



Committee and date
 Northern Planning Committee
 16th August 2022

Development Management Report

Responsible Officer: Tracy Darke, Assistant Director of Economy & Place

Summary of Application

Application Number: 22/02303/FUL	Parish:	Withington
Proposal: Erection of outbuilding, outdoor kitchen, new gated access and external landscaping works to include 2No pergola structures		
Site Address: Blandings Withington Shrewsbury Shropshire SY4 4QA		
Applicant: Mr Steve Knight		
Case Officer: Gemma Price	email	: gemma.e.price@shropshire.gov.uk

Grid Ref: 357757 - 313242

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Recommendation:- Grant Permission subject to the conditions set out in Appendix 1.

Recommended Reason for Approval

REPORT

1.0	THE PROPOSAL
1.1	The application seeks planning permission for the erection of outbuilding, outdoor kitchen, new gated access and external landscaping works to include 2No pergola structures to the dwelling known as Blandings, Withington, Shrewsbury.
1.2	The proposals are for external landscaping works which include an outbuilding which will contain a gym, storeroom and wet room, open sided pergola type structures to provide covered areas for a hot-tub, fire pit and outdoor kitchen and a new gated entrance finished with a low-level stone wall and masonry pillars which will hang electric timber gates and will provide secure access to the dwelling.
1.3	<p>Planning History:</p> <ul style="list-style-type: none"> • SA/74/0763 – Erection of one dwelling – application REFUSED. • SA/77/1069 - Erection of a dwelling with integral private garage and formation of vehicular and pedestrian accesses – application GRANTED. • SA/84/1172 - Alterations and additions at the rear to provide a single storey flat roof extension to provide bedroom accommodation for elderly persons and use ground floor of existing dwelling as kitchen, lounge, and dining room – application REFUSED. • SA/85/0196 - Alterations and additions at the rear to provide a single storey part flat roof part pitched roof extension to provide bedroom accommodation for elderly persons and use ground floor of existing dwelling as kitchen, lounge and dining room – application GRANTED. • PREAPP/19/00367 - Extensions and remodelling of the existing property – application ACCEPTABLE IN PRINCIPLE. • 20/00705/FUL - Erection of two storey and single storey extensions with first floor rear balcony; internal reconfiguraiton; detached double garage with external staircase to first floor storage – application GRANTED. • 20/02482/AMP - Non Material Amendment to planning application 20/00705/FUL to removal wall within curtilage – application GRANTED. • 20/03226/VAR - Variation of condition no.2 (approved plans) and condition no.5 (use of garage) attached to 20/00705/FUL to allow for the redesign of the approved garage and its relocation to the northern boundary – application GRANTED. • 21/03657/DIS - Discharge of condition 3 (Materials) attached to planning permission 20/03226/VAR Variation of condition no.2 (approved plans) and condition no.5 (use of garage) attached to 20/00705/FUL to allow for the redesign of the approved garage and its relocation to the northern boundary – discharge conditions APPROVED. • 21/04688/AMP - Non Material Amendment for the omission of an originally proposed window, replaced with a bi-folding door Addition of total 3 No. Rooflights (2 No. to ground floor dining area and 1 No. to first floor dressing area) to approved planning permission 20/00705/FUL Erection of two

