

**STAFFORDSHIRE MOORLANDS DISTRICT COUNCIL  
PLANNING APPLICATIONS COMMITTEE**

**20 August 2020**

<b>Application No:</b>	SMD/2020/0319	
<b>Location</b>	Land Off Thorley Drive Cheadle	
<b>Proposal</b>	Variation to condition 1 of SMD/2019/0169 for revisions to Plots 1 and 2	
<b>Applicant</b>	Keepmoat Homes	
<b>Agent</b>	BM3 Architecture Ltd	
<b>Parish/ward</b>	Cheadle	<b>Date registered</b> 19/6/20
<b>If you have a question about this report please contact:</b> Jane Curley tel: 01538 395400 ex 4124 Jane.curley@staffsmoorlands.gov.uk		

**REFERRAL**

This is locally controversial

**1. SUMMARY OF RECOMMENDATION**

<b>Approve</b>
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**2. BACKGROUND**

2.1 This is a Section 73 application relating to elevational changes and external garden changes to Plots 1 and 2. These plots form part of a larger site for which planning permission has been granted for 57 units subject to conditions and a Section 106 Agreement – see history below. Construction on site including Plots 1 and 2 has commenced. These plots are built to just ground floor window height. Although there are outstanding conditions (Levels and contamination) the applicant has continued to progress work on site. He has been repeatedly advised by the Council that he does so entirely at his risk.

2.2 This application has resulted from discussions with the applicant on one of the outstanding conditions on the outline permission (SMD/2016/0083) namely Condition 6. This condition is as follows:-

*No development shall commence until detailed plans and sections showing existing and proposed site levels have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the agreed details*

*Reason:- In the interests of the character and appearance of the area*

2.3 As part of the discharge of this condition it was noted that for the majority of the site the new dwellings work largely, but not absolutely with existing ground levels. However within the area of Plots 1 and 2 the plans show existing ground levels are raised leading to finished floor levels for these plots of 173.75 which is approx. 1 metre higher than average existing ground level (see drawing 16164/103F).

2.4 The effect of these levels is that Plots 1 and 2 are noticeably higher than the dwelling opposite on Thorley Drive. This raises issues of impact on street scene/character and appearance and impact on the amenity of the dwellings opposite on Thorley Drive.

2.5 This application seeks approval for various changes to window positions/size on Plots 1 and 2 together with external changes to the garden area and for finished floor levels to remain as built.

### **3. DESCRIPTION OF THE SITE AND ITS SURROUNDINGS**

3.1 The site was formerly agricultural fields; now a development site with construction under way. Levels on the site rise from Ashbourne Road in a north westerly direction to a local ridge around plot 7 and then fall quite appreciably towards the proposed balancing pond.

### **4. DESCRIPTION OF THE PROPOSAL**

The application seeks approval for the following main changes to Plots 1 and 2

#### Plot 1

- Finished floor level of 173.75
- Ground floor – the principal kitchen window is removed from the rear elevation and repositioned on the side elevation overlooking the public open space. A small secondary window to the kitchen is shown on the rear together with patio doors which are indicated to be obscure glazed.
- First floor - the bathroom and bedroom 3 have swapped positions. This allows the bathroom window on the rear elevation to be obscure glazed. The principal window to bedroom 2 has been repositioned on the side elevation. A small secondary window to bedroom 2 is shown on the rear elevation and is indicated to be obscure glazed.

#### Plot 2

- Finished floor level of 173.75
- Ground floor - the principal kitchen window is removed from the rear elevation and repositioned on the side elevation. Here it is just 2.5 m from the common boundary which is close boarded fencing. A small secondary window to the kitchen is shown on the rear together with patio doors, the latter indicated to be obscure glazed.
- First floor - The bathroom and bed 3 have swapped position. This allows the bathroom window (now positioned on the rear) to be obscure glazed. The main window to bedroom 2 remains on the rear elevation. Bed 3 faces onto and is within 3 m of the side elevation of Plot 3.
- In summary therefore the changes proposed mean that the only principal window on the rear elevation of plots 1 and 2 would be the window to bedroom 2 on Plot 2. All other windows are small secondary windows or patio doors which are indicated to be obscure glazed. Windows are now punctured into the side elevation of Plot 1 but this overlooks an area of public open space. The impact of these new windows in the side elevation of Plot 1 on 90 Thorley Drive is considered in the report.

