

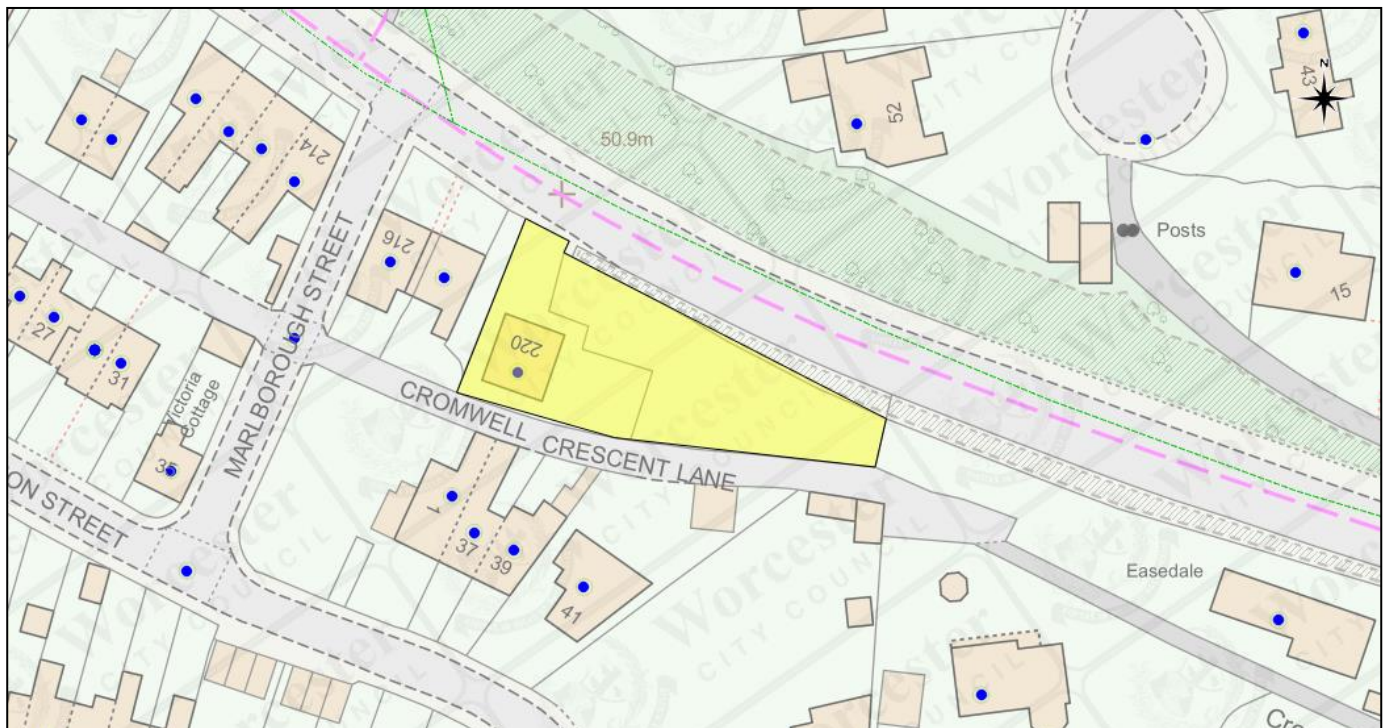
Application Number	22/00714/FUL
Site Address	220 London Road, Worcester, WR5 2JR
Description of Development	Erection of single detached dwelling with associated highways works (variation of condition 2 of planning approval 19/00409/FUL - various alterations to the external appearance of the dwelling and associated works)
Expiry Date	17 October 2022
Applicant	Lilly Pad Ltd
Agent	Mr Nick Carroll
Case Officer	Laura Wall
	laura.wall@worcester.gov.uk
Ward	Battenhall Ward
Reason for Referral to Committee	Ward Member referral
Key Issues	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.
Web link to application	https://plan.worcester.gov.uk/Planning/Display/22/00714/FUL
Recommendation	The Corporate Director - Planning and Governance recommends that the Planning Committee approves the variation of Condition 2 of planning permission 19/00409/FUL and grants planning permission, subject to the conditions set out in section 9 of this report.

1. **Background**

- 1.1 The application was registered on 22 August 2022 and was due for a decision on 17 October 2022. An extension of time for the determination of the application has been agreed until Wednesday 30th November 2022 to allow determination by the Planning Committee.
- 1.2 The application has been referred to the Planning Committee at the request of Councillor Louis Stephen.

2. **The site and surrounding area**

- 2.1 The application site is a detached new dwelling, located within the Battenhall Ward of Worcester, the rear elevation of the dwelling is located along London Road with is a busy arterial route into Worcester City Centre. The frontage and parking serving the dwelling is located off Marlborough Street leading onto Cromwell Crescent Lane. The character of the area is residential in nature with a number of detached, terraced and semi-detached dwellings within the streetscene.
- 2.2 Planning permission has been previously granted at the site for the erection of a three-bedroom detached dwelling at the site, there are significant level differences across the site sloping down to from Cromwell Crescent Lane to London Road, the dwelling is therefore split across two levels.



