

<b>Application Number</b>	<b>22/01005/HP</b>
<b>Site Address</b>	<b>93 Penhill Crescent, WORCESTER, WR2 5PU</b>
<b>Description of Development</b>	Retrospective permission for retention of timber-framed residential annexe for ancillary use and demolition of detached garage.
<b>Expiry Date</b>	21 April 2023
<b>Applicant</b>	Mr Arnold Moyo
<b>Agent</b>	Mr Arnold Moyo
<b>Case Officer</b>	Lydia Hall
	lydia.hall@worcester.gov.uk
<b>Ward</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/22/01005/HP">https://plan.worcester.gov.uk/Planning/Display/22/01005/HP</a>
<b>Recommendation</b>	<b>The Corporate Director - 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 18 November 2022 and was due for determination on 17 February 2023. An extension of time for the determination of the application has been agreed until 21 April 2023 to allow determination by the Planning Committee.
- 1.2 The application is referred to the Planning Committee at the request of Councillor Udall, a St John's Ward Member.

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

- 2.1 The site is situated on the east side of Penhill Crescent and comprises the northernmost in a pair of mid to late C20th two-storey, semi-detached houses with front and rear gardens. The neighbouring houses to the north and south are of a similar scale and design. To the rear (east), the site is bounded by the rear gardens of two detached bungalows that front Sapphire Crescent.
- 2.2 The site is generally flat and there is no notable change in level between the site and the neighbouring properties to the north and south, however, the site is elevated above the rear gardens of the properties to the rear (i.e. the bungalows fronting Sapphire Crescent).
- 2.3 There are no notable trees on the site, nor within the surrounding gardens and no part of the site is designated as Green Space.
- 2.4 There are no listed building on the site, nor in its vicinity and the site is not located within a conservation area.

