

<b>Application Number</b>	<b>21/00679/FUL</b>
<b>Site Address</b>	<b>79 Windsor Avenue, Worcester, WR2 5NB</b>
<b>Description of Development</b>	Change of use of small house in multiple occupation (Class C4) to two apartments
<b>Expiry Date</b>	An extension of time to 13 <sup>th</sup> December 2021 has been requested.
<b>Applicant</b>	Fair Construction Limited
<b>Agent</b>	Mr Chris Couper
<b>Case Officer</b>	Sally Watts
	sally.watts@worcester.gov.uk
<b>Ward Member(s)</b>	St. John Ward
<b>Reason for Referral to Committee</b>	Ward Member referral
<b>Key Issues</b>	The principle of development and whether the proposal would be sustainable form of development having regard to the 3 dimensions of sustainable development in terms of its economic role, social role and environmental role.
<b>Web link to application</b>	<a href="https://plan.worcester.gov.uk/Planning/Display/21/00679/FUL">https://plan.worcester.gov.uk/Planning/Display/21/00679/FUL</a>
<b>Recommendation</b>	<b>The Corporate Director of Planning and Governance recommends that the Planning Committee grant planning permission subject to the conditions set out in section 9 of this report.</b>

## 1. **Background**

- 1.1 The application was registered on 22 July 2021 and was due for a decision on 16 September 2021. An extension of time has been requested until the 13<sup>th</sup> December 2021.
- 1.2 The application has been referred to the Planning Committee at the request of Councillor Udall in accordance with the adopted scheme of delegation on the following grounds:

- will create extra requirement for parking,
- will require tree removal and changes to the public road and footpath surface,
- it would also mean a private footway, not designed for heavy traffic, would become a significant nuisance for neighbours and other residents with it being the only provision for off street parking.

## 2. **The site and surrounding area**

- 2.1 The site is located in the west of the city in a largely residential area. To the south of the site are allotments, but it is residential in all other directions along the cul-de-sac. There are parking restrictions in the area due to historic issues with on street car parking.
- 2.2 The dwelling is typical of post war residential construction and a mix of semi-detached and terraced. Windsor Road curves at mid-point and links to Woodstock Road. The property is located before the head of the cul de sac. The property is the end terrace of a row of four dwellings. There is a mix of retained front gardens and off street parking in the area.