#### External to both Plots

- A 1.2 m wide path is proposed immediately to the rear of Plots 1 and 2 – previously a 1.8m patio. The applicant says that this prevents anyone from using this as a social area as it's not wide enough to accommodate a table and chairs etc. A 550 mm high retaining wall is proposed beyond the path with 4 steps leading down to the lower

garden level which will accommodate a slabbed area/patio. The applicant refers to this both flattening out the garden and dropping its level in keeping with the adjacent existing gardens.

- A 2.0 m high close board timber fence behind Plots 1 and 2 is proposed.
- The plans show tree planting also along the boundary line.

## **5. RELEVANT PLANNING HISTORY**

SMD/2016/0083      Outline planning permission for up to 60 dwellings. Approved

SMD/2017/0586      Reserved matters for 57 units. Approved

SMD/2019/0169      Section 73 for variation of Condition 1 – changes to glazing bars on some windows. Approved

## **6. PLANNING POLICIES RELEVANT TO THE DECISION**

6.1 The Development Plan comprises of:

- Saved Local Plan Proposals Map / Settlement Boundaries (adopted 1998).
- Core Strategy Development Plan Document (adopted March 2014)

### Staffordshire Moorlands Local Plan (1998)

6.2 Development boundaries within the 1998 Adopted Local Plan are still in force until such time as they are reviewed and adopted through the site allocations process. Following consultation last year a Preferred Options Site Allocation DPD is currently out for consultation.

### Adopted Staffordshire Moorlands Core Strategy DPD (26<sup>th</sup> March 2014)

6.3 The following Core Strategy policies are relevant to the application:-

- SS1 Development Principles
- SS1a Presumption in Favour of Sustainable Development
- SD1 Sustainable Use of Resources
- DC1 Design Considerations

### Emerging Local Plan

On July 20<sup>th</sup> 2020, the Council published the Inspector's final report thereby drawing a close to the examination in public. The report concludes that with the recommended main modifications, the plan satisfies the requirements of Section 20(5) of the 2004 Act and meets the criteria for soundness in the National Planning Policy Framework (NPPF). As such, the main modifications which accompany the Inspector's report provide a clear indication of the final policy wording when read in conjunction with the Local Plan Submission Version (2018).

In this context, the Council's position on the weight to be given to the policies (as modified) in terms of the three criteria set out in Paragraph 48 of the NPPF is considered below:

- The stage of preparation – the Local Plan is now at the most advanced stage of preparation prior to adoption as the Inspector has concluded that the Local Plan is sound subject to the recommended modifications being made.

- The extent to which there are unresolved objections to relevant policies – the Inspector has now drawn his final conclusions and there are no further matters to resolve
- The degree of consistency of the relevant policies in the emerging plan to this Framework – the policies (as modified) have been found by the Inspector to be sound in the context of the 2012 NPPF under which the Local Plan has been examined. One of the “tests of soundness” that the Local Plan has successfully been measured against is whether it is “consistent with national policy”. Because the Local Plan has been prepared and examined under the 2012 NPPF, it should be noted that in some limited cases, its policies do not directly reflect current national policy. However, planning law requires that applications be determined in accordance with the development plan, unless material considerations indicate otherwise. Current national policy is a material consideration and should be given weight accordingly.

Given the above, all policies (as modified) should be given substantial weight.

The policies of relevance to this application are as follows:-

DC 1 Design considerations

Space about dwellings SPG  
National Planning Policy NPPF

National Planning Policy Guidance

## **7. CONSULTATIONS CARRIED OUT**

Press Notice expiry date: 29<sup>th</sup> July 2020

Site Notice expiry date: 29<sup>th</sup> July 2020

Local residents have been notified by letter.

