those matters (if they occurred) do not constitute a breach of planning control;
- (d) that, at the date when the notice was issued, no enforcement action could be taken in respect of any breach of planning control which may be constituted by those matters;
- (e) that copies of the enforcement notice were not served as required by section 172;
- (f) that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control

which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach;

- (g) that any period specified in the notice in accordance with section 173(9) falls short of what should reasonably be allowed.

Not all of these grounds may be relevant to you.

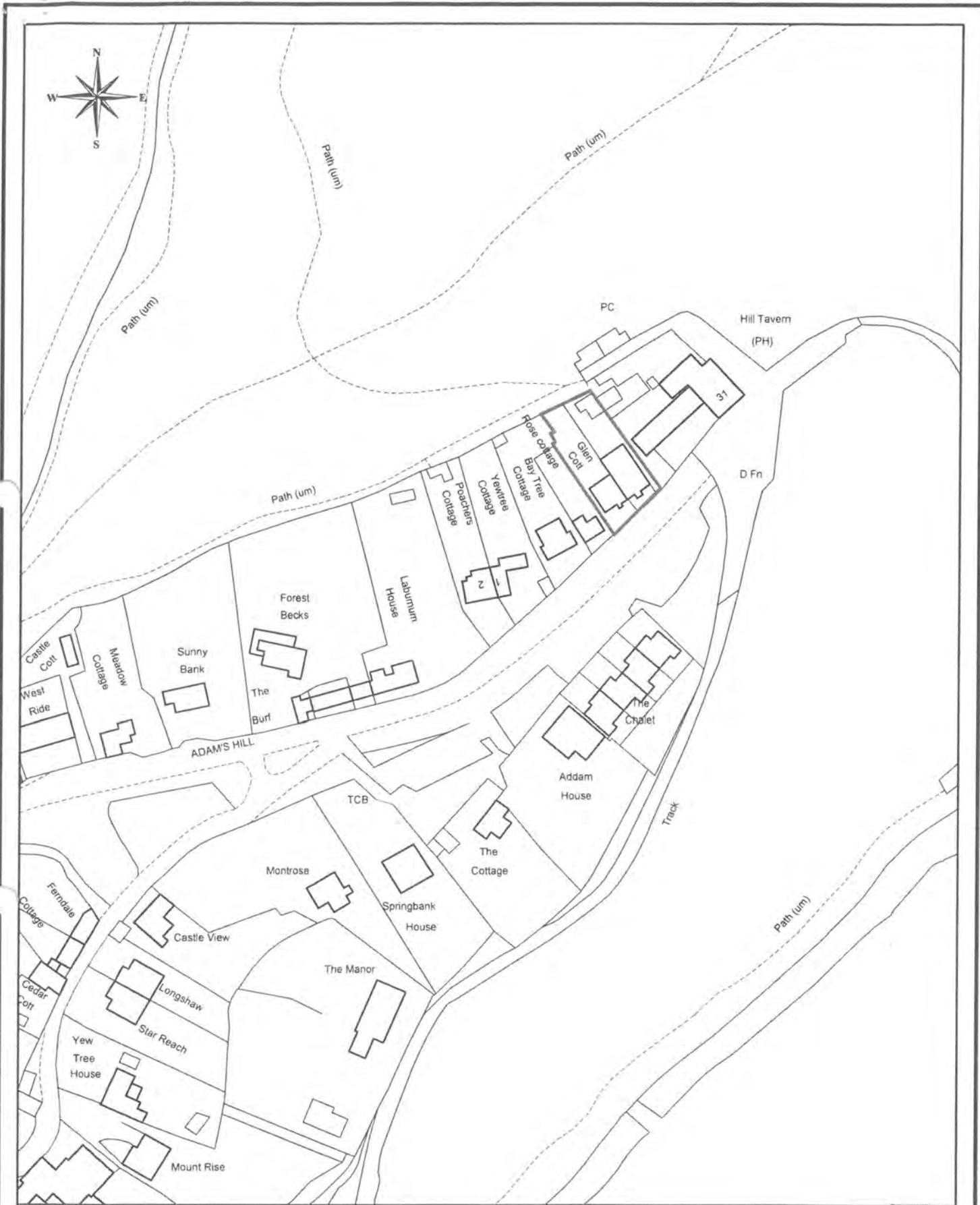
If you decide to appeal, when you submit your appeal you should state in writing the ground(s) on which you are appealing against the enforcement notice and briefly state the facts on which you intend to rely on in support of each of those grounds. If you do not do this when you make your appeal the Secretary of State will send you a notice requiring you to do so within 14 days.