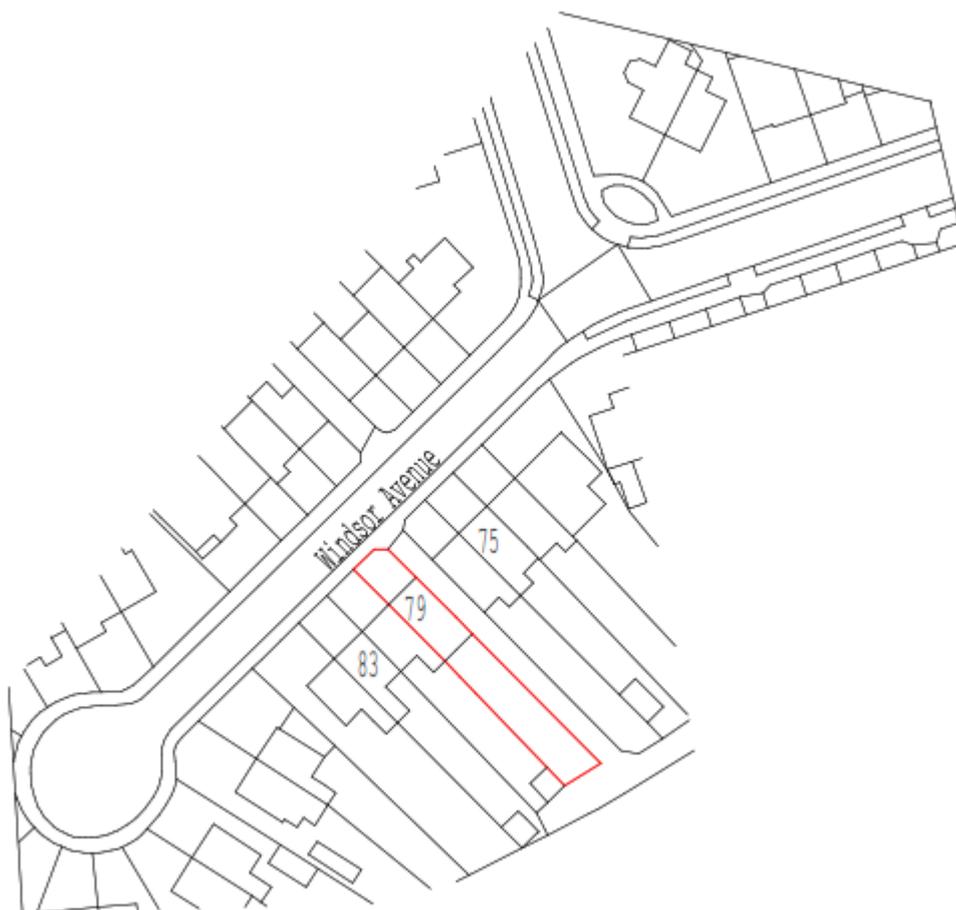


Figure 1. Site location plan

- 2.3 Windsor Avenue has a number of vehicular access lanes to the side of dwellings which provide access to the rear of the properties. These do not relate to every property. In relation to the site, the lane is adjacent to the property as seen in figure 1 above. The surface of the lane is grassed over and does not appear to be used to access the rear of the property or the adjacent dwellings which share the access. The application form advises that the site does not have any existing off road car parking provision.

- 2.4 As seen in Figure 2, at ground floor the existing House of Multiple Occupation has a bedroom at the front and a shared living room and kitchen to the rear.

The kitchen is an existing flat roof rear single storey extension. The first floor has two larger bedrooms, the smaller "box" room and bathroom.