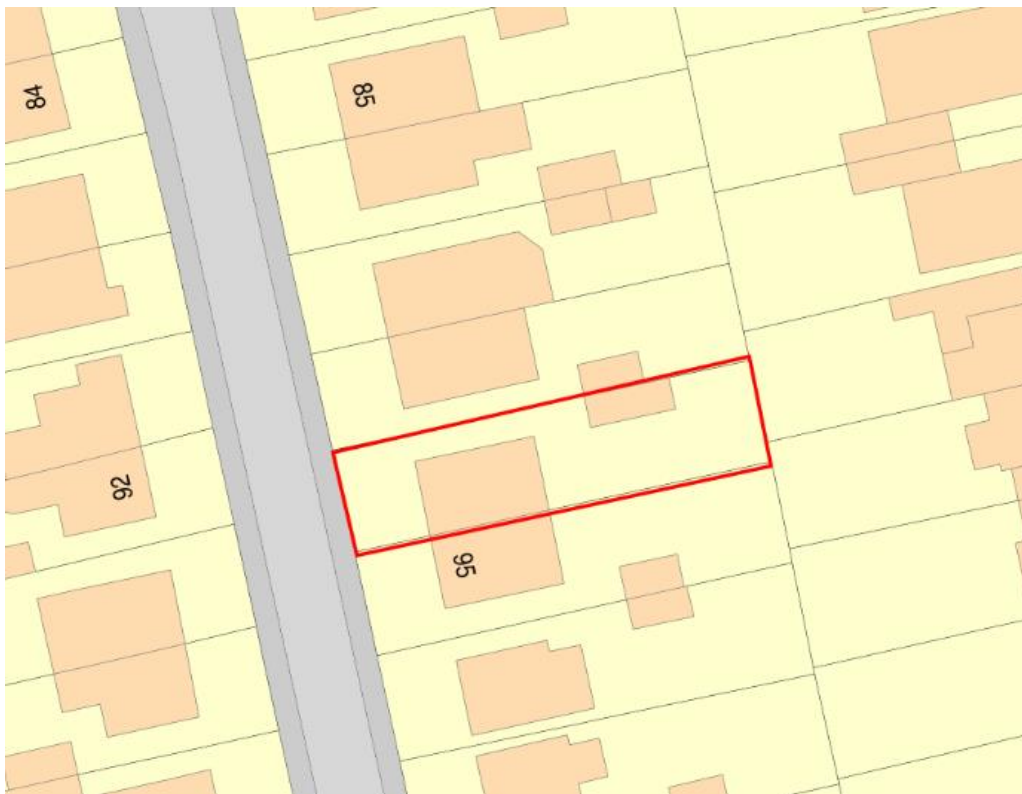


Figure 1 – Site location plan

## **3. The proposals**

- 3.1 This application seeks permission, partly retrospectively, to retain and alter the partially constructed single-storey building, located at the eastern end of the rear garden. It is proposed that the building would provide ancillary accommodation for the applicant's parents, who it is stated are dependent and require the support of the family living in the main house.



Figure 2 – Proposed site plan

3.2 The building measures 7.28 metres in width by 4.56 metres in depth. As constructed it has a flat roof, with a maximum height of 2.8 metres. The application has been amended during its consideration, such that the scheme for which permission is now sought is for a revised roof height (to the rear elevation) and design: a mono-pitched roof, which is 2.8 metres high at the front (facing into the rear garden) reducing to 2.5 metres in height at the rear, alongside the rear boundary. Two windows and a door are proposed in the front (west) elevation – facing the main house; no windows or doors are proposed in the side or rear elevations. The submitted proposed plans also include the demolition of the existing detached single garage, located within the rear garden, adjacent to the northern boundary of the site, between the house and the building subject to this application. This demolition has now been completed.