If your appeal includes a submission under Ground (a) as outlined above, this is the equivalent of making an application for planning permission for the development alleged in the notice. That carries a fee which is double the standard fee for such an application. Accordingly, you will have to pay a fee of £468.00 which should be paid to Bromsgrove District Council. Joint appellants need only pay one fee.

WHAT HAPPENS IF YOU DO NOT APPEAL

If you do not appeal against this enforcement notice, it will take effect on the date specified in paragraph 7 of the notice and you must then ensure that the required steps for complying with it, for which you may be held responsible, are taken within the period[s] specified in paragraph 6 of the notice.

Failure to comply with the requirements of an enforcement notice which has taken effect can result in prosecution and/or remedial action being taken by the Council.



REDDITCH BOROUGH COUNCIL



Bromsgrove
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Project:	Four Stones, Adams Hill Cient, Stourbridge DY9 9PS	Drawn:	KAB	Planning Services Town Hall Walter Stranz Square Redditch Worcs B98 8AH
Drawing:	Location Details	Scale:	1/1250 @ A4	
Drawing No:	P2234/7	Date:	Nov 2017	© Crown Copyright and database rights 2018 Ordnance Survey 100024252

which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach;

- (g) that any period specified in the notice in accordance with section 173(9) falls short of what should reasonably be allowed.

Not all of these grounds may be relevant to you.

If you decide to appeal, when you submit your appeal you should state in writing the ground(s) on which you are appealing against the enforcement notice and briefly state the facts on which you intend to rely on in support of each of those grounds. If you do not do this when you make your appeal the Secretary of State will send you a notice requiring you to do so within 14 days.

If your appeal includes a submission under Ground (a) as outlined above, this is the equivalent of making an application for planning permission for the development alleged in the notice. That carries a fee which is double the standard fee for such an application. Accordingly, you will have to pay a fee of £468.00 which should be paid to Bromsgrove District Council. Joint appellants need only pay one fee.

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Failure to comply with the requirements of an enforcement notice which has taken effect can result in prosecution and/or remedial action being taken by the Council.



1. Front elevation looking North



2. Front elevation looking North from carpark



3. Front elevation looking North West from carpark



4. Front elevation looking North West from carpark



5. Side elevation looking West



6. Side elevation looking West from Adams Hill



1. Front elevation looking North



2. Front elevation looking North from carpark



3. Front elevation looking North West from carpark



4. Front elevation looking North West from carpark



5. Side elevation looking West



6. Side elevation looking West from Adams Hill

From: Kathryn Douglas <kat.douglas@yahoo.co.uk>
Sent: 20 April 2019 15:27
To: TeamE1
Subject: QAPP/P1805/C/19/3219678

Dear Sir/Madam

I am writing as per a letter received allowing me to comment on the appeal raised by the Four stones restaurant which I live next to.

I was very surprised and upset to learn that, yet again the Bhandals have been allowed to appeal the decision as I presumed that the fact they had lost the appeal would be the end of it and that the monstrosity of the conservatory would be coming down.

I am still very much against the eyesore of the conservatory and stand by my previous objection raised on the planning portal.

I do hope that the final decision will restore my faith in the system as I am surprised it has been allowed to get this far seeing as the planning laws were breached in the first place.