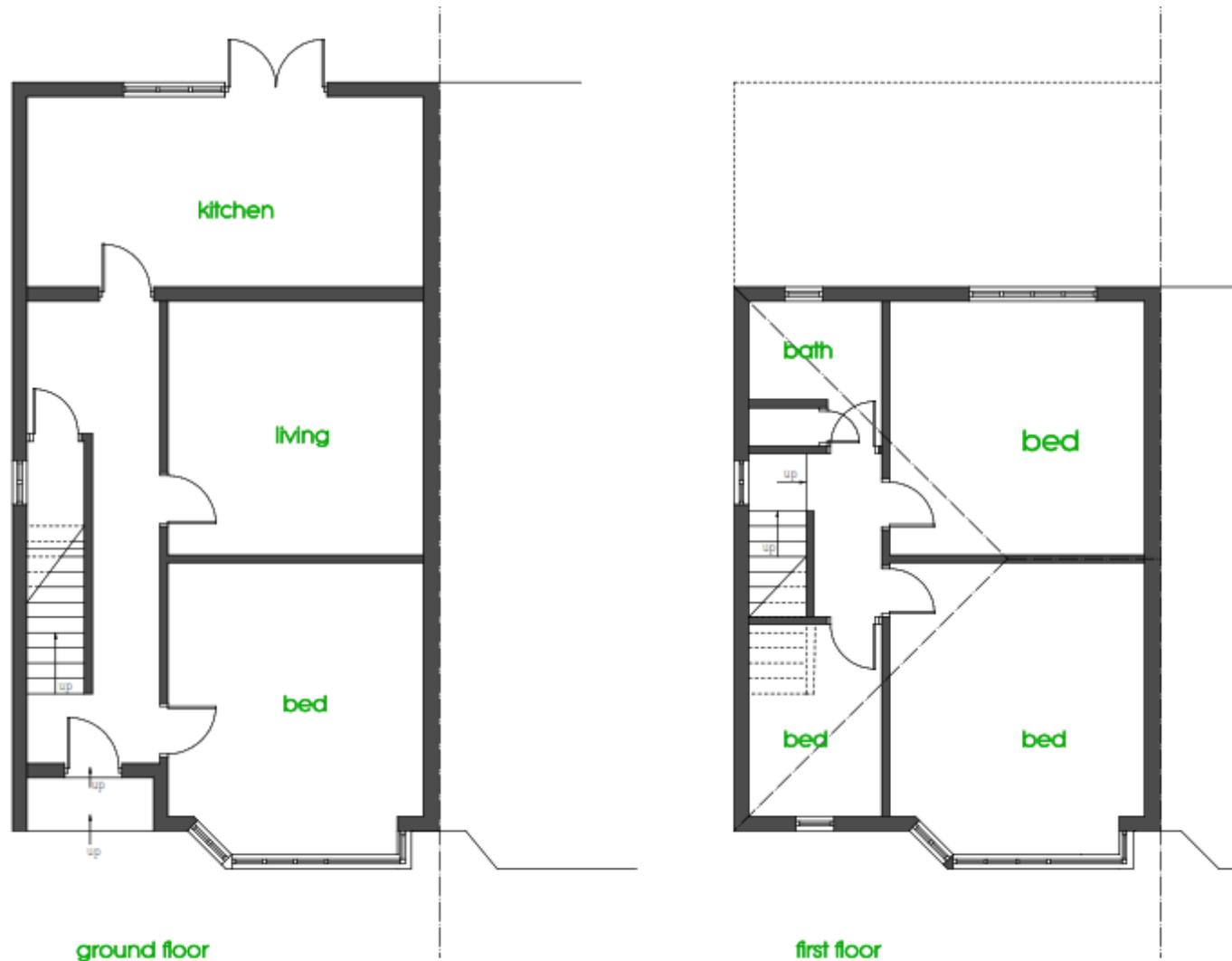


Figure 2. Existing floor plans

- 2.5 The House of Multiple Occupation is registered for up to 5 residents, the most recent HMO licence was granted on the 19/03/2021 and expires on the 01/08/2025. The owner has advised that the HMO has been in continuous use for over 15 years and is occupied as a HMO at this time.
- 2.6 The site has a number of constraints including being identified as an area of known contaminated land and green space due to proximity to the allotments and cemetery and the links to the wider area including Laugherne Brook.

### 3. **The proposals**

- 3.1 The proposal is to subdivide the property into two flats and the revised internal layout is shown in figure 3. It includes subdivision of the entrance to provide two entrances into the building, insertion of a ground floor bathroom in the existing hallway and a kitchen on the first floor. The extension is proposed to be subdivided to allow for a second bedroom. The ground floor has a proposed internal floor area of 66 m<sup>2</sup>.

- 3.2 The upper floor retains the existing layout with the front box room becoming the kitchen and a bedroom becoming a lounge to create a one bedroom unit. It has an internal floor area of 52 sq.m