(Figure 1: Location Plan)

3. **The proposals**

- 3.1 This application seeks to vary condition 2 of previously approved application No. 19/00409/FUL. A number of the retrospective changes were previously sought under non-material amendment application 22/00052/NMA, this application was refused as it was considered that the nature and level of proposed changes resulted in a material change to previously approved application 19/00409/FUL and were not non-material. As a result, this application has been submitted under S.73 to allow for the changes that have been detailed. The refusal of 22/00052/NMA did not consider the planning merits but purely established the correct application route in which to apply for the amendments.
- 3.2 During the course of this current application, amended plans have been sought to address concerns regarding potential actual/ perceived overlooking from the roof terrace. The proposals therefore comprise of the following:

East Elevation

- Removal of bay window
- Introduction of new first floor window
- Reduction and centralisation of windows at ground and first floor level.
- Replacement of cladding on ground floor with brick.



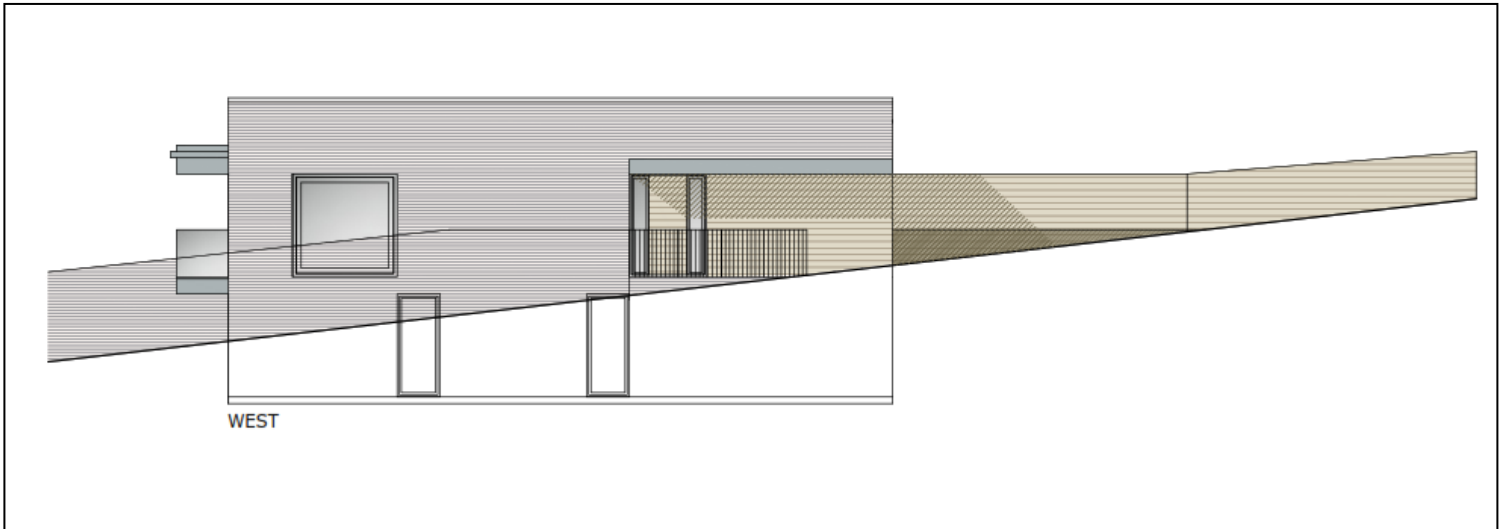
(Figure 2: Previously Approved East Elevation (Drawing No: 1921 – 02e))