Letters of objection have been received from 6 households raising the following issues:-

- I appreciate Keepmoat's alterations with regard to the lowering of the patio area and the obscure glazing to the rear of the property, more specifically on Plot 1 but by moving the majority of the windows of Plot 1 to the side elevation will impact 90 Thorley Drive as a result of increased levels and overlooking, it will destroy privacy and have a 'big brother' style on look.
- Disappointed that this revised application appears to condone the builders errors. Why have the houses been raised? And not put to the correct ground level? Why is there not revised roof angles to lower the height?
- The houses should be pulled down to correct this to the original plans
- Some of the plans are quite vague CAD drawings and show house to house dimensions that are incorrect. The new build should be a minimum 25m from the Principal window of the existing house ,this is not the case in all the plots, this needs correcting
- The new boundary fence is not shown accurately it is a generic straight line, yet mine and my neighbours have existing large trees, the NHBC have guidelines and dimensions that they need to adhere to yet this is not shown,
- The plans show 2 new trees next to my existing tree, this is not in accordance with the NHBC guidelines
- Why has the builder not been to my house to discuss the issues.?
- The ground floor of the new build houses see directly into our back bedroom. I

- We have also suffered damage to our property with drains collapsing, what appears to be coal sludge blocking our drains, and wall cracking, for which I'm still awaiting a reply from Keepmoat, who appear less than helpful.
- I would also like to know what is happening with the methane that has allegedly been discovered on the site.
- The distance between the new houses is not taken to the legal boundary of existing houses, some of which have extensions passed by SMDC that did not increase the original house boundary. This means new houses are to be closer than they are legally allowed to, that is, 25 metres from the principal window.
- Fencing shown does not show existing trees that were on the original plan. HSBC regulations specifying distances between fencing and existing trees are not being adhered to according to this application.
- Plan also indicates new trees in very close proximity to existing trees.
- After studying the proposed revisions shown on the above application, we think this will have minimal effect on the impact on our and other properties in the row but why at this late stage are you trying to reduce the impact on our dwellings when the damage has already been done by allowing Keepmoat Homes to build in such an elevated position (1.79 metres between our floor levels) in the first place?
- Another point we wish to raise, why are the window sizes on the rear elevation (currently being built) larger than shown on Keepmoat Homes drawing D102 mod. I dated 9/6/20?
- Can the ground level where parking is proposed (Plot 1) be lowered to avoid car headlights shining into our kitchen\dining room over the winter months.
- If the builder makes these errors on the first two houses what is to say that they won't repeat this?
- If frosted glass is being proposed what is to stop owners changing them?
- I had a small extension many years ago and planning visited me each week, this is not happening with Keepmoat, is this compliant?
- If you agree to this the alteration the builder will do what they want no one will be accountable .
- Why is it always the residents who are holding the builder and planning to account and why is it always behind closed doors with the builder getting all the help and NOT the existing resident?
- The first two houses on the site (plot 1&2) have had the footing raised by over 1.7 metres above what the original stated that they should be .This means that the rear ground floor windows will overlook the bedrooms of the houses to the rear it also means that the apex of the roof will be nearly 4 metres higher than the houses on Thorley Drive. There is also a concern that because of the new height that cars being parked there headlights are going to shine into the rear houses.
- Rather than correct the mistake by reducing the footings height their solution is to put smaller windows in with frosted glass at the rear of the property. This solution does not solve the problem long term has there is nothing to stop the occupants from removing the glass and replacing it with Plain ones. Plot 1 and 2 are returned to the original specification

### **Town Council**

Object. It is our understanding that the ground around Plots 1 and 2 of the development site have been raised by well over a metre without agreement or consent with the District Planning Officers and local residents. Properties built at this elevated level are likely to have a significant impact on the residents and properties of Thorley Drive not least in terms privacy in their gardens and homes, being overlooked in the garden and having car lights shining into their homes and bedrooms.

**Local Highway Authority**

No objection

**Police Architectural Liaison Officer**

No objection

**8. OFFICER COMMENT AND PLANNING BALANCE**

8.1 As with all applications, the LPA is required to determine this application in accordance with the Development Plan, unless there are material circumstances which indicate otherwise and in determining these applications, it shall have regard to the provisions of the Development Plan, in so far as material to the application and to any other material considerations.

8.2 Core Strategy Policy SS1a establishes a 'Presumption in Favour of Sustainable Development' in line with the National Planning Policy (herein referred to as the NPPF) where: (1) planning applications that accord with policies within the Core Strategy will be approved without delay and (2) where there are no relevant policies or they are out of date, the Council will grant planning permission unless material considerations indicate otherwise considering:-

- I. Any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole, or,
- II. Specific policies in within the NPPF indicate that development should be restricted

8.3 The events leading to this application are set out in the Background section above. The main issues to consider therefore are firstly the impact of the proposals on the amenity of existing residents on Thorley Drive and secondly the impact on the character and appearance of the area.