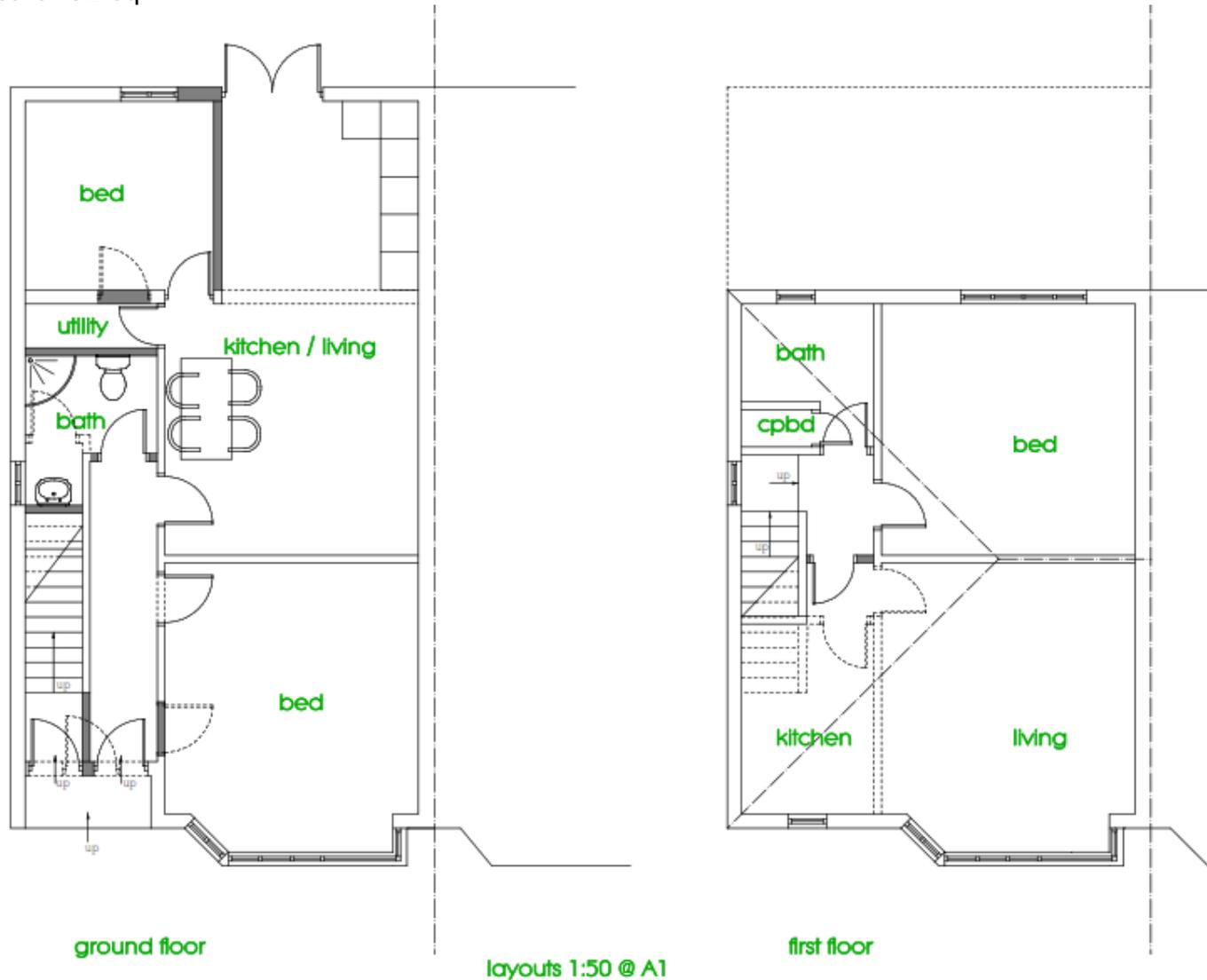


Figure 3. Proposed floor plans

- 3.3 Within the site, it is proposed that the frontage would be used for one off road car parking space. Originally the scheme included two further car parking spaces accessed via the side lane, however this was removed following highway comments.
- 3.4 The application is accompanied by a full set of plans together with a suite of supporting documents that include:

Existing Elevations And Floorplans (MA/79WIN/01Drawing 01)  
Letter To Worcester City 22.07.21  
Planning Design And Access Statement  
Windsor Avenue Appendices A To C  
Property Portfolio Document  
Management Statement By Farefield Estates  
Proposed Elevations, Floor Plans Site Plan And Block Plan (MA\79WIN/02, revision: A)

- 3.5 In accordance with Article 15 (7) of The Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended), full details of the application have been published on the Council's website. As such, Members will have had the opportunity to review the submitted plans and documents in order to

familiarise themselves with the proposals prior to consideration and determination of the application accordingly.