Kind regards

Kathryn Douglas

Rose Cottage
Adams Hill
Clent
DY9 9PS

DATE 24 May 2019

MESSRS BALJIT SINGH, AMRIK SINGH AND BALBIR SINGH BHANDAL

AND

BROMSGROVE DISTRICT COUNCIL

FOUR STONES RESTAURANT, ADAMS HILL, CLENT, STOURBRIDGE DY9 9PS

APPELLANT'S COMMENTS ON LPA AND THIRD PARTY STATEMENTS

APPEAL AGAINST THE ENFORCEMENT NOTICE

REFERENCE 17/00076/PLAN

**APPEAL REFERENCES:
APP/P1805/C/19/3219678
APP/P1805/C/19/3219679
APP/P1805/C/19/3219680**

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Further to the Statement of Case of Bromsgrove District Council lodged in respect of this combined Appeal, we Reply as follows:

- 1 Firstly, as indicated in the Appellant's Statement of Case, the canopy element of the Sun Room has now been removed, such that the footprint of the Sun Room now reflects that authorised by the Permission, as it no longer extends forward of the approved extent. The overall height is also significantly reduced, so that the height of the highest point of the Sun Room is now only marginally higher than the authorised height; the overall volume of the Sun Room as now built is slightly less than the authorised volume. Annexed at **Appendix 1** to this statement are a series of photographs showing the Property and the Sun Room as it now appears.
- 2 The Council does not take issue with the Appellant's assessment of the differences between the development as approved and that present at the date of the Notice.
- 3 The Council's statement makes clear that the key concern with the Sun Room as described in the Notice was the canopy element of the scheme: **Paragraph 5.3** for example, describes the unauthorised development as representing a '*disproportionate addition*' which is '*materially taller and deeper than the permitted scheme*'; the '*over-sailing roof and extent of its forward projection give it greater volume and presence at the front of the main building in comparison with the permitted scheme*'. This primary element of concern has now been removed.
- 4 It is noted that at **Paragraph 4.2** of the Council's statement describes the Sun Room as being glazed on all sides; it should be noted that the western elevation is comprised of the pre-existing brick wall such that the view towards the Sun Room from the adjacent property to the West remains substantially unchanged.
- 5 At **Paragraph 6.3** there is reference to the 'additional volume and height created by the roof structure / wall.' For clarity, it is acknowledged by the Appellant that there has been a slight increase in height of part of the pre-existing wall forming the side elevation to the Sun Room. During the course of demolition of the old conservatory pursuant to the Permission, it was found that some of the bricks forming this side wall were crumbling and unsafe; the Appellant's contractor therefore made the wall safe using new bricks to match the existing. Reference is made to Fig. 1 in Appendix 2 below in this regard, which shows the new brickwork. Mid-way along the side wall, a single extra course of bricks was added on top of the original height, and to that part of the wall furthest from the main building, 2 courses of bricks were added above the original height, creating a stepped design. Reference is made to Fig.2 to Appendix 2 in this regard.
- 6 This change is not considered to be material in the context of the overall scheme in terms of the visual impression of the Sun Room in relation to the main building and the adjacent Property.