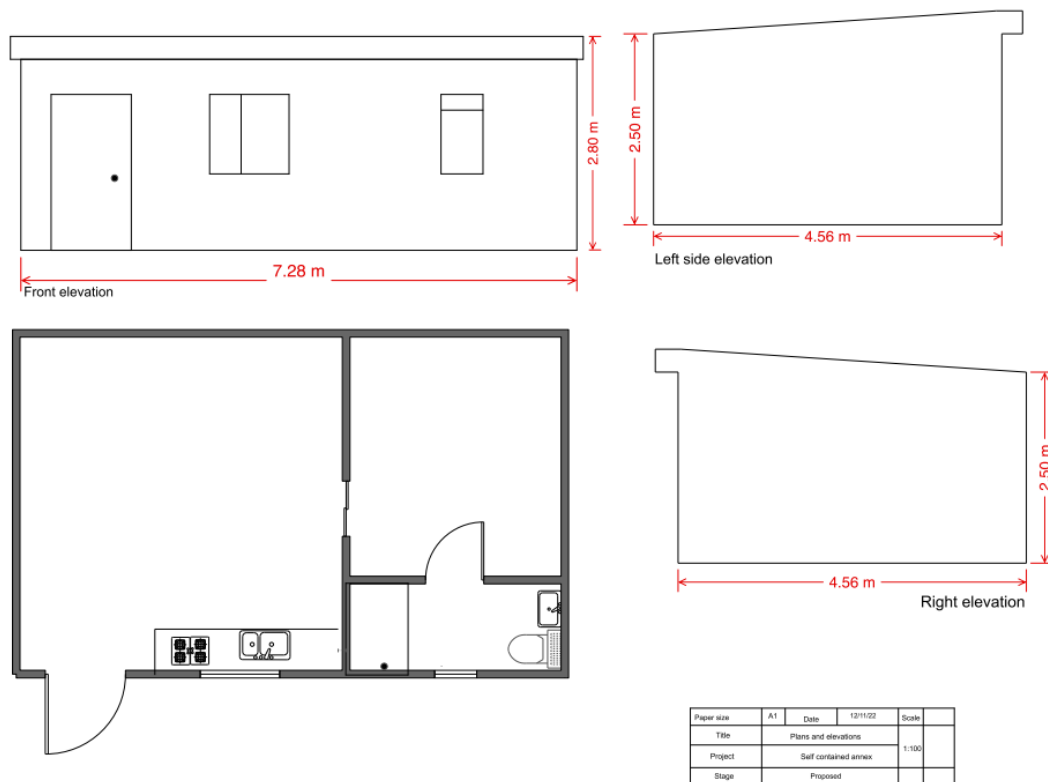


Figure 3 – Proposed plan and elevations

3.3 The annex is proposed to provide an open plan living/kitchen area and a bedroom with an en-suite shower room; in total the annex has a net internal floor area of 30 square metres. The applicant has confirmed that it is the intention that the occupants of the

annex would be regularly preparing and eating meals, watching television and socialising with the family in the main dwelling and that there will be no separate address, post box, utilities, vehicular/pedestrian access, parking or garden area for the annex.

- 3.4 The proposal external materials are horizontal cedar cladding (grey slate) to the front elevation, dark grey box profile metal sheeting to the side and rear elevations, recyclable black rubber to the roof (50+ years expected life-span) and uPVC frames to the windows and door.
- 3.5 The application is accompanied by the following plans and supporting documents:
- Site location plan
  - Proposed site plan
  - Proposed plan and elevations
  - Water Management Statement
  - Supporting Statement
  - Schedule of External Materials (dated 3.4.2023)
- 3.6 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 to have regard to the Development Plan, insofar as it is material to the application, 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 to be determined in accordance with the Plan, unless material considerations indicate otherwise.
- 4.2 The Development Plan for Worcester now comprises:
- The South Worcestershire Development Plan (SWDP), adopted Feb 2016;
  - The Worcestershire Waste Core Strategy, adopted in December 2012; and
  - The Worcestershire Minerals Local Plan 2018-2036, adopted July 2022.

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

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

SWDP 4 – Moving Around South Worcestershire  
SWDP 21 – Design  
SWDP 22 – Biodiversity and Geodiversity  
SWDP 29 – Sustainable Drainage Systems

#### **The Waste Core Strategy for Worcestershire - Adopted Waste Local Plan 2012-2027**

- 4.4 The Waste Local Plan was adopted by Worcestershire County Council on 15 November 2012 and is a plan outlining how to manage all the waste produced in Worcestershire up to 2027.

## **Material Considerations**

1. National Planning Policy Framework (NPPF)
2. National Planning Practice Guidance
3. Supplementary Planning Documents

4.5 The South Worcestershire Design Guide Supplementary Planning Document (SPD) is also relevant to the assessment of the proposals.

## **Other Material Considerations**

4.6 The following documents are considered are relevant to the application proposals however due to the documents not being planning documents and therefore not adopted the weight attached to the decision should be considered as limited:

- Worcestershire's Local Transport Plan (LTP4) 2018 – 2030
- Worcestershire County Council Streetscape Design Guide 2022

## **5. Planning History**

5.1 The site has been the subject of the following planning applications:

- **14135B** – Outline application for the development of land for a housing estate. Approved 20th Nov 1959.
- **14135D** – Outline application for the erection of 103 detached bungalows, 57 detached houses and 60 semi-detached houses. Approved 17th Jun 1960.

## **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:

### **Third Party Comments:**

6.2 Two letters of objection have been received from local residents who raise the following issues:

- Building is unsightly, high and blocks views of the sunset from neighbouring houses and gardens – thus reducing light to both
- Concern regarding drainage and rainwater collection / dispersal (due to the lower level of land to the rear)
- No consultation letters received
- Work commenced without planning permission

6.3 A third representation was received from a local resident who did not provide their name or address. A representation without a name and address is not valid and cannot be considered by the Council. The person was contacted and asked to provide the missing details, however, at the time of writing they had failed to do so.

6.4 The following comments have been received from consultees:

**Worcestershire County Council Highways** – No objection subject to the annexe remaining ancillary to the host dwelling at all times.