#### **4. Planning Policy**

- 4.1 The Town and Country Planning Act 1990 ('the Act') establishes the legislative framework for consideration of this application. Section 70(2) of the Act requires the decision-maker in determining planning applications/appeals to have regard to the Development Plan, insofar as it is material to the application/appeal, and to any other material consideration.
- 4.2 Where the Development Plan is material to the development proposal it must therefore be taken into account. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires the application/appeal to be determined in accordance with the Plan, unless material considerations indicate otherwise.
- 4.3 The Development Plan for Worcester now comprises:
- The South Worcestershire Development Plan (SWDP) which was adopted February 2016, and;
  - The Worcestershire Waste Core Strategy, which was adopted on December 2012.

#### **South Worcestershire Development Plan**

- 4.4 The following policies of the SWDP are considered to be relevant to the proposal:

SWDP 21 Design  
SWDP 4 Moving Around South Worcestershire

#### **Material Considerations**

- 1. National Planning Policy Framework**
- 2. National Planning Practice Guidance**
- 3. 3. Supplementary Planning Documents**

- 4.5 The following Supplementary Planning Documents (SPD) are relevant to the application proposals:-

- South Worcestershire Design SPD

#### **4. Worcestershire's Local Transport Plan (LTP4) 2018 – 2030**

#### **5. Worcestershire County Council Streetscape Design Guide (2018)**

#### **5. Planning History**

- 5.1 The site has been the subject of the following planning application:

**77/0450** Extension to kitchen. Approval on the 15<sup>th</sup> July 1977.

- 5.2 When the Article 4 Direction relating to Houses of Multiple Occupation came into effect on 1<sup>st</sup> July 2014 it did not operate retrospectively, accordingly it was not necessary for owners of existing HMOs to seek planning permission to regularise the use. As such, frequently on older HMOs the use is not visible on the planning history of the site unless a Certificate of Lawful Use has been applied for.

#### **6. Consultations**

6.1 Formal consultation, has been undertaken in respect of the application.

The following comments from statutory and non-statutory consultees and interested third parties have been received in relation to the original and amended proposals and are summarised as follows:

**Neighbours and other third party comments:** 2 objections have been received relating to the proposal on grounds relating to the following matters:

### **62 Windsor Avenue**

- Increase in traffic and parking from additional dwelling
- House is used as a family dwelling, rather than as a HMO

### **81 Windsor Avenue**

- Concerns regarding transference of noise between dwellings, especially upstairs to childrens bedrooms.
- Object to the use of the rear garden area for parking as will cause disturbance to rear garden area.

**Worcester City Council Private Sector Housing:** no comment

**Worcestershire County Council (Highway Authority):** no objection subject to conditions.

- 6.2 Members have been given the opportunity to read all representations that have been received in full. At the time of writing this report no other consultation responses have been received. Any additional responses received will be reported to members verbally or in the form of a late paper, subject to the date of receipt.
- 6.3 In assessing the proposal due regard has been given to local residents comments as material planning considerations. Nevertheless, I am also mindful that decisions should not be made solely on the basis of the number of representations, whether they are for or against a proposal. The Localism Act has not changed this, nor has it changed the advice that local opposition or support for a proposal is not in itself a ground for refusing or granting planning permission unless it is founded on valid planning reasons.

## **7. Planning Assessment**

- 7.1 Policy SWDP1 of the South Worcestershire Development Plan sets out overarching sustainable development principles and these are consistent with the Framework. The various impacts of the development have to be assessed and the benefit and adverse impacts considered, to establish whether what is proposed is sustainable development.
- 7.2 Taking the above matters into account I consider the main issues raised by the proposal relate to the principle of development and material considerations of the proposal in order to assess its suitability in this location. These are;
- the principle of development
  - impact on neighbouring amenity
  - residential amenity for future occupiers;
  - design and appearance;
  - access, car parking and highway safety;

These issues will now each be considered in turn.

### **The Principle of Development**

- 7.3 There is no policy objection to the proposal to change the use of the existing House of Multiple Occupation to two flat units. Both residential uses are not the predominant form of development in the area which is largely characterised by family dwellings. The impact of the proposal is assessed and the impact of the proposed development considered against not only the policy position but also the wider impacts of the proposal in relation to the NPPF, SWDP and wider policy framework.