	storey and single storey extensions with first floor rear balcony; internal reconfiguration; detached double garage with external staircase to first floor storage – application GRANTED.
1.4	Permitted development rights have been removed from the property under planning application 20/00705/FUL and therefore although the majority of the proposals fall within the applicants Permitted Development rights, as these have been removed the applicant requires planning permission.
2.0	SITE LOCATION/DESCRIPTION
2.1	Blandings is a newly constructed modern detached two-storey dwelling, located within village of Withington, Shrewsbury. The dwelling is set back from the highway by approx. 76m and is accessed via a long private drive which only serves access to the Blandings. The dwelling benefits from a parking and turning area to the principal elevation of the site and therefore parking and access will remain unchanged and will not be impacted by the proposals. The detached dwelling sits within a large plot and is bounded by neighbouring dwellings to the north, east and west elevations of the site, to the south elevation is a playing field which is Shropshire freehold Land.
3.0	REASON FOR COMMITTEE/DELEGATED DETERMINATION OF APPLICATION
3.1	The Parish Council are of a contrary view to officers. At the draft agenda setting meeting on the 3rd August 20221 the Committee Chair and Vice Chair both agreed that taking into account the findings within the officers report, the application should be determined by the Planning Committee.
4.0	COMMUNITY REPRESENTATIONS
4.1	- Consultee Comments
4.1.1	<p>Withington Parish Council</p> <p>Following the Withington Parish Council meeting held on Wednesday 6th July 2022 at which the planning application was discussed and consultation with residents whose properties are adjacent to the Blandings we wish to object for the following reasons.</p> <p>1) Visual Amenity/Layout and Density of Building/Design, Appearance and Materials</p> <p>From the designs provided we are very concerned that the curtilage of the property will have a very high ratio of development/buildings to what would be acceptable as visually amenable in a small village such as Withington. The design of the gym/outbuilding appears to be very overbearing and out of proportion with the rest of the property.</p> <p>The proposed development will result in a significant increase in the amount of land within the curtilage being paved over and we are concerned about potential flooding risk due to water runoff.</p> <p>The slope of the property runs towards the Village Green and specifically to an area of the Green known as the "wet area" due to flooding problems. We can only</p>

	<p>see this development exasperating the situation.</p> <p>2) The significant negative impact upon neighbouring houses, specifically Numbers 5, 7, and 9 of The Woodlands with regards to:</p> <ul style="list-style-type: none"> o Overlooking and loss of privacy o Overshadowing o Noise and disturbance o Smells from the outside kitchen <p>We are aware that the residents of 5,7 and 9 The Woodlands have submitted their individual objections and the Parish Council support their views.</p> <p>We are also aware that there is a land ownership dispute between the owners of the Blandings and residents in the Woodlands upon which this development would take place. Whilst this is a civil issue and not the responsibility of the Parish Council or Shropshire Council to resolve and not a reason to reject the application, we would suggest that if planning permission is granted then construction should not be allowed to start until the issue has been resolved.</p>
4.1.2	<p>SC Drainage/ SUDS</p> <p>Informative recommended.</p>
4.1.3	<p>SC Highways</p> <p>I have reviewed the proposed entrance wall proposals as shown on Drawing No.PL-006 dated 27/07/2022 and am satisfied that the wall will not have an adverse impact upon visibility from the access.</p>
4.1.4	<p>SC Regulatory Services (Environmental Protection)</p> <p>The proposed development is designed to maximise the use of the external space beyond what is typical of a residential property. Depending on the nature and frequency of the use of this area there is potential for it to impact on the amenity of the surrounding residential properties due to noise and odour. I would recommend that a 2.4m high acoustic fence is constructed around the boundary of the property to minimise the impact of noise from the external areas.</p> <p>If the property is only used for normal residential use, the area is unlikely to result in a significant impact on amenity with the recommended mitigation. However, should the property be used for holiday lets or any other commercial purpose associated with the outdoor space it would have a significant adverse impact on surrounding properties. Therefore should the planning authority be minded to approve this application I recommend the following conditions are applied:</p> <ol style="list-style-type: none"> 1. The property shall not be used for holiday lets or any other form of short term letting. 2. A 2.4m high acoustic barrier, of at least 10kg/m2 in density, shall be constructed around the boundary of the property. <p>Reason: To protect the amenity of the neighbouring residential properties</p>
4.2	- Public Comments
4.2.1	<p>This application was advertised via notice at the site, at the time of writing this report four objection comments have been received which are summarised as follows:</p> <ul style="list-style-type: none"> • Inaccuracies in plans • Problems for neighbours due to close proximity to fence lines