**Landscape & Biodiversity Officer** – Objection: “Backland dwelling development such as this, which also takes up substantial amenity / garden space should be avoided. Also the structure is almost 3m tall and likely to be out of character for this area of compact suburban rear gardens, especially as located at the end of the garden. Any further accommodation needed ought to be designed as an extension to the main dwelling, and there are many design techniques to make it self-contained if required.”

**South Worcestershire Land Drainage Partnership** – No objection. Initial comments received advised that the use of soakaways was acceptable in principle – subject to site and ground conditions being suitable for infiltration drainage methods. However, on re-consultation (following concerns raised by local residents regarding the clay-heavy soil being unsuitable for infiltration methods), a pre-commencement condition was recommended, requiring appropriate percolation testing to be carried out to establish whether ground conditions are suitable for infiltration and, if not, for an alternative method of surface water disposal to be submitted for approval.

- 6.5 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.
- 6.6 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 SWDP 1 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 benefits and adverse impacts considered to establish whether what is proposed is sustainable development.
- 7.2 The key issues for assessment are considered to be the principle of development and impact of the proposals on:
- Character and appearance of the area and the host property
  - Amenity of neighbouring properties
  - Parking and highway safety
  - Surface water drainage

### **Principle of development**

- 7.3 The application seeks planning permission for the provision of additional residential accommodation, within the curtilage of an existing dwelling to accommodate dependant family members. The site is located within the urban area and relates to an established residential property.
- 7.4 The South Worcestershire Development Plan does not include a policy relating to residential annex accommodation. It is noted, however, that the Council’s Design Guide SPD provides advice on this issue, stating that *“an extension or alteration to a dwelling to provide further accommodation for use by a dependent relative is usually acceptable provided that the proposal meets the requirements of the extensions design guidance, and it is designed to demonstrate dependency on the host property. The form and layout should be such that the development could be used in future as part of the main residential property. Ancillary accommodation should only provide limited*

*accommodation and it should share facilities with the main property (e.g. kitchens, outside amenity space, parking) and be physically linked” (para. 8.3.26).*

- 7.5 This proposal is not for an extension to the existing dwelling but rather a detached building within its curtilage; on this basis, it is acknowledged that the proposed accommodation will not be physically linked to the main dwelling. The advice further states that such accommodation should be designed to (i) demonstrate dependency on the host property, for example by sharing kitchens, outside amenity space and parking; and (ii) enable it to be used as part of the main residential property in the future.

#### *Dependency*

- 7.6 It is noted the proposed annex contains a small kitchen area within the living room; however, the supporting statement submitted with the application confirms that it is the intention that the occupants would regularly be preparing and eating meals with the family in the main dwelling. With regard to the sharing of other facilities, no division of the rear garden is proposed and no separate parking area is proposed for the annex. Furthermore, it has been confirmed that the operation of the annex will be integrated with the main dwelling in as much as it will not have a separate post box or be served by separate utilities. Given the close proximity of the proposed building to the main dwelling (circa 12 metres) and its shared access, garden and parking, it is considered that the use of the building would be ancillary to that of the existing property. Furthermore, due to its size and the nature of accommodation proposed it would be clearly subservient to that provided in the existing property. In summary, subject to a condition prohibiting use of the annex as an independent self-contained dwelling, the proposed development is considered acceptable in terms of its level of dependency on the main dwelling and ancillary nature.

#### *Future ancillary use*

- 7.7 Notwithstanding the detached nature of the accommodation, it comprises a large garden building which could be used for any number of activities associated with the enjoyment of the occupiers of the main dwelling should it no longer be required as annex accommodation in the future. For example, it could be used as garden room, a gym / games room or a home office. On this basis, it is considered that the proposal is acceptable in terms of the ability of the building to be used as accommodation ancillary to the main dwelling in the future.
- 7.8 In summary and further to all of the above, it is considered that the proposal is acceptable in principle, subject to a condition restricting its use (as outlined above).