### **Residential amenity for future occupiers**

- 7.4 There are two proposed units in the proposal, both largely utilise the existing room layout and in terms of facilities, outlook and amenity are acceptable.
- 7.5 These units are small and would not provide a significant amount of space to residents. However, they are able to provide the necessary facilities plus storage space for residents in a suburban location with a limited garden area directly accessed to the ground floor flat and accessible via the side lane for the upper floor flat. This is in line with the aims of the Design Guide SPD in relation to providing external amenity space for the enjoyment of residents.
- 7.6 The accommodation proposed is acceptable and would provide residents with a reasonable level of amenity. It is compliant with SWDP21 of the SWDP and the Design Guide SPD.

### **Impact on neighbouring amenity**

- 7.7 The proposal seeks to change a four bedroom (5 person) HMO into a two bedroom flat on the ground floor and one bedroom flat on the first floor. The assessment regarding the impact on neighbouring residents will differ from a typical residential family unit who will predominantly utilise the ground floor for most of their social time when not sleeping.
- 7.8 Within the appeal at 27 Comer Road (19/00411/FUL and appeal ref: APP/D1835/W/19/3237422) it was recognised that HMOs operate more intensively with a greater reliance on the private bedroom space compared to a family dwelling house. This appeal decision aligns with the HMO SPD where the intensity of HMO occupation is a reason for limiting the maximum capacity of an area to absorb this greater level of occupation before wider harm is generated. Consequently, maximum thresholds within 100 metres of the site are applied.
- 7.9 Given this, the local planning authority considers that the occupation of the unit as two small units would have an equivalency or lower to the existing HMO usage and not likely to generate a negative impact on the neighbouring amenity.
- 7.10 The adjoining neighbour has discussed concerns regarding noise travelling through the walls to their upper floor bedrooms. This would most likely affect the front bedroom which would be adjacent to the proposed living room. However I am mindful of the issues raised above in terms of the greater reliance on bedroom areas within a HMO setting to provide personal space (for activities such as TV, music and socialising) and consider this is likely to be comparable with a living room functionality.
- 7.11 A neighbouring occupier has advised that the HMO is currently being occupied as a family dwelling house (Use Class c3) rather than as a HMO as per the application and the HMO licencing.

If this is the case, the noise and activity generated by a family dwelling will be less intense than that of a HMO and the assessment of the impact of the development will have more of an equivalency than that of the HMO. The area that this may not be true is regarding the living room for the upper unit flat which would be adjacent to a bedroom at 81 Windsor Avenue. However, they are broadly compatible adjacent activities and would be acceptable in meeting the requirements of SWDP21.

- 7.12 The proposal is not likely to generate a negative impact in terms of noise and disturbance beyond the existing levels from the existing permitted use and as such is considered to be acceptable in meeting the requirements set out in SWDP21 regarding amenity for neighbouring residents.

### **Design**

- 7.13 The external appearance will alter from the existing scheme, with a secondary front door added to the recessed door feature to accommodate the second entrance to the upper floor flat. This is shown in Figure 4 below.



Figure 4. Proposed front elevation

- 7.14 This is a minor change in the visual character of the building which retains the essential characteristics which provide cohesiveness in the streetscene, such as the roof shape, the front bay window and the general massing of the building. The additional door has limited visual impact and would not be detrimental to the wider streetscene. As such it complies with the policy SWDP21 of the South Worcestershire Development Plan.

### **Access and Highway Safety**

- 7.15 The proposal is seeking to provide one off road car parking space for the proposal. This was altered following consultation with the Highways team. Originally, they wished to provide two spaces at the rear for the property accessed via the side lane. This was not desirable, due to issues of visibility and manoeuvring in the constrained area.
- 7.16 The revised proposal has been evaluated and is considered acceptable the County Council highways team. Additional conditions have been requested in relation to cycle parking and ensuring the proposal shall not be occupied until the access and parking facilities including dropped kerb works and pedestrian visibility have been properly provided.