Impact on amenity

8.4 Policy DC1 of the Core Strategy seeks to protect residential amenity in terms of satisfactory daylight, sunlight, outlook, privacy and soft landscaping. Policy DC1 of the emerging Local Plan includes the additional measure of visual impact for assessing amenity. The Council also has an adopted Supplementary Planning Guidance (SPG), Space About Dwellings which provides guidance to protect privacy for existing and proposed residents and to protect their amenities to enable the reasonable enjoyment of their residence and garden with a degree of freedom from unwanted social contact. The following taken from the guidance are relevant in this case

- i) At least 22 m is required between rear elevations containing facing principal windows.
- ii) The SPG defines 'Principal' window to mean the main window in a living room, dining room, kitchen and first and second bedroom. Patio doors are not mentioned in the list
- iii) The SPG confirms that the standards are to be applied assuming a flat site and that on sloping sites or sites with other unusual characteristics greater distance may be required although no measure of assessing this is provided.
- iv) The Distance required between the principal window on the rear elevation of a dwelling and a flank wall of a neighbouring dwelling, where the flank wall has no principal windows or has obscurely glazed or high level windows is at least 14m.

8.5 Nos 86 and 88 Thorley Drive are the dwellings which are most impacted by Plots 1 and 2. No 90 will be impacted but to a lesser degree because its rear boundary adjoins an area of open space with Plots 1 and 2 angled away (see site plan DO2 Rev AU).

8.6 The comparison table below has been compiled from the following submitted information.

- Drawing 16164/103F External Levels and Features Layout
- Drawing D 11 Rev I Site Sections

Eaves levels for the dwellings on Thorley Drive are taken from survey data and can be relied upon whereas the finished floor levels for these properties have been estimated by the applicant. The applicant says the margin of error falls within 150 mm. However for the purposes of the assessment below eaves levels have been used.

Plot	Avg Extg Plot Level	Extg Boundary Level	Prop FFL	Approx avg difference between extg ground level and FFL	SPG	Eaves height dwelling opposite Thorley	Eaves height Site	Diff in eaves height
1	172.75	172.13	173.75	1 m	25	176.81	178.4	1.59
2	172.75	172.60	173.75	1 m	23.6	177.13	178.4	1.27

8.7 Using information from this table and the submitted plans the following analysis is made of the relationship between Plots 1 and 2 and Nos 86 and 88 Thorley Drive.

- The distance between (original) rear facing elevations (from the mid point of the elevation) is 25 m for Plot 1 and 23.6 m for Plot 2. However the proposed removal of principal windows from the rear elevation of Plot 1 takes away any element of overlooking/loss of privacy from the rear of Plot 1. Indeed the SPG says that privacy is not only achieved by space between dwellings but by the design of the houses including their window sizes and positions. From purely privacy/overlooking perspective from windows, Plot 1 is acceptable. As a result of the fact that there are no principal windows on the rear of Plot 1 it could be regarded as a flank wall. At 25 m the distance is comfortably over the SPG guideline of 14 m. Notwithstanding this point it still exceeds the required distance between principal windows of 22 m.
- Plot 2 has a main bedroom 2 window on the rear elevation. This would give rise to direct overlooking/loss of privacy of particularly No 86. Although this property does have mature planting including a large conifer tree on its rear boundary which will restrict some views into ground floor windows and garden, this window would give rise to an element of overlooking and loss of privacy. However, at 23.6 m this is also greater than the guideline of 22 m
- However, these distances assume a flat site. In this case existing ground levels rise from the common boundary with properties on Thorley Drive in a south easterly direction such that in the vicinity of the proposed dwellings they are approx. 1 metre

higher than properties on Thorley Drive. The proposal is to raise these by a further 1 m approx. Taking eaves levels as the base the table above shows that the result is that the eaves height of plot 1 would be 1.59 m higher than the eaves height of No 88; Plot 2 would be 1.27 m higher than No 86. Although the Council's SPG does not give any guidance on how to determine distance over sloping sites such as this, some other Local Planning Authorities increase the separation distance by 1 m for every 0.5 m change in level. Using this calculation as a guide and based on the eaves levels change (1.59 m for plot 1 and 1.27 m for plot 2) this translates to an approx. separation distance of 25/26 m for plot 1 and 25 m for plot 2. This is not achieved as described above. Were proposed ground levels to be more akin with existing ground levels i.e. approx. 1 m lower, this would suggest separation distances of 23/24 m for plot 1 and 23 m for plot 2. This would be achieved.