#### **Character and appearance**

- 7.9 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.
- 7.10 The proposal is to be located at the end of the rear garden, as such, only fleeting views of the front elevation will be taken along the side of the existing house from within the public domain. The building is of simple design, with high quality external materials proposed on its front elevation, on this basis, it is not considered that the annex would, by reason of its appearance, have an adverse impact on the character and setting of the host property or the street scene.
- 7.11 The building is substantial in scale, with a footprint of 33.19 square metres, but is single storey with a simple mono-pitched roof, with a maximum height of 2.8 metres. It would be visually subservient, by virtue of its siting, scale and design to the

principal, two storey, semi-detached property. Furthermore, the application as submitted proposed the demolition of the existing garage on the site, which has now taken place and this mitigates for the loss of garden space resulting from the siting of the annexe building.

- 7.12 An important material consideration in assessing the physical impact of the proposed building is what could be erected under permitted development (Class E, Part 1, Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), i.e. 'the fall-back' position. In this respect, a building incidental to the enjoyment of a dwellinghouse with a footprint of the same size as that erected on site (or indeed, a larger one), would be permitted development, subject to its height not exceeding 2.5 metres where the building would be sited within 2 metres of the boundary of the curtilage and its use being incidental to the enjoyment of the dwellinghouse as such.
- 7.13 The proposed development retains a rear garden area for the host dwelling that measures circa 90 square metres, furthermore, whilst the annex is within its rear garden, a separation distance of circa 12 metres is maintained between the annex and the rear of the dwelling, all of which is considered sufficient to maintain the sense of space to the rear of the host dwelling and the amenities of that dwelling in terms of access to private open space.
- 7.14 Taking into account all of the above, it is considered that the proposal is acceptable in terms of its impact on the character and appearance of the area and the residential amenities of the host property.

### **Amenity of neighbouring properties**

- 7.15 Paragraph 130(f) of the NPPF requires planning policies and decisions to, amongst other matters, "create places ... with a high standard of amenity for existing and future users" and Policy SWDP 21 (Design) requires that new development should not have a significant adverse effect on neighbouring amenity. In addition, the Council's Design Guide SPD provides design advice for householder developments.
- 7.16 The proposed building is single-storey and does not include any windows in its rear or side elevations. In terms of its physical impact on neighbouring properties, it is located approximately 10 metres from the rear elevation of the dwelling to the north; however, there is a detached garage and shed in the rear garden of that property located in between the dwelling and the proposed building which help to screen it. With regard to the neighbouring property to the south, the proposed building will be visible from the rear of that dwelling; however, on the basis of the distant separation (circa 12 metres), orientation and the existing boundary fencing, it is considered that it would not have an adverse impact on the amenities of that dwelling, by reason of loss of light or outlook, or that it would be overbearing.
- 7.17 With regard to properties to the rear, that most affected is 17 Sapphire Crescent, which adjoins the site for most of its rear boundary. As stated above, that property is situated on lower ground than the application site and so, notwithstanding the separation distance of approximately 15 metres between the rear elevation of that dwelling and the rear boundary of the site, the proposed building, by reason of its width and height, does appear conspicuous (see Figure 4). The issue to consider however, is whether the building is harmful to the amenities of the neighbouring dwelling and if so if they are significantly severe such that they justify the refusal of planning permission. The building, as currently erected, is approximately 2.8 metres high to the rear and, as a result, is approximately 1 metre taller than the rear boundary fence with 17 Sapphire Crescent (see Figure 4).