- 7.17 Whilst I recognise the historic issues with car parking in the area, the assessment regarding the proposal has been undertaken and given there is an improvement in the off-road provision (currently no off-road parking) and when compared with the existing use of a 4-bedroom HMO, I do not consider that it would be defensible to refuse the proposal on these grounds.
- 7.18 In regard to the comment made by a neighbour that the property is used as a family dwelling house and not a HMO. If this is the case, then the three or four bedroom dwelling, would have a parking requirement of 2 or 3 spaces. With no current car parking on site, there would still be an uplift of one space. As such, there would be no objection in this regard.

## **8. Conclusion and planning balance**

- 8.1 The NPPF identifies a series of the components that are considered critical to achieving sustainable development. In my opinion, the above assessment of the planning application proposals against the planning policy framework demonstrates that the application responds to, and is in accordance with, the requirements of the adopted planning policy within the development plan and material considerations relevant to the determination of the application.
- 8.2 The following material planning issues are relevant to this application:
- Principle of the development
  - Residential amenity for future residents
  - Impact on neighbouring amenity
  - Design
  - Access and highway issues
- 8.3 Whilst the assessment is not an exhaustive list of all policies that are potentially applicable to this site, it seeks to address how the proposals respond to the key planning criteria in the planning policy framework against which the planning application will be determined.
- 8.4 The proposed development would result in some economic benefits; employment during construction and thereafter upon the occupation of the dwellings it is likely that the occupants would contribute towards maintaining the vitality of local services and facilities.
- 8.5 In respect of potential adverse impacts, the use of the site as two units of accommodation is more intense than the original use as one family dwelling house. However, it is considered that concerns regarding noise and disturbance are not so significant that the local planning authority could reasonably refuse on these grounds given the existing position of the building being used to house 5 persons who live independently. I also note that the development is not contrary to the guidance set down at national or local level.
- 8.6 The objections of local residents and the comments of the Ward Councillor have been carefully considered. It is considered that the wider area would benefit from two small units of accommodation and it is anticipated that these smaller units could be less impactful than the existing level of occupancy on the site. Therefore, on balance, the scheme is acceptable, providing the outstanding issues relating to cycle parking and the car parking access are resolved to the satisfaction of the Local Planning Authority via condition.

8.7 I acknowledge all comments received as part of the consultation process and consider all material planning issues have been considered in the determination of this application. Having regard to the totality of the policies in the Framework, I consider that the proposed development is sustainable when looking at its social, economic, and environmental credentials in the round. The adverse impacts of the development do not significantly and demonstrably outweigh the benefits. Overall, it is considered that the proposals constitute an acceptable form of development that accords with the Framework and the Development Plan as a whole.

## **9. Recommended Conditions**

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To conform with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall be carried out and completed in accordance with the following approved plans and associated documents and the specifications and recommendations contained therein, except where otherwise stipulated by conditions attached to this permission

Existing Elevations And Floorplans (MA/79WIN/01Drawing 01)

Letter To Worcester City 22.07.21

Planning Design And Access Statement

Windsor Avenue Appendices A To C

Property Portfolio Document

Management Statement By Farefield Estates

Proposed Elevations, Floor Plans Site Plan And Block Plan (MA\79WIN/02, revision: A)

Reason: To ensure compliance with the approved scheme

3. The Development hereby permitted shall not be occupied until the access and parking facilities including dropped kerb works and pedestrian visibility have been properly provided in accordance with details to be submitted and approved in writing to the Local Planning

Authority. This area shall thereafter be retained and kept available for the purposes of parking only at all times.

REASON: In the interests of Highway safety and to ensure the free flow of traffic using the adjoining Highway.

4. The Development hereby permitted shall not be occupied until the cycle parking indicated on the submitted plan has been properly provided in accordance with details to be submitted to and approved in writing by the Local Planning Authority. Thereafter the cycle parking shall be kept available for the parking of bicycles only.

REASON: To comply with the Council's parking standards