	<ul style="list-style-type: none"> • Buildings will exceed a standard fence height • Neighbours dwelling 10m away from proposed outbuilding • Visual impact • All matures trees and hedgerows have been removed from the boundaries • Buildings will have implications to cause disturbances, loss of privacy, extra noise and smells on a regular basis which will affect the quality of life for neighbours • New buildings will block light and privacy • Boundary dispute regarding residents • Overshadowing • Layout and density of buildings • Design and appearance • Unreasonable impact • Light pollution • Attract vermin • Construction will create unnecessary disruption • Affect wildlife • Existing features and character will be abused
5.0	THE MAIN ISSUES
5.1	<ul style="list-style-type: none"> • Principle of development • Siting, scale and design of structure • Impact on amenities
6.0	OFFICER APPRAISAL
6.1	Principle of development
6.1.1	<p>The proposal falls to be considered against the following adopted local planning policies: Shropshire Core Strategy policies CS5 (Countryside and Greenbelt), CS6 (Sustainable Design and Development) and CS17 (Environmental Networks), Site Allocations and Management of Development (SAMDev) Plan policies MD2 (Sustainable Design), MD7(a) (Managing Housing Development in the Countryside), the Supplementary Planning Document (SPD) on the Type and Affordability of Housing and the national policies and guidance set out in the National Planning Policy Framework (NPPF).</p>
6.2	Siting, scale and design of structure
6.2.1	The proposals are for the erection of outbuilding, outdoor kitchen, new gated access and external landscaping works to include 2No pergola structures.
6.2.2	The proposed outbuilding will contain a gym, store and wet room and will be sited to the north elevation of the site. The proposed outbuilding measures at approx. 11.8m in length, 2.6m in height with a depth of 3.9m and complies with Permitted

	<p>Development guidelines, however, as Permitted Development rights have been removed from the site, this planning application has been submitted. The siting, scale and design of the proposed outbuilding is deemed acceptable, the proposals are subservient sympathetic to the size, mass, character, and appearance of the detached dwelling and although is modern in design, will match the character of the existing dwelling on site.</p> <p>Although Permitted Development rights have been removed from the property, the curtilage of the site is big enough to accommodate an outbuilding of this nature. The proposed outbuilding which will contain a gym, does have the potential for increased noise levels during periods of use, however, it is not likely that a gym would be used for long periods of time and therefore is not deemed to create significant harm in terms of noise.</p>
6.2.3	<p>The two pergola structures that are proposed as part of this application will be open sided and will contain a seating area with a fire pit under one and a hot tub under the other. These structures will be sited to the west and south west of the site. No concerns are raised in relation to these pergola structures and their use. The addition of a hot tub or seating area with a fire pit would not require planning permission.</p>
6.2.4	<p>The outdoor kitchen will be sited to the north west of the site and will be situated under a three sided structure. The proposed kitchen area will contain a fitted BBQ and pizza oven with fitted counter tops and a fridge. Whilst the structure does also fall within Permitted Development guidance (measuring approx.. 7m in length, 2.6m in height with a depth of 4.9m) planning permission is required for the structure/ open sided outbuilding but planning permission is not required for the furniture, BBQ or pizza oven, any person can benefit from utilising a BBQ or pizza oven within their curtilage without the need for planning permission. Therefore the case officer can only consider the elements that require planning permission which is the structure in which will cover the proposed furniture, BBQ and pizza oven. The case officer deems that the proposed kitchen shelter is deemed acceptable as the size and scale is subservient to the dwelling, it is single storey and therefore not deemed to have a significant impact on neighbouring dwellings. The curtilage is big enough to accommodate a kitchen shelter of this size.</p>
6.2.5	<p>No concerns are raised in relation to the proposed new gated access which will provide the application site with additional security. Providing that the development is carried out in accordance with drawing no. PL-006 dated 27/07/2022.</p>
6.3	Impact of amenities
6.3.1	<p>The proposed outbuilding, outdoor kitchen and pergolas will not be visible from the street scene and therefore will have no impact. The proposed new gated access will be visible, however, there are a number of properties within the street which benefit from gated entrances and therefore it is not deemed that the proposed new gated access will have a significant impact on the street scene.</p>
6.3.2	<p>The proposals are not deemed to have a significant impact on neighbouring amenities due to the single storey nature of the proposals. The boundary of the site consists of fence panels to the north elevation and a bricked wall to the west</p>