- 7 In the event that the Inspector is minded to allow the appeal under either Option B or Option C as detailed in the Appeal Statement (to provide for a flat roof alternative to the current structure), the Notice could be varied under Ground (f) to require the removal of the additional 1-2 courses of brickwork described above, if it were considered necessary to do so as part of those schemes.
- 8 The Council does not fully address the alternative schemes put forward by the Appellant.
- 8.1 At **Paragraph 6.3** the Council asserts that the Sun Room which was present at the date of the Notice (which the Council refers to as the 'as-built' scheme) was substantially different to the approved scheme; however, this is largely due to the presence of the canopy.
- 8.2 The Council's assessment refers to a 'wedge of additional form', it is clear from this description that the Council has not appreciated that the difference in height between the approved scheme and that which is now present on site, is not represented by the whole of the 'wedge of additional form': it is important to note (as detailed in the Appellant's Appeal Statement) that the approved height clearly extends higher than the top of the main glazed doors, and is only marginally less than the height of the current Sun Room at its highest point (discounting the canopy which is no longer present). Accordingly, the Council's assessment of the significance of the impact of the as-built scheme is based on an inaccurate assumption. There is no acknowledgement by the Council that the Sun Room in its present form represents a lesser volume than the approved scheme, and as such the harm described by the Council is not considered to arise, or at least is not as significant as the Council's assessment asserts.
- 8.3 Accordingly, it is not considered that the Council's assessment of the alternative scheme put in the Appeal Grounds and described in the Appeal Statement as Option A, is accurate, and the degree of harm arising as a consequence of the Sun Room as now exists at the Property by comparison with the approved scheme is minimal.
- 8.4 The Council describes the Sun Room as having a 'bulky and fussy appearance [which] does not reflect the simplicity of the host building and does not represent good design'; however the design and materials reflect those approved under the Permission (having been confirmed to be acceptable, in writing, as detailed in the Appeal Statement) but comprise a lesser volume, albeit with a slightly higher roof height at the Sun Room's front elevation. The Council's assessment of the visual impact is therefore unfounded.
- 8.5 Further, the other alternative proposal put in the Appellant's Grounds, and elaborated upon in the Appeal Statement, to remove the sloping roof and replace it with a flat roof (which

in the case of Option B would result in a lower overall height than the approved scheme, and in the case of Option C would result in a height and volume equal to that approved), are not addressed by the Council. Whilst the Council states at **Paragraph 6.3** that it 'does not consider that either of the proposed alternatives are sufficient to address the harm caused', they do not express why that might be the case in relation to the flat roofed-alternatives proposed by the Appellant. It is submitted that the reduction in height and volume by comparison with the approved scheme resultant from Option B, and the fact that Option C would enable the scheme to be implemented so that its dimensions would be in accordance with the Permission, must make both Options inherently acceptable in planning terms.

- 9 The degree of harm arising to the Green Belt, the Conservation Area as a heritage asset, and the visual impact on the main building are all matters of judgment for the Inspector, but it is submitted that in light of the removal of the canopy, the resulting scheme (Option A) is not materially different to the approved scheme, and so gives rise to minimal, if any harm; and if that is not accepted, Options B and C would represent a reduction in the built form by comparison with the approved scheme, such that any harm identified as arising in relation to the current structure, is removed.

Suzanne Tucker
FBC Manby Bowdler LLP
24 May 2019

Appendix 1







Appendix 2



Fig.1



Fig.2



Appeal Decision

Site visit made on 3 April 2018

by H Baugh-Jones BA(Hons) DipLA MA CMLI

an Inspector appointed by the Secretary of State

Decision date: 09 April 2018

Appeal Ref: APP/P1805/W/17/3191833

Four Stones Restaurant, Adams Hill, Clent DY9 9PS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Dr Baljit Bhandal against the decision of Bromsgrove District Council.
 - The application Ref 17/00646/FUL, dated 6 June 2017, was refused by notice dated 19 July 2017.
 - The development proposed is demolition of existing sunroom and erection of a replacement glazed sunroom (retrospective).
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Decision

1. The appeal is dismissed.

Procedural Matter

2. As the description of development in the above heading indicates, the sunroom has already been built. I have taken this into account in my decision.

Main Issues

3. The site lies within the Green Belt. The main issues in this appeal are
 - whether the appeal scheme comprises inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies
 - whether any harm by reason of inappropriateness including (i) loss of openness; (ii) whether the appeal scheme preserves or enhances the character or appearance of the Clent Conservation Area (CA); and (iii) its effect on the character and appearance of the host building, is clearly outweighed by other considerations
 - if so, would this amount to the very special circumstances required to justify the proposal.

Reasons

Background

4. Planning permission was granted for a replacement sunroom and whilst the building has been constructed following that permission, it has not been done so in accordance with the approved plans.