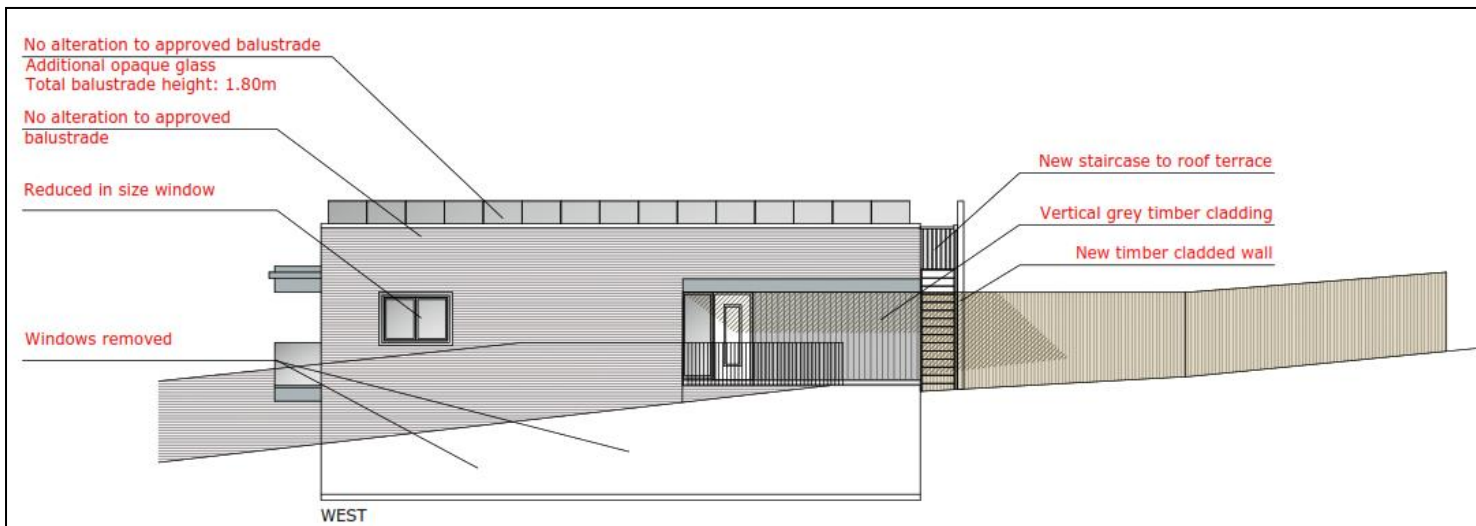
(Figure 3: Proposed East Elevation (Drawing No: 1921 – 03C))

West Elevation

- Removal of two ground floor windows.
- Change from timber to grey timber cladding on ground floor.
- Reduction in size of first floor window



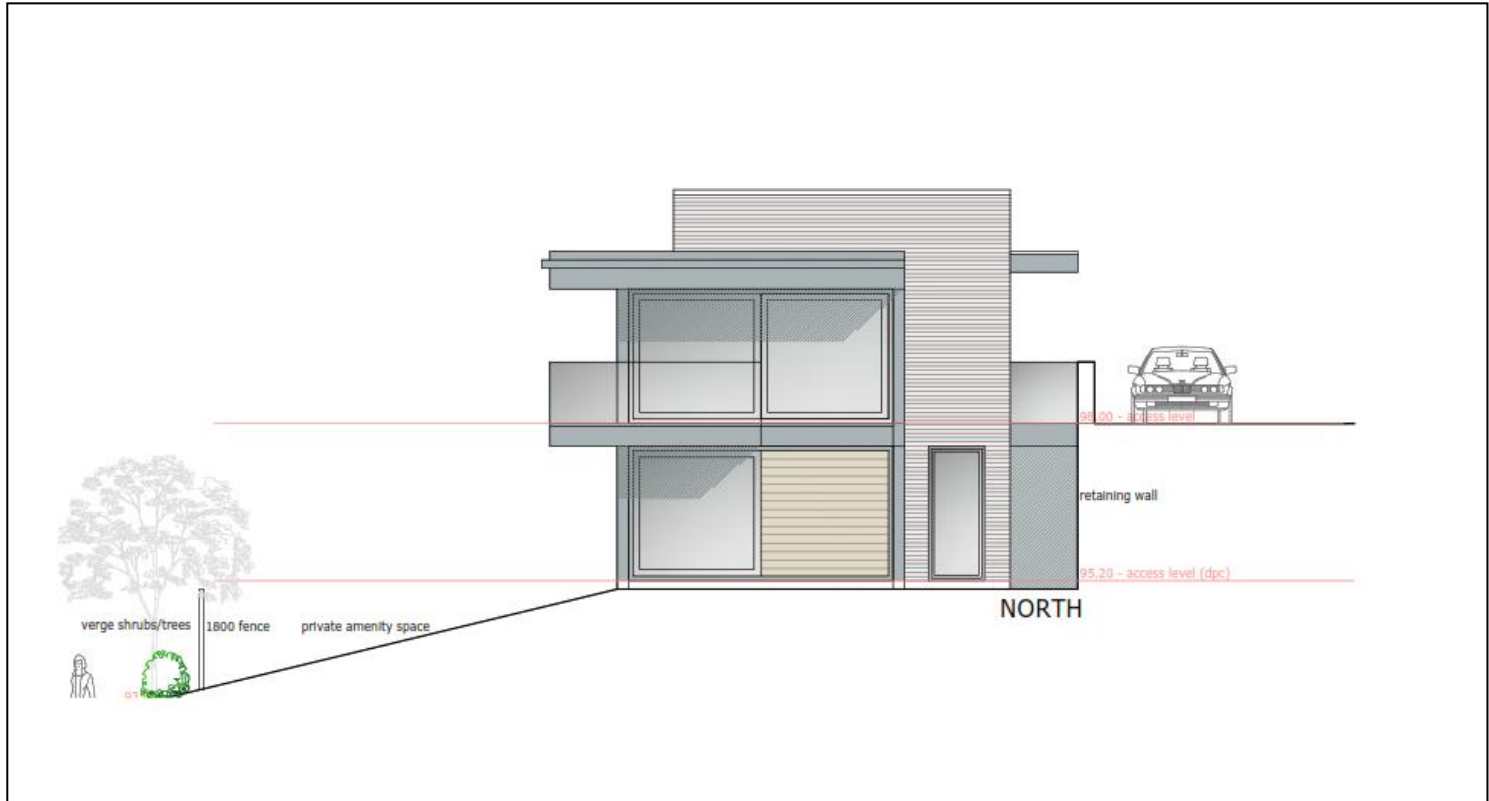
(Figure 4: Previously Approved West Elevation (Drawing No: 1921 – 02e))