Figure 4 – Proposed building as erected (taken from the rear wall of the conservatory at 17 Sapphire Crescent)

- 7.18 The applicant has agreed to reduce the height of the building to the rear elevation by 0.3 metres – to 2.5 metres high. The red line on Figure 4 is an estimation of the proposed new height.
- 7.19 As mentioned above, a consideration in assessing the physical impact of the proposal on neighbouring properties is the fall-back position – i.e. what *could* be built under permitted development. In this respect, if planning permission were to be refused for the current application the building itself could be retained as permitted development – subject to it being reduced to 2.5 metres in height on all sides, albeit not as an annex (incidental purposes only).
- 7.20 It is noted that the proposed building is circa 0.8 metres from the rear boundary of the site, which affords an opportunity to provide some planting behind it, to soften its visual impact when viewed from the properties to the rear. In this respect, a condition is proposed, requiring soft landscaping details to be submitted for approval – to include a trellis covering the whole wall with climbers such as honeysuckle and clematis and / or an Escallonia sp. hedge planted at the base of the building.
- 7.21 Given the distance between the proposed building and the dwellings on 17 Sapphire Crescent, the proposed reduced height of the building compared with that built to date, the improvements to its current appearance once the external materials are provided and the proposed soft landscaping of its rear elevation, it is considered that the modified building would not adversely impact the residential amenities of occupiers of the dwellings on Sapphire Crescent, by reason of loss of light or outlook, or by appearing visually overbearing, to such a degree as to justify the refusal of planning permission.
- 7.22 In summary, having considered the impact on all neighbouring properties, it is considered that the proposals are acceptable in terms of their impact on the amenities of neighbouring properties, subject to the landscaping condition outlined above.

### **Parking and highway safety**

- 7.23 Paragraph 110 of the NPPF states that in assessing specific applications for development, it should be ensured that safe and suitable access to the site can be achieved for all users. Furthermore, with regard to highway safety, paragraph 111 states that “*development should only be prevented or refused on highways grounds if*

*there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe".*

- 7.24 The relevant development plan policies on this issue are Policy SWDP 4 (Moving Around South Worcestershire) and Policy SWDP 21 (Design). Policy SWDP 21 states that *"vehicular traffic from the development should be able to access the highway safely and the road network should have the capacity to accommodate the type and volume of traffic from the development"*.
- 7.25 With regard to parking, Worcestershire County Council's Streetscape Design Guide 2020 (SDG) sets out indicative standards for new dwellings. For dwellings with 4-5 bedrooms the requirement is 3 no. car parking spaces and 2 no. cycle parking spaces.
- 7.26 The additional bedroom in the proposed annex would increase the parking requirement at the site to 3 no. parking spaces, provision for which is shown on the proposed plans to the front of the dwelling (and which has already been provided on site).
- 7.27 County Highways have assessed the proposal and have raised no objection on parking or highway safety grounds, subject to the annexe remaining ancillary to the host dwelling at all times. A condition is recommended in this respect. Consequently, it is considered that the development is acceptable in terms of its impact on parking and highway safety.

### **Surface water drainage**

- 7.28 Policy SWDP 29 requires developments to demonstrate that site drainage and run-off will be managed in a sustainable and co-ordinated way that mimics the natural drainage network.
- 7.29 The submitted Water Management Statement proposes the installation of water butts at rainwater downpipe positions with overflows discharged to a soakaway. The location of the proposed soakaway has been provided on the proposed site plan and is in accordance with the required separation distances to buildings and site boundaries. The South Worcestershire Drainage Land Drainage Partnership (SWLDP) have assessed the proposals and initially raised no objection in principle to the use of a soakaway at the site; however, following concerns raised by local residents regarding the soil type and lack of infiltration, they have provided revised comments recommending the imposition of a pre-commencement condition requiring appropriate percolation testing to be carried out to establish whether ground conditions are suitable for infiltration methods and, if not, for an alternative method of surface water disposal to be submitted for approval. As development has commenced the recommendation condition has been modified to provide an appropriate alternative trigger for details to be submitted, approved and complied with.

### **Other issues**

- 7.30 The Council's system indicates that consultation letters were sent out to all neighbouring properties with a boundary that adjoin the site on 21 November 2022.
- 7.31 The building currently on site is unauthorised. The work commenced prior to the grant of planning permission is entirely at the applicant's own risk. Nonetheless, the application should be assessed against the relevant policies of the Development Plan and any other material considerations; in the same way that an application submitted before the commencement of development would be.
- 7.32 It is considered that any noise and disturbance arising from use of the building as a residential annex is unlikely to be substantially greater than its use for a purpose ancillary to main dwelling.