- d) As noted above, due to the removal of the principal windows from the rear elevation of Plot 1 facing the properties in Thorley Drive, any overlooking issue has been resolved. Plot 2 has one principal window remaining, a window to bedroom 2 on the rear elevation. This has the potential to have some impact on the amenity of existing houses as a result of loss of privacy through overlooking. Nevertheless, the separation distance in the SPG is exceeded by 1.6 m, which although by some authority's standards is insufficient to fully compensate for the difference in height it does go some way to reducing the effect. Furthermore, were the finished floor level of Plot 2 be lowered such that the separation distance of 23.6 m met those standards, there would still be an element of overlooking from bedroom 2. As noted elsewhere in this report, there is always an element of overlooking in housing estates of this nature. Having regard to this analysis it is not considered that bedroom 2 window to Plot 2 will result in a such a materially greater loss of privacy to sustain a refusal of the application.
- e) When it comes to assessing sunlight and daylight the Council uses a number of measures. The SPG advises that where buildings are to be sited facing the principal windows of existing properties they must be designed so that there is no obstruction to daylight beyond a vertical angle of 25 degrees measured from the mid point of the nearest window(s) of any adjacent property. Submitted Section EE on drawing D11 Rev I applies the 25 degree line from the single storey rear extension of Plot 1 and demonstrates that there is no obstruction to daylight beyond this angle. The 25 degree line is comfortably achieved. Another measure in the SPG is the distance between a principal window on the rear elevation of a dwelling and a flank wall (generally held to be a side wall) of a neighbouring dwelling where the flank wall has no principal windows or has obscure glazed windows. The distance is given to be 14 m. This is a light protection rather than a privacy protection measure. Applying this to Plot 1 a distance of 25 m is achieved, significantly in excess of the 14 m taking the rear elevation of Plot 1 with no principal windows as the 'flank' wall. This suggests also that loss of light is not issue. The houses on Thorley Drive are south east facing and therefore particularly during the winter months when the sun is lower in the sky they are likely to experience some loss of sunlight in the morning. The existing vegetation on the boundary is already likely to do this to some extent. Overall from the analysis above the conclusion is that nos 86 and 88 Thorley Drive will not suffer an unacceptable loss of sunlight/daylight.
- f) In terms of outlook and visual impact, the outlook from all the properties on Thorley Drive overlooking the site is undoubtedly going to change as a result of this development. That would be the case with the approved scheme. The issue is whether the heights of Plots 1 and 2 and their relationship with nos 86 and 88 Thorley Drive are such that the visual impact would be unneighbourly and unacceptable and their outlook unduly harmed.

- g) Assessing firstly No 88 Thorley Drive. This property has had a rear extension which has reduced its garden length in part. Due to its orientation in relation to plots 1 and 2 apart from a short 2 m section, its garden boundary directly adjoins an area proposed as public open space (see Site Plan). Its orientation also means that although the Plots 1 and 2 will be clearly visible from within the house and garden and on higher ground and face towards no 88 (but with no principal windows as discussed above) a significant open aspect remains. It is a more finely balanced judgement but it is not felt on balance that the visual impact from the proposal would be so poor as to be unacceptable.
- h) The situation at No 86 is different because this property and its garden directly adjoin plots 1 and 2. However this property does have a large conifer and planting along its rear boundary which currently restricts outlook beyond its garden from within the house and within the garden. The longevity of this planting however is not guaranteed. The applicant is proposing some new planting on the application site which would soften the visual impact to some extent. Overall the visual impact and outlook from No 86 is more finely balanced and this does weigh against the application.
- i) As described above the proposal is to have a 1.2 m path running immediately to the rear of the proposed plots as opposed to a 1.8 m patio as proposed elsewhere. This should prevent use of this area as a social area as it would not be wide enough to accommodate a table and chairs. The plans show that a 550 mm high retaining wall is proposed with four steps leading down to the lower garden level which will accommodate a slabbed area/patio at 173.05 m. From here levels falls to 172.13m at the rear of Plot 1 and 172.60 m at the rear of Plot 2. The applicant also proposes to erect a 2 m high close board timber fence behind plots 1 and 2, as opposed to the usual 1.8 m high fence. Standing on the patio therefore and assuming an averaged height male of 1.7m there would be no overlooking or loss of privacy to houses opposite on Thorley Drive. From the patio the garden then slopes to the boundary which is at 172.13 m for Plot 1 and 172.60 m for Plot 2. The applicant also proposes tree planting on the boundary of each garden to soften the impact. The Trees and Woodland Officer's comments on the suitability of this planting is awaited and will be reported at the meeting
- j) A number of residents have raised the matter of the impact from car headlights when parking on the drives of Plots 1 and 2. The Landscaping plan shows a hedge all way round the parking area and bin store for Plot 1. This should, together with the 2 m close boarded fencing prevent any nuisance from car headlights from Plot 1. Plot 2 has 1.8 m close boarded fencing at the end of the parking spaces. This would prevent any undue impact from car headlights.