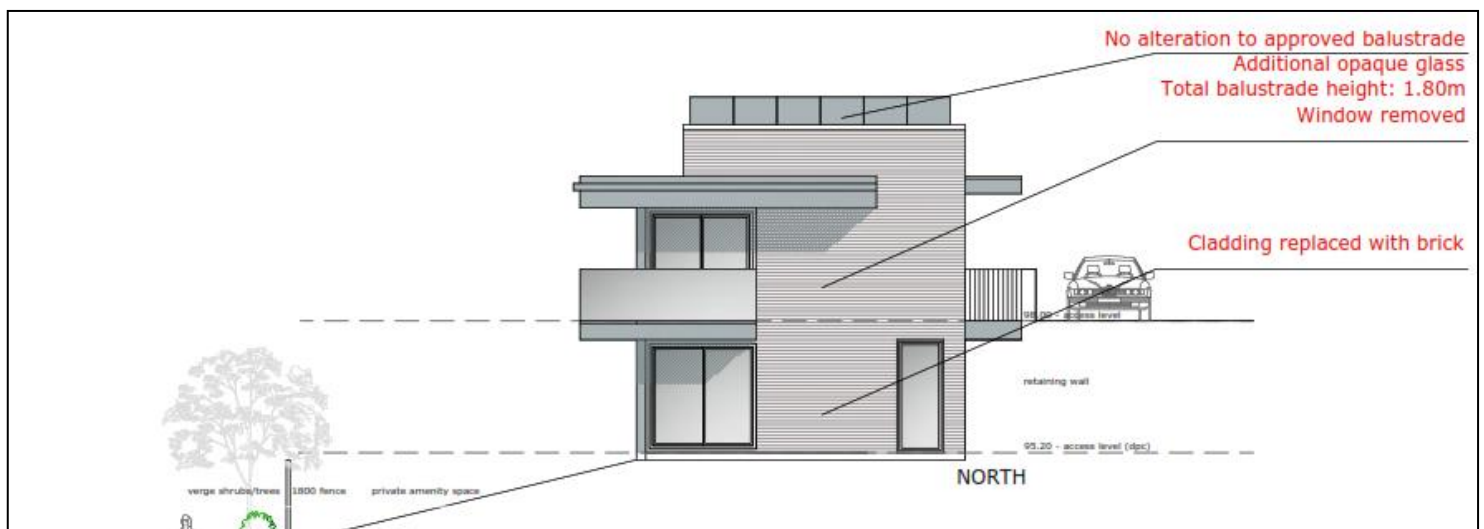
(Figure 5: Proposed West Elevation (Drawing No: 1921 – 03C))

North Elevation

- Omission of first floor window.
- Replacement of cladding with brick.
- Introduction of opaque glazed balustrade.