7.33 With regard to the disposal of sewage, the Water Management Statement states that the annex is to be connected to the existing sewer located in the rear garden of the house. This is the usual arrangement for an extension to an existing dwelling and is considered acceptable (despite the fact that the current application is for additional accommodation detached from the main house).

## **8. Conclusion and Planning Balance**

8.1 All comments received as part of the consultation process and all material planning issues have been considered in the determination of the application. The proposed development is considered to be acceptable and would not result in adverse impacts that would justify the refusal of planning permission in terms of its impact on the visual or residential amenities of the area. Policy compliant parking has been provided and the Local Highway Authority has no objection, subject to the accommodation being ancillary to the existing dwelling. The development proposed complies with Development Plan policies and there are no material considerations to indicate that an alternative decision should be made. On this basis it is recommended that planning permission be granted, subject to conditions.

## **9. Recommended Conditions**

9.1 In the event that Members are minded to grant planning permission the following conditions are recommended, as outlined in this report:

1. The height and roof design of the existing building shall be altered to that shown on the approved drawing (Proposed plan and elevations, received by the local planning authority on 17/3/2023) within 6 months of the date of this decision or prior to the first occupation of the annexe hereby approved, whichever is the sooner.

Reason: To ensure that building would not have an adverse impact on the amenity of neighbouring properties, to accord with Policy SWDP 21 of the South Worcestershire Development Plan 2016, the South Worcestershire Design Guide Supplementary Planning Document and the requirements of the National Planning Policy Framework.

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

Site Location

Amended Proposed Site Plan (received by the local planning authority on 12/4/2023)

Amended Proposed Plan and Elevations (received by the local planning authority on 6/4/2023)

Water Management Statement

Supporting Statement

Schedule of External Materials (dated 3/4/2023)

Reason: To ensure compliance with the approved plans in the interests of a satisfactory form of development and to comply with Policy SWDP 21 of the South Worcestershire Development Plan 2016 and the National Planning Policy Framework.

3. Prior to the first occupation of the building hereby approved it shall be clad in the approved external materials (Schedule of External Materials, dated 3/4/2023).

Reason: To ensure a high quality development in accordance with Policy SWDP 21 of the South Worcestershire Development Plan 2016 and the National Planning Policy Framework.

4. Prior to the first occupation of the building hereby approved a landscaping scheme shall be submitted to and approved in writing by the local planning authority. The submitted details shall include a trellis covering the whole rear wall of the building and planted with climbers, such as honeysuckle and clematis and / or an Escallonia sp. hedge planted at the base of the rear elevation of the building. The submitted details shall include a planting plan showing the location, spacing and species of individual plants and / or trees and their size at the time of planting. All planting shall be carried out in accordance with the approved details in the first planting season following first occupation of the building and 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 impact on the character and appearance of the area and to enhance biodiversity in accordance with Policies SWDP 21 and SWDP 22 of South Worcestershire Development Plan 2016.

5. No further groundworks shall take place until full details of the means of surface water disposal, including the results of percolation testing carried out in accordance with BRE Digest 365, or such other equivalent guidance as may be agreed, have been submitted to and agreed in writing by the local planning authority. The approved means of surface water disposal shall be implemented in full prior to first occupation of the development hereby approved and shall thereafter be retained and maintained as part of the development.

Reason: To ensure that an appropriate sustainable drainage system is provided to serve the development in accordance with Policies SWDP 21 and SWDP 29 of the South Worcestershire Development Plan 2016.

6. The development hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as 93 Penhill Crescent. The development shall not be used as an independent self-contained dwelling separate from the dwelling known as 93 Penhill Crescent.

Reason: To preserve the amenities of the locality and ensure sufficient off street parking is provided in the interests of highway safety, in accordance with Policy SWDP 21 of the South Worcestershire Development Plan 2016.