Inappropriate development in the Green Belt

5. The appeal scheme comprises a sunroom of contemporary design attached to the front of the restaurant building. It is glazed on all sides and has an over-sailing roof that slopes upwards away from the front elevation of the main building. The canopy created by the over-sail is supported by posts that sit forward of the sunroom's front elevation.
6. Policy BDP4.4 of the Bromsgrove District Plan (2017) (BDP) says that the development of new buildings in the Green Belt is considered to be inappropriate except in certain circumstances. BDP4.4d states that this includes proportionate extensions to non-residential buildings taking into account openness and the Green Belt purposes. The policy gives favourable consideration to proposals that can demonstrate significant benefits to the local economy and/or community.
7. Policy BDP4.4 closely reflects the Framework, which says that the construction of new buildings is inappropriate in the Green Belt unless in accordance with specific exceptions. The third bullet point in paragraph 89 of the Framework states that the one of the exceptions is the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building.
8. The available evidence indicates that the restaurant building was originally a pair of dwellings extended and converted to an alternative use. It is clear that incrementally, the original building has been very substantially increased in size. The Council considers that the cumulative scale of those additions is disproportionate and thus inappropriate. The appellant has not put forward any contrary evidence and I have no reason to take an alternative view to that of the Council. The appeal scheme therefore comprises inappropriate development in the Green Belt.

Openness of the Green Belt

9. The sunroom's over-sailing roof and extent of its forward projection give it a greater volume and presence at the front of the main building in comparison to the permitted scheme. In my view, it therefore has a greater effect on openness and thus harms the fundamental Green Belt aim of keeping land permanently open.

Clent CA

10. The CA's character in the vicinity of the appeal site derives from its variously sized but simply designed brick or rendered cottages set either side of a wide open area that provides parking for vehicles. Notably, there are no visually significant front projecting elements on other surrounding buildings and their absence therefore heightens the sunroom's presence in the street scene.
11. The sunroom is positioned next to a neighbouring small white rendered cottage such that in views from the north-eastern part of Adams Hill, it stands out against the white backdrop of the neighbouring building. From the other direction, because it sits above a raised terrace, the adverse effects of its height are magnified. Overall, the sunroom has a visually dominant, overly assertive appearance that is out of place in the CA. It does not preserve or enhance the character or appearance of the CA and thus harms the significance of this designated heritage asset counter to policy BDP20, which amongst other

things reflects the statutory duty relating to CAs in Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1992 and seeks to resist such harm resulting from alterations or additions.

12. Whilst the level of harm would not reach the high hurdle of substantial harm for the purposes of paragraph 133 of the Framework, it would nonetheless result in serious harm that requires clear and convincing justification. Framework paragraph 134 says that where a development proposal would lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the scheme, including securing its optimum viable use.
13. The appellant has not put forward any evidence to demonstrate that the sunroom has greater public benefit than that of the permitted scheme. The appeal scheme therefore conflicts with the Framework.

Character and appearance of the host building

14. The sunroom's sloping over-sailing roof and canopy supports give it a bulky and fussy appearance that does not reflect the general simplicity of the host building. As I have already mentioned, this simplicity is typical of buildings in Adams Hill. In direct views towards the building, the sunroom's rising roof form obscures one of the upper floor windows and appears as a dominant addition to the area immediately in front of the building. For similar reasons, in other views from both higher and lower parts of Adams Hill, it appears as an obtrusive and discordant addition to the building.
15. Thus, the sunroom does not represent good design and causes serious harm to the host building's character and appearance thereby running counter to policy BDP19, which broadly seeks high quality design.

Other considerations

16. The appellant argues that the sunroom as built, enhances the visual appearance of the host building and its contemporary design respects the local context and the character and appearance of the CA. However, for the reasons already given, I take an alternative view. Whilst I have no doubt that a more contemporary design would represent an improvement on the 1970's structure it would replace, a compelling case for the appeal scheme has not been put forward.
17. The harm to the Green Belt attracts substantial weight. I also give substantial weight to the harm to the significance of a designated heritage asset and to the adverse effects on the host building.
18. From all that is before me, there are no other considerations that override these harms and thus the very special circumstances necessary to justify the appeal scheme do not exist. Consequently, the appeal does not succeed.

Hayden Baugh-Jones

Inspector