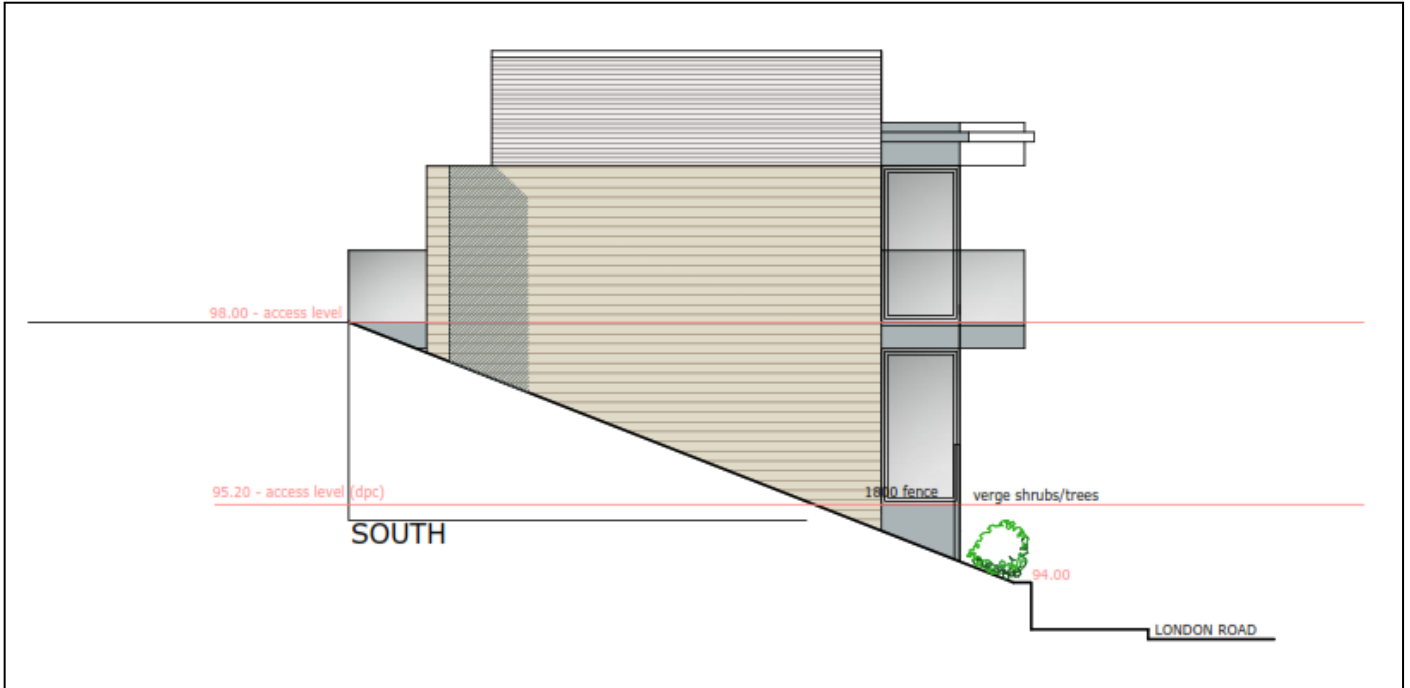
(Figure 6: Previously Approved North Elevation (Drawing No: 1921 - 02e))



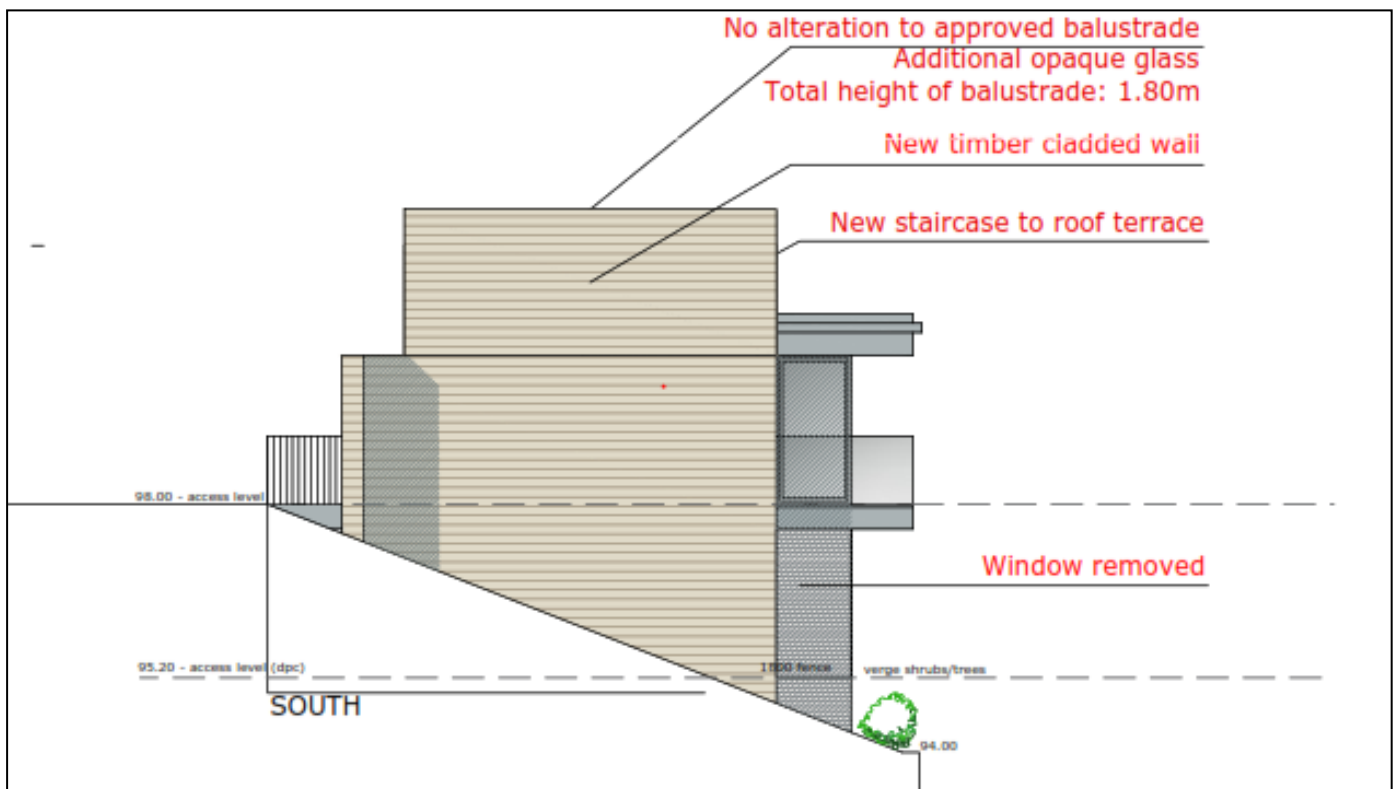
(Figure 7: Proposed North Elevation (Drawing No: 1921 - 03C))

South Elevation

- Omission of ground floor window.
- Introduction of new opaque glazed balustrade.
- New staircase to floor terrace.
- Introduction of a timber wall designed to obscure the stairs and bin storage.