	<p>elevation and therefore it is deemed that the majority of the proposals will be screened by the existing boundaries. The proposed outbuildings measure at approx. 2.6m in height which is only 0.6m higher than a 2m fence panel which anyone can construct without the need for planning permission, therefore it is not deemed that the proposed outbuildings will have a significant impact on neighbouring dwellings.</p>
6.3.3	<p>In relation to the comments made from SC Regulatory Services, the case officer agrees that a condition should be applied stating that ‘the property shall not be used for holiday lets or any other form of short-term letting’ in order to protect the amenities of neighbours. Letting the property to large groups will have the potential to increase outdoor noise and additional traffic which would have a detrimental impact on nearby residents. However, the case officer does not feel that a condition imposing ‘a 2.4m high acoustic barrier, of at least 10kg/m² in density, shall be constructed around the boundary of the property’ is required or necessary for a residential property and its curtilage. Planning conditions need to meet the following 6 tests:</p> <ol style="list-style-type: none"> 1. necessary; 2. relevant to planning; 3. relevant to the development to be permitted; 4. enforceable; 5. precise; and 6. reasonable in all other respects. <p>The case officer does not deem it necessary to construct an acoustic barrier to the boundary of the property, the property is and remains in residential use and the curtilage will be used by the family residing in it therefore it is not deemed to be relevant to the development to be permitted. Should noise become an issue from the proposed outdoor structures then this would need to be raised through the appropriate public nuisance channels which has its own legislation. The scheme before officers refers to the use of an outdoor gym which will be used for no more than a couple of hours in total per day and therefore it is not deemed reasonable to impose a condition that requires an acoustic barrier to prevent a few hours of noise per day. The outdoor kitchen proposed is technically an outdoor BBQ area in which the applicants could carry out without the need for planning permission, although this BBQ area will have a covered shelter making the use of it not so dependant on weather, it is unlikely that this will be used daily and therefore the levels of noise that will be created from this structure is not deemed to increase significantly.</p>
6.4	Other matters
6.4.1	The case officer would like to address the concerns raised in the objection comments.
6.4.2	In relation to inaccuracies to the plans, any planning permission granted will be subject to a condition that the development shall be carried out strictly in accordance with the approved plans and drawings, therefore if the applicants have provided inaccurate plans this will prevent them from complying with this

	condition and therefore enforcement action can be considered if development is not in accordance with these plans. The case officer can confirm that the plans provided correspond with what was evident on site at the time of the case officers site visit.
6.4.3	Although the proposed outdoor structures are sited in close proximity to fence lines, Permitted Development guidelines allow outbuilding within close proximity as long as it does not exceed in height 2.5m, these outbuildings measure at approx. 2.6m so therefore are not deemed to have a significant impact on neighbouring dwellings and no visual impact.
6.4.4	In relation to the removal of mature trees and hedgerows, the case officer can only consider what was evident on site and therefore the existing boundary treatments have been taken into consideration when determining this application.
6.4.5	The nearest neighbouring dwelling is situated to the north elevation measuring approx. 12m away from the proposed outbuilding, the proposed outbuilding has no windows to this elevation and is single storey in nature therefore there is no concerns in relation to overlooking and the case officer is unable to conclude that there is a conflict with policy CS6 for this reason. Given the distance and single storey nature of the proposed outbuilding it is not deemed to cause loss of light or block light into neighbouring dwellings given that a 2m fence can be constructed without the need for planning permission and would not be deemed to cause loss of light, it is therefore not deemed that with the distance and height of the proposals that a demonstrable and substantial harm will be caused in this instance.
6.4.6	It is not deemed that the proposed outbuildings will create a loss of privacy for neighbouring dwellings in that neighbouring dwellings will still be able to enjoy time in their private residential gardens without the proposed outbuildings preventing the neighbours from doing so, neighbouring dwellings will not be visible from the structures and therefore the proposals will not prevent neighbours from enjoying their gardens without other people seeing them. However, any increased movements in a neighbouring garden have the impact to cause disturbance but it is not deemed that the proposals will significantly cause a regular disruption more so than what would exist with or without the proposed outbuildings. Statutory nuisances can be defined as a matter which is unreasonable and causes substantial interference in the use and enjoyment of a person's property and can take place outside as well as in buildings, everyday noise is not deemed as a statutory nuisance, and neither is domestic odours (food smells). As mentioned in paragraph 6.3.3 statutory nuisance is covered under separate legislation that can address concerns but in order for a matter to be actionable as a nuisance in law it must be a serious and persistent issue. It is not deemed that the proposed outbuildings will cause anything other than everyday noise and domestic odours from these proposals.
6.4.7	It is not deemed that the layout and density of the buildings are significant to warrant a refusal, the proposals are all subservient to the original dwelling and the site is big enough to accommodate the outbuildings and pergolas proposed.
6.4.8	The design of the proposed works is deemed to be in keeping with that of the detached dwelling, the proposals are of a modern nature and therefore are deemed to match in design and appearance of the existing dwelling. It is not