8.7 Turning now to No 90 Thorley Drive. This property directly faces onto an area proposed as public open space. Plots 1 and 2 are sited to its south east and there is at least 28m between facing elevations. The occupiers of No 90 have expressed concern that because the proposal is now to introduce windows into the side elevation of Plot 1, that their property will be overlooked and that their privacy will be destroyed. They say that the ground floor of Plot 1 is already overlooking the majority of the rear of their property due to the increased ground-level elevation at approximately two meters.

8.8 It is a matter of fact that there is a degree of overlooking on most estate developments. The issue is whether it is at an acceptable level. As outlined above there are no longer any principal windows on the rear elevation of Plot 1. Within the side elevation of Plot 1 the only principal window at first floor level is the main window to bedroom 2 and on the ground floor

the main kitchen window. All other windows on this elevation are secondary and/or small. However given the interrelationship between Plot 1 and No 90 it is considered that the opportunity for overlooking is limited by the fact that any views out of the bedroom or kitchen window would be at an acute angle; one would have to make a conscious effort if one wanted to look towards No 90. That is not to say that it wouldn't happen but the most obvious view from these windows is ahead towards the open space and beyond that to open countryside. There is also sufficient separation distance between No 90 and Plot 1, at least 28 m as stated above. It is for these reasons that whilst the outlook from No 90 will change, the development is unlikely to lead to a harmful visual impact or undue loss of privacy as a result of the inter relationship of the properties and the separation space between them.

8.9 The policy requirement is to consider impact not only on existing residents but also on proposed residents. In this respect some shortcomings in the proposal are noted. Firstly the main kitchen window is proposed within the side elevation of Plot 2. Here it would be 2.5 m from the common boundary with Plot 3 and would face a 1.8 m close boarded fence. This is not an ideal relationship. However it is put forward by the developer and there is an argument (not a strong one though) of 'buyer beware'. It is certainly preferable to having this window on the rear elevation with the potential for overlooking of Nos 86 and 88 Thorley Drive. In the same vein the proposal is for the sole window to bedroom 3 to be in the side elevation of Plot 2. This would face onto and be within 3 m of the side elevation of Plot 3. Again not an ideal relationship but it is not a principal window and not protected as such. These shortcomings would not affect the amenity of existing residents but rather prospective occupiers of these plots. Alone these matters are not considered to be fatal to the application but they do weigh against the proposal.

8.10 Finally in terms of character and appearance given that Plots 1 and 2 are already under construction and that Plots 32/33 are virtually completed it is possible to see the impact of the development and how it responds to levels on site and in the wider area. As one leaves Cheadle on the Ashbourne Road heading south east towards Thorley Drive the land is gradually climbing and the application site continues this gradual rise along the Ashbourne Road frontage. The development is set back from the road with an area of public open space between the houses and the road. The development is higher than existing development on Thorley Drive when viewed from Ashbourne Road but this corresponds with rising ground levels. Plots 1 and 2 will be noticeably higher than existing development on Thorley Drive because as described above existing ground levels are being raised but it is not considered to appear so out of keeping with the site or the surroundings to be regarded as unacceptable.

## **9. CONCLUSION & PLANNING BALANCE**

9.1 The main issue in the consideration of this application are the impact of the proposed changes to the scheme on the privacy and amenity of neighbouring occupiers. The Council's SPG sets out minimum separation distances of 22 m between principal windows and 14m between a principal window and a flank elevation.