(Figure 8: Previously Approved South Elevation (Drawing No: 1921 – 02e))



(Figure 9: Proposed South Elevation (Drawing No: 1921 – 03C))

- 3.3 The application is accompanied by a full set of plans together with a suite of supporting documents that include:

Previously Approved and Proposed Block Plans (Drawing No: 1912-01H)
Previously Approved and Proposed Elevations (Drawing No: 1912-3C)
Previously Approved and Proposed Floor Plans (Drawing No: 1912-02H)
Proposed Cycle Storage Details (Drawing No: 1912BR-01a)
Proposed Landscaping Plan (Drawing No: 1912BR-04A)

- 3.4 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 application is submitted under Section 73 of the Town and Country Planning Act 1990 that allows an application to be made to vary conditions associated with a planning permission. Section 73 of the Town and Country Planning Act confirms that on such applications the Local Planning Authority shall consider only the question of the conditions subject to which planning permission should be granted, and:
- (a) if they decide that planning permission should be granted subject to conditions differing from those subject to which the previous permission was granted, or that it should be granted unconditionally, they shall grant planning permission accordingly, and
 - (b) if they decide that planning permission should be granted subject to the same conditions as those subject to which the previous permission was granted, they shall refuse the application
- 4.2 In terms of decision making a Section 73 application should be treated just like any other application, and in making their decisions Local Planning Authorities should focus their attention on national and development plan policies, conditions attached to the existing permission and other material considerations which may have changed significantly since the original grant of permission. A successful application to amend conditions results in the issue of what is in effect a new planning permission but does not cancel the old permission.
- 4.3 Guidance for determining s73 applications is set out in the NPPG which states that a minor material amendment is one "whose scale and nature results in a development which is not substantially different from the one which has been approved". It is further stated that the development which the application under s.73 seeks to amend will by definition have been judged to be acceptable in principle at an earlier date. Consequently, the extent of the material planning considerations are somewhat restricted and only the amendments being applied for should be considered at this stage in light of current policy. In terms of decision making a Local Planning Authority therefore has to make a decision on the amendments being applied for with regard to relevant national or local policies which may have changed significantly since the original grant of planning permission as well as the merits of the changes sought.

4.4 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. 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.

4.5 The Development Plan for Worcester now comprises:

- The South Worcestershire Development Plan (SWDP) which was adopted February 2016.

South Worcestershire Development Plan

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

SWDP 21 Design

Material Considerations

1. National Planning Policy Framework

4.7 The latest version of the National Planning Policy Framework (NPPF) was published and came into effect in July 2021. The NPPF sets out the Government's planning policies for England and how these are expected to be applied. It constitutes guidance for local planning authorities and decision takers and is a material planning consideration in determining planning applications.

4.8 The NPPF outlines a series of considerations against which delivering sustainable development should be assessed. Paragraph 10 of the NPPF encourages Local Planning Authorities to approach decision taking in a positive way and to foster the delivery of sustainable development. LPAs are advised at paragraph 9 of the NPPF to look for solutions rather than problems and decision-takers are asked to approve applications for sustainable development where possible.

4.9 The Government believes that sustainable development can play three critical roles in England: an economic role, contributing to a strong, responsive, competitive economy; a social role, supporting vibrant and healthy communities; and an environmental role, protecting and enhancing our natural, built and historic environment.

2. National Planning Practice Guidance

4.10 On 6th March 2014 the Government also published National Planning Practice Guidance (NPPG) that has been updated in the meantime and comprises, amongst other matters: Design, Determining a planning application and Use of Planning Conditions.

3. Supplementary Planning Documents

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

- South Worcestershire Design SPD

5. Planning History

5.1 The following applications are considered relevant to the assessment of these proposals:

19/00409/FUL

Erection of single detached dwelling with associated highways works.

Approval

Apr 2 2020

22/00052/NMA

Application for a non-material amendment to planning approval 19/00409/FUL. Amendment relates to an external staircase to the roof terrace.

Refusal – amendments were material and a S.73 application was required.

Apr 21 2022

Public Consultation by Applicant

None

6. Consultations

6.1 Formal consultation, including display of site notices, 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:

A total of 17 objections have been received during the course of the application and two general comments.