	deemed that the dwelling and its curtilage benefits from any existing features or character as the dwelling has undergone alterations and remodelling which has modernised the dwelling creating a contemporary family home.
6.4.9	No lighting plan has been submitted as part of this application and therefore light pollution has not been considered as part of this application. It is not deemed that the proposed outbuildings will cause glare, skyglow and light trespass which are the three main forms of light pollution.
6.4.10	It is not deemed that the outbuilding proposed to shelter the proposed outdoor kitchen would attract any more vermin than what any outdoor BBQ would.
6.4.11	The existing outdoor space at the Blandings currently has very little biodiversity merit in that the surface within the curtilage is primarily gravel therefore the proposals are not deemed to cause a significant impact on wildlife.
6.4.12	As the following are not deemed as material considerations these objection comments have not been taken into consideration: <ul style="list-style-type: none"> • boundary dispute • problems arising from the construction period
7.0	CONCLUSION
7.1	The works are judged to be in scale and character with the original building and of no demonstrable harm in terms of visual impact. No significant harm is considered to arise to the neighbouring resident's amenity and the application therefore accords with the principal determining criteria of the relevant development plan policies including CS6 and MD2 and approval is recommended.
8.0	Risk Assessment and Opportunities Appraisal
8.1	Risk Management
	<p>There are two principal risks associated with this recommendation as follows:</p> <ul style="list-style-type: none"> • As with any planning decision the applicant has a right of appeal if they disagree with the decision and/or the imposition of conditions. Costs can be awarded irrespective of the mechanism for hearing the appeal, i.e., written representations, hearing or inquiry. • The decision may be challenged by way of a Judicial Review by a third party. The courts become involved when there is a misinterpretation or misapplication of policy or some breach of the rules of procedure or the principles of natural justice. However, their role is to review the way the authorities reach decisions, rather than to make a decision on the planning issues themselves, although they will interfere where the decision is so unreasonable as to be irrational or perverse. Therefore, they are concerned with the legality of the decision, not its planning merits. A challenge by way of Judicial Review must be made a) promptly and b) in any event not later than six weeks after the grounds to make the claim first arose. <p>Both risks need to be balanced against the risk of not proceeding to determine the</p>

	application. In this scenario there is also a right of appeal against non-determination for application for which costs can also be awarded.
8.2	Human Rights
	<p>Article 8 gives the right to respect for private and family life and First Protocol Article 1 allows for the peaceful enjoyment of possessions. These have to be balanced against the rights and freedoms of others and the orderly development of the County in the interests of the Community.</p> <p>First Protocol Article 1 requires that the desires of landowners must be balanced against the impact on residents.</p> <p>This legislation has been taken into account in arriving at the above recommendation.</p>
8.3	Equalities
	<p>The concern of planning law is to regulate the use of land in the interests of the public at large, rather than those of any particular group. Equality will be one of a number of 'relevant considerations' that need to be weighed in Planning Committee members' minds under section 70(2) of the Town and Country Planning Act 1990.</p>
9.0	Financial Implications
	<p>There are likely financial implications if the decision and / or imposition of conditions is challenged by a planning appeal or judicial review. The costs of defending any decision will be met by the authority and will vary dependent on the scale and nature of the proposal. Local financial considerations are capable of being taken into account when determining this planning application – insofar as they are material to the application. The weight given to this issue is a matter for the decision maker.</p>