9.2 Under this proposal amendments have been secured to the design of the dwellings such that Plot 1 no longer contains and principal windows facing the neighbouring dwellings in Thorley Drive. As such it could be regarded as a flank elevation. Notwithstanding this the separation still exceeds the required 22 m between principal windows and comfortably exceeds the 14 m standard. As a result it is contended that this dwelling would not result in any additional overlooking and overshadowing.

9.3 Plot 2 does contain a principal window facing the rear of the dwellings in Thorley Drive but again exceeds the 22 m separation distance by 1.6 m. The distances in the SPG

assume a level site but no factor is given by which this should be increased as a result in changes of level. Applying standards used by other authorities and taking into account the difference in levels, a separation of 25 m should be achieved and the proposal fails this by 1.4 m.

9.4 Weighing all of these matters in the balance the conclusion reached, albeit finely balanced, is that the application is acceptable in terms of existing and emerging Policy DC1 and would actually be less invasive in privacy /overlooking terms than if the dwellings were demolished and finished floor levels for Plots 1 and 2 were lowered and the design reverted to the approved scheme. This is because, if this latter course of action were taken of course the changes to the elevations and external areas put forward in this application which undoubtedly improve privacy for both Nos 86 and 88 Thorley Drive would not take place. This is a factor in the overall planning balance.

9.5 This is a Section 73 application. Apart from Plots 1 and 2 no other changes are proposed. The effect of a grant of permission is the issuing of a new decision. It is necessary therefore to repeat where relevant any conditions from the previous application and one which the applicant is working to, SMD/2019/0169. Additional conditions have been added to ensure that the obscure glazed windows remain as such in perpetuity and that the removal of permitted development rights under Condition 10 is extended to Plots 1 and 2.

9.6 In addition to these conditions a legal agreement will be required to ensure that this permission is actually implemented rather than the original reserved matters permission, SMD/2017/0586 or the subsequent Section 73 approval SMD/2019/0169.

With these measures in place a recommendation of approval is made

## **10. RECOMMENDATION**

**A That planning permission be granted subject to the prior completion of a legal agreement to ensure that this permission is implemented together with the following conditions:-**

**1. The development hereby permitted shall be carried out in accordance with the following approved plans unless required by any other condition attached to this permission:**

**DO2 AV**

**DO4 T**

**DO5 G**

**DO6 B**

**D10**

**D11 I**

**D12**

**D101 D**

**D102 J**

**D103 B**

**D104 B**

**D105 B**

**D107 B**

**D109 B**

**D110 C**

**D112 D**

**D113 C**

D114 B  
D200 D  
D201 F  
D900 M

Design and Access rev I

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

2. Notwithstanding the submitted details and prior to the construction of any of the dwellings hereby approved, details and samples of the proposed facing materials and hard surfacing shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details. Reason:- In order to ensure the satisfactory appearance of the development and its relationship to adjoining properties.

3. The glazing to the following windows of Plot 1 and 2 as shown on drawing D 102 Rev J shall be obscured glass and shall not be altered to clear glazing for the life of the development.

Plot 1 – Patio doors, Bedroom 2 and bathroom

Plot 2 – Patio doors and bathroom

Reason:- To protect the amenity of adjoining dwellings

4. Notwithstanding the submitted details and plans no dwellings hereby approved shall be occupied until the open space containing the SUDS shown on drawing number D02 AC (Site Layout) has been securely fenced / gated off to prevent public access in accordance with a scheme which shall first have been submitted to and approved in writing by the Local Planning Authority. The scheme shall provide details of access for future maintenance and management purposes only.

Reason:-To ensure appropriate access for maintenance and management of this area but preventing public access in the interests of public safety

4. No dwelling hereby permitted shall be brought into use until the parking and turning areas for that dwelling have been provided in accordance with the approved plans. The parking and turning areas shall thereafter be retained unobstructed as parking and turning areas for the life of the development.

Reason:- To comply with NPPF Paragraph 32; to comply with SMDC Core Strategy Policy DC1; in the interests of highway safety.

5. The garages indicated on the approved plan shall be retained for the parking of motor vehicles and cycles. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that order with or without modification) they shall at no time be converted to living accommodation without the prior express permission of the Local Planning Authority.

Reason:- To comply with NPPF Paragraph 32; to comply with SMDC Core Strategy Policy DC1; in the interests of highway safety.