In summary, these concerns relate to the following:

- Overlooking from roof terrace.
- Impact of the size of the dwelling.
- Impact of the dwelling on noise.
- Concerns that the terrace was not included with the proposed plans.
- Concerns that there is insufficient space for parking with the proposed staircase.
- Concerns that the building is taller than expected.
- Overlooking to bedroom windows.
- Concerns that measurements were not included on the proposed plans.

Worcester City Council Landscape and Biodiversity Adviser:

No objections to the amendments provided the car spaces remain adequate.

Worcestershire County Council (Highway Authority):

Initial concerns were raised by the Highways Authority regarding whether there was adequate space for vehicle and cycle parking. Following this, the Highways Authority commented stating that they have no further objections as they have now observed

the site and consider that there is adequate external area for vehicle and cycle parking with the external staircase.

- 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, it is considered 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 policy seeks to ensure that the amenity of neighbours is protected and where relevant maintained. Due to the scale and nature of the changes to the approved scheme, following issues are considered to be relevant in the assessment of this application:
- Design
 - Impact on neighbouring amenity
 - Impact on parking

Design

- 7.2 Policy SWDP 21 of the South Worcestershire Development Plan 2016 requires all development to achieve a high standard of design, having regard to the character of the area and to harmonise with its environment, whilst not having a detrimental impact on the amenities of the neighbouring properties.
- 7.3 In this case, the principle of the erection of a new dwelling at the site has already been established by approved application 19/00409/FUL. It is noted that some of the part-retrospective changes are visible from the street scene, however it is not considered that the changes would have a detrimental impact on the design of the dwelling. It is therefore considered that the retrospective changes accord with the expectations of South Worcestershire Development Plan Policy 21 and do not detract unacceptably from the appearance or setting of the host property.

Impact on neighbouring amenity

A total of 6 objections have been received during the course of the application and two general comments.

In summary, these concerns relate to the following:

- Overlooking from roof terrace.
- Impact of the size of the dwelling on neighbouring amenity.
- Impact of the dwelling on noise.
- Concerns that the terrace was not included with the proposed plans.
- Concerns that there is insufficient space for parking with the proposed staircase.
- Concerns that the building is taller than expected.
- Overlooking to bedroom windows.

- Concerns that measurements were not included on the proposed plans.

Each of these concerns will be considered throughout this report.

Overlooking

- 7.4 During the course of the application, a number of concerns have been raised by neighbouring properties regarding the impact of overlooking from the roof terrace at the dwelling.
- 7.5 However, the principle of access to the roof space through a roof light was established under approved planning application 19/00409/FUL and in the absence of any condition restricting the use of the roof terrace, the roof terrace could be used any time. The current proposals however seek to introduce an external staircase to aid access to the roof terrace.
- 7.6 During the course of this application, amendments have been sought to the roof terrace to reduce any perceived or actual overlooking to neighbouring properties. This includes the introduction of a glass balustrade on the top of the previously approved parapet wall at the dwelling on the Western and Northern Elevations. The proposals also introduce a timber clad wall on the Southern Elevation to conceal the proposed external staircase. A further amendment was also sought following discussions with Councillor Louis Stephen to increase the height of the glass balustrade to ensure that the glass balustrade has a total height of 1.8 metres. These have been agreed by the Applicant and form part of the proposal to be considered.
- 7.7 It is therefore considered that the proposed changes do not result in a more significant level of overlooking than the dwelling as originally approved under application 19/00409/FUL. In actual fact, the proposals provide a betterment to neighbouring properties through effective screening of the roof terrace area.
- 7.8 When considering the impact of the proposed changes to the eastern, northern and western elevations, whilst it is noted that there would be a visual difference between the previously approved window arrangement and the retrospective changes sought by this application, it is however not considered that the proposed changes to windows would result in a detrimental level of overlooking to neighbouring properties opposite the front elevation at the site.

Impact of the size of the dwelling on neighbouring amenity and concerns that the building is taller than expected.

- 7.9 The concerns raised by neighbouring properties relating to the size of the dwelling and the concern that the proposed dwelling appears taller than expected are noted. It is considered that the dwelling is substantial in size and is viable from the streetscene and neighbouring dwellings. The Council's Planning Enforcement Team have measured the 'as built' structure and have confirmed that there is no variance in size or height from the approved scheme.
- 7.10 On balance, it is therefore considered that the amendments sought are acceptable in terms of the impact on the design and appearance of the dwelling and do not have an unacceptable impact on neighbouring residents' amenities.

Impact of the dwelling on noise.

- 7.11 Concerns have been raised by neighbouring properties with regards to the impact of the dwelling on noise within the area due to the height of the dwelling. It is however considered that the current proposals would not result in any more of a detrimental impact on noise within the area than the dwelling as approved under application 19/00409/FUL.