10. Background

Relevant Planning Policies

Central Government Guidance:

West Midlands Regional Spatial Strategy Policies:

Core Strategy and Saved Policies:

RELEVANT PLANNING HISTORY:

PREAPP/19/00367 Extensions and remodelling of the existing property PREAIP 1st October 2019

20/00705/FUL Erection of two storey and single storey extensions with first floor rear balcony; internal reconfiguraiton; detached double garage with external staircase to first floor storage. GRANT 28th April 2020

20/02482/AMP Non Material Amendment to planning application 20/00705/FUL to removal wall within curtilage. GRANT 6th September 2020

20/03226/VAR Variation of condition no.2 (approved plans) and condition no.5 (use of garage) attached to 20/00705/FUL to allow for the redesign of the approved garage and its relocation to the northern boundary. GRANT 13th November 2020

21/03657/DIS Discharge of condition 3 (Materials) attached to planning permission 20/03226/VAR Variation of condition no.2 (approved plans) and condition no.5 (use of garage) attached to 20/00705/FUL to allow for the redesign of the approved garage and its relocation to the northern boundary DISAPP 3rd August 2021

21/04688/AMP Non Material Amendment for the omission of an originally proposed window, replaced with a bi-folding door

Addition of total 3 No. Rooflights (2 No. to ground floor dining area and 1 No. to first floor dressing area) to approved planning permission 20/00705/FUL Erection of two storey and single storey extensions with first floor rear balcony; internal reconfiguraiton; detached double garage with external staircase to first floor storage GRANT 4th October 2021

22/02303/FUL Erection of outbuilding, outdoor kitchen, new gated access and external landscaping works to include 2No pergola structures PDE

SA/77/1069 Erection of a dwelling with integral private garage and formation of vehicular and pedestrian accesses. PERCON 10th January 1978

SA/74/0763 Erection of one dwelling. REFUSE 1st July 1975

SA/85/0196 Alterations and additions at the rear to provide a single storey part flat roof part pitched roof extension to provide bedroom accommodation for elderly persons and use ground floor of existing dwelling as kitchen, lounge and dining room. PERCON 11th April 1985

SA/84/1172 Alterations and additions at the rear to provide a single storey flat roof extension to provide bedroom accommodation for elderly persons and use ground floor of existing dwelling as kitchen, lounge, and dining room. REFUSE 21st February 1985

Appeal

76/00186/REF Erection of one dwelling. ALLOW 9th July 1976

11. Additional Information

View details online:

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)
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Cabinet Member (Portfolio Holder) Councillor Ed Potter
Local Member Cllr Lezley Picton
Appendices APPENDIX 1 - Conditions

APPENDIX 1

Conditions

STANDARD CONDITION(S)

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

Reason: To comply with Section 91(1) of the Town and Country Planning Act, 1990 (As amended).

2. The development shall be carried out strictly in accordance with the approved plans and drawings including Drawing No.PL-006 dated 27/07/2022.

Reason: For the avoidance of doubt and to ensure that the development is carried out in accordance with the approved plans and details.

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

CONDITION(S) THAT REQUIRE APPROVAL DURING THE CONSTRUCTION/PRIOR TO THE OCCUPATION OF THE DEVELOPMENT

CONDITION(S) THAT ARE RELEVANT FOR THE LIFETIME OF THE DEVELOPMENT

3. The property , Blandings, Withington shall not be used for holiday lets or any other form of short term letting.

Reason: To safeguard the residential amenities of the area and prevent the use of the

development for purposes which may be inappropriate in this location, in accordance with Policies CS6 and CS11 of the Shropshire Local Development Framework Adopted Core Strategy.

Informatives

1. The above conditions have been imposed in accordance with both the policies contained within the Development Plan and national Town & Country Planning legislation.