6. Before the proposed development is brought into use, the emergency access shall be provided with dropped kerbs to facilitate its use as an emergency access and bollards positioned to prevent unauthorised use.

Reason:- To comply with NPPF Paragraph 32; to comply with SMDC Core Strategy Policy DC1; in the interests of highway safety.

**7. The development hereby permitted shall not be brought into use until the access drives rear of the public highway have been surfaced in a bound and porous material for a minimum distance of 5m back from the highway boundary in accordance with details to be first submitted to and approved in writing by the Local Planning Authority. The access shall thereafter be maintained as surfaced in accordance with the approved details.**

**Reason:- To comply with NPPF Paragraph 32; to comply with SMDC Core Strategy Policy DC1; in the interests of highway safety.**

**8. The development hereby permitted shall not be brought into use until details of the surface water drainage interceptor, connected to a surface water outfall or drained to SUDS principles, for any driveway, surfaced in non porous material that falls towards the public highway has been submitted to and approved in writing by the Local Planning Authority. The drainage works shall thereafter be constructed in accordance with the approved details prior to the dwelling to which they relate being first brought into use.**

**Reason:- To comply with NPPF Paragraph 32; to comply with SMDC Core Strategy Policy DC1; in the interests of highway safety**

**9. Before the proposed development is brought into use, details shall be first submitted to and approved in writing by the Local Planning Authority indicating the turning area adjacent to plot 23 constructed to the boundary of the site. The turning head shall thereafter be provided in accordance with the approved details.**

**Reason:-To safeguard potential future development in the interests of the proper planning of the area**

**10. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that order with or without modification):-**

**a) No development on plots 1, 2, 8, 9, 10 and 11 as specified in Part 1 Class(es) A, B, C D and E other than those expressly authorised by this permission, shall be carried out without express planning permission first being obtained from the Local Planning Authority.**

**b) No development as specified in Part 1 Class F other than those expressly authorised by this permission, shall be carried out on any plot without the express planning permission first being obtained from the Local Planning Authority.**

**Reason:- To enable the Local Planning Authority to control the development and so safeguard neighbour amenity, ensure that adequate private open space is retained within the curtilage of the building and protect green frontages in the interests of the character and appearance of the development**

**11. Prior to the commencement of development a scheme for the future maintenance and management of all hedges shown to be retained on the Landscape Plan shall be submitted to and approved in writing by the Local Planning Authority. The hedges shall thereafter be maintained in accordance with the approved scheme**

**Reason:-To ensure that those hedges which are important to the external appearance of the development and character and appearance of the area are properly maintained and managed in the future.**

**12. The planting scheme shown on BM3 Architecture Ltd "Landscape Plan" Drg. No. 70160 D900 Rev L shall be fully implemented before the end of the first available dormant season (November to February inclusive) following completion of the development hereby approved. The trees, shrubs and wildflower/grass mix planted in accordance with this landscaping scheme shall be properly maintained for a period of 5 years following planting. Any plants which within this period are damaged, become**

diseased, die, are removed or otherwise fail to establish shall be replaced during the next suitable season.

Reason:- To secure the appropriate landscaping of the site in the interests of the character and appearance of the area.

13. Notwithstanding details shown on the Landscape Drg No. 70160 D900 Rev L, no permission is hereby implied or given for the woodland planting on the land to the south of the application site shown as land edged blue on the said plan.

Reason:- This area is referred to as a Buffer Planting Zone in the associated Section 106 Agreement dated 5th October 2016 and it is requirement of this Agreement for a scheme of planting to be agreed for this area, prior to the commencement of development and for it to be subsequently implemented in the first planting season following commencement and thereafter maintained.

14. Notwithstanding details shown on the submitted Boundary Plan, Drawing Number D04 F, the hooped top metal railings shown around the LEAP shall be installed at a height of 1.2m and not 900mm as shown on this drawing.

Reason:- In the interests of safety of users of the play area.

B In the event of any changes being needed to the wording of the Committee's decision (such as to delete, vary or add conditions/informatives/planning obligations or reasons for approval/refusal) prior to the decision being issued, the Head of Development Services has delegated authority to do so in consultation with the Chairman of the Planning Applications Committee, provided that the changes do not exceed the substantive nature of the Committee's decision

#### Informative

1. This is considered to be a sustainable form of development which complies with the provisions of the NPPF