Impact on Parking

- 7.12 Concerns have been raised with regards to the impact of the proposed staircase on parking provision at the site and whether there would be sufficient space for parking and cycle parking after the erection of the proposed staircase.
- 7.13 The Highways Authority have been consulted on the proposals and whilst they raised initial concerns in this regard, following the Highways Authority's Site Visit, revised comments were submitted stating that there is adequate external area for vehicle and cycle parking with the external staircase, therefore the Highways Authority raise no further of objections. In light of this it is therefore considered that the proposals would not result in a detrimental impact on parking or highway safety.

Concerns that measurements have not been included with the proposed plans

- 7.14 The concerns regarding measurements not being shown on the proposed plans are noted, the proposed plans are however drawn to a recognised scale. The submitted plans therefore meet the national validation requirements for planning applications, as such there is no requirement for the Applicant to submit plans with measurements details as the proposed plans can be scaled off.

8. Conclusion and planning balance

- 8.1 The NPPF identifies a series of the components that are considered critical to achieving sustainable development. It is considered that 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:
- Design
 - Impact on neighbouring amenity
- 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; some employment during construction and thereafter upon the occupation of the dwelling it is likely that the occupants would contribute towards maintaining the vitality of local services and facilities. For this role of sustainable development, the balance would be in favour of granting planning permission.
- 8.5 In respect of potential adverse impacts, the proposal has generated a high number of objections and many of these focus around overlooking, the impact of the height of the dwelling, parking and the concern that the dwelling as built doesn't not reflect the plans. These are significant concerns which are to be given appropriate weighting in the determination of this application. It is however considered that previously approved application 19/00409/FUL is a significant material consideration in the assessment of this application.
- 8.6 On balance, it is considered that the submitted scheme has indicated sufficient detail to warrant approval.

It is considered that the amendments sought to implement the obscure glazed balustrade and privacy wall provides some benefit with regards to reducing actual/perceived overlooking.

- 8.7 All comments received as part of the consultation process have been acknowledged 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, it is considered 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 environmentally, socially and economically sustainable form of development that accords with the Framework and the Development Plan as a whole.

9. Recommended Conditions

- 9.1 In the event that members resolve to grant planning permission the following conditions are recommended:

1. 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

Previously Approved and Proposed Block Plans (Drawing No: 1912-01H)

Previously Approved and Proposed Elevations (Drawing No: 1912-3C)

Previously Approved and Proposed Floor Plans (Drawing No: 1912-02H)

Proposed Cycle Storage Details (Drawing No: 1912BR-01a)

Proposed Landscaping Plan (Drawing No: 1912BR-04A)

Reason - To ensure compliance with the approved scheme.

2. The approved obscurely glazed balustrade on the east, west, and north elevations of the dwelling and proposed timber wall on the north elevation of the dwelling shall be installed prior to the first use of the roof terrace and thereafter retained and maintained in perpetuity.

Reason - To ensure the proposal preserves residential amenity and to prevent overlooking to the detriment of neighbouring amenity contrary to policy SWDP21 of the South Worcestershire Development Plan.

3. The proposed windows shall be fitted with high specification acoustic glass and thereafter retained and maintained in perpetuity.

Reason - To ensure that the residents are not unduly affected by external noise within the internal area to ensure a reasonable level of amenity for residents in accordance with policy SWDP21 of the South Worcestershire Development Plan 2018.

4. Prior to their first use on site, details of the proposed timber cladding materials to be used in the construction of the proposed timber wall on the north elevation of the dwelling shall be submitted to and approved in writing by the Local Planning Authority.

Reason - To ensure that the new materials are in keeping with the surroundings and/or represent quality design in accordance with policy SWDP 21 of the South Worcestershire Development Plan.

5. The development hereby permitted shall not be first occupied until sheltered, secure and accessible cycle parking to comply with the approved Proposed Cycle Storage Details (Drawing No: 1912BR-01a) and thereafter the approved cycle parking shall be maintained, retained and kept available for the parking of bicycles only.

Reason: To comply with the Council's parking standards.

6. The development hereby approved shall not be occupied until the access including pedestrian visibility, turning area and parking facilities shown on Drawing No. 1912-01H have been provided. These areas shall thereafter be retained and kept available for their respective approved uses at all times.

Reason: In the interests of highway safety and to ensure the free flow of traffic using the adjoining highway.

7. All planting and seeding/turfing shall be carried out in accordance with the submitted Proposed Landscaping Plan (Drawing No: 1912BR-04A) in the first planting and seeding/turfing seasons following the first occupation of the development.

The planting shall be maintained in accordance with the approved schedule of maintenance. Any trees or plants which, within a period of five years from the completion of the planting, die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

Reason - To ensure the proposed development does not have an adverse effect on the character and appearance of the area in accordance with policies SWDP21 and SWDP25 of South Worcestershire Development Plan.

8. Prior to the first installation of any exterior lighting on the roof terrace, a lighting scheme shall be first submitted to and approved in writing by the Local Planning Authority. This shall detail the location of any exterior lighting, the type of lighting and the times of the day that lights will be turned on.

Reason - To ensure the proposal preserves residential amenity in accordance with policy SWDP21 of the South Worcestershire Development Plan.