

**24/00024/FUL**  
**NON MAJOR**

**Mr Tony Sutton**

**HIMLEY**  
Councillor Roger Lees BEM

**Himley Hall Himley Road Himley DUDLEY DY3 4DF**

**Planning permission is sought for railings and CCTV to improve security of the Himley Hall Sailing Club Boat Park.**

<b>Pre-commencement conditions required:</b>	<b>Pre-commencement conditions Agreed</b>	<b>Agreed Extension of Time until</b>
n/a	n/a	24 May 2024

## **SITE DESCRIPTION AND APPLICATION DETAILS**

### **1.1 Site Description**

1.1.1 Himley Hall (Grade II\* Listed) is a significant and prominent Hall, of great historical, architectural and heritage value. Himley Hall is set within its own extensive grounds characterised by openness and woodlands and is linked to Baggeridge Country Park to the northeast.

### **1.2 The Proposal**

1.2.1 The application proposes to enclose the boat park for security purposes. It is proposed to erect a vertical bar, black powder coated metal fencing around its perimeter. Five CCTV posts will be erected. During the application a planting plan has been submitted.

### **1.3 Applicants Submission**

- Heritage Impact Statement
- Crime Prevention Report
- Ecological Survey

Date of site visit - 12 March 2024

## **2. SITE HISTORY**

### Planning Applications

87/01123 Renewal Of Permission For Portakabin **Approve Subject to Conditions** 2nd February 1988

86/01091 Stationing Of Portakabin **Approve Subject to Conditions** 10th February 1987

96/00003/LBC Internal Alterations To Provide Storage Area **Approve Subject to Conditions** 29th March 1996

07/00980/LBC Refurbishment of ground floor north wing for wedding receptions and conferences **Approve Subject to Conditions** 16th November 2007

08/00040/LBC Replacement of lead flashings on main gate lodges with lead-free equivalent **Withdrawn** 18th February 2008

09/00511/LBC Alterations to external toilets **Approve Subject to Conditions** 3rd September 2009

10/00087/TREE CONSERVATION AREA - 18 Lime trees - Reduce in height to between 6-10 metres

12/00864/TREE TPO 251/2010 - 33 Lime trees and 1 Acer.

Reduce height by between 20% and 50% of 32 Limes and 1 Acer

Remove rubbing lib on 1 Lime

19/00226/ADV To display 3 non illuminated free standing signs

21/00497/OTHERS Roof mounted solar PV. 62.16kWp fitted with K2 ballasted frame using black cells with black trim modules 11th May 2021

21/00721/TREE Section 211 Conservation Area Notification. Remove 4 Ash trees 23rd August 2021

21/00969/TREE Section 211 Conservation Area Notification. Fagus sylvatica (Beech) - Pollard at 6 metres 9th November 2021

21/00979/TREE Fagus spp. (Beech) - Pollard 23rd November 2021

21/01043/TREE Section 211 Conservation Area Notification. T3294, Quercus rubra (Red Oak) - Fell and T3295, Quercus rubra (Red Oak) - Crown reduction by up to 5 metres in height and up to 3 metres from lateral branches 24th November 2021

21/00993/FUL Installation of air source heat pumps and construction of timber fenced compound.

Installation of photo-voltic panels on roof. **Approve Subject to Conditions** 11th March 2022

21/00999/LBC Installation of air source heat pumps and construction of timber fenced compound.

Installation of photo-voltic panels on roof. **Approve Subject to Conditions** 11th March 2022

21/01085/TTREE Tree Preservation Order 10/00251. T4, Populus spp. (Poplar) - Fell. T2, Fagus spp. (Beech) – Fell 17th December 2021

22/00520/TREE 1 x Lime tree, Tag197, remove partially snapped branch 27th May 2022

22/00547/TREE T1 and T2, Fraxinus spp. (Ash) x 2 - Complete dismantle and Remove 12th July 2022

22/01104/FUL The creation of a playground at Himley Hall **Withdrawn** 13th April 2023

23/00726/FUL New childrens play area containing mainly timber play elements in between existing trees and associated works. **Approve Subject to Conditions** 20th October 2023

### 3. POLICY

#### Constraints

Green Belt

Coal Authority Low Risk Area

Conservation Area Name: Himley Village And Parkland Conservation Area

Grade II\* Himley Hall

Great Crested Newt Green Impact Zone

#### Policies

National Planning Policy Framework

National Planning Practice Guidance

#### Core Strategy

Core Policy 1: The Spatial Strategy

Policy GB1: Development in the Green Belt

Core Policy 2: Protecting and Enhancing the Natural and Historic Environment

Policy EQ1: Protecting, Enhancing and Expanding Natural Assets

Policy EQ3: Conservation, Preservation and Protection of Heritage Assets

Policy EQ4: Protecting and Enhancing the Character and Appearance of the Landscape

Core Policy 4: Promoting High Quality Design

Policy EQ9: Protecting Residential Amenity

Policy EQ11: Wider Design Considerations

Core Policy 14: Open Space, Sport and Recreation

Policy HWB1: Protection of Open Space, Sport and Recreation Facilities

Policy EV12: Parking Provision

Appendix 5: Car parking standards

**Supplementary Planning Documents**

Green Belt and Open Countryside SPD  
South Staffordshire Design Guide

**4. CONSULTATION RESPONSES**

All consultation periods have expired unless noted otherwise.

Site Notice Expires	Press Notice Expires
15 February 2024	21 February 2024

**Himley PC**

21st February 2024

Himley Parish Council supports the application.

**Councillor Roger Lees BEM**

No Response Received

**Conservation Consultation**

27th February 2024

The application is for alterations to the existing boat yard within Himley Park. The site is located within the Himley Conservation Area and is within the Grade II registered park. The site is also within the setting of the Grade II\* Himley Hall.

The site is adjacent to the lake and has been in this location for a number of years. The boats themselves are a prominent feature within the parkland landscape.

The boats are currently surrounded by a low timber post and rail fence, which has proved insufficient in terms of the security required for the club in what is an exposed and vulnerable location. It is accepted that there are security concerns which this application seeks to address.

The proposals will seek to introduce a far larger and more modern fencing to the site. Whilst this kind of fencing would not normally be acceptable within the registered park, in this instance alternative locations for the boats have been considered and the existing park is considered to be the best option.

The form of the boat park doesn't appear to be altering from its existing form, just the addition of new fencing and CCTV. The boats themselves are a highly visual feature within the landscape and care will need to be taken to ensure that the proposed fencing does not draw additional attention to the park.

In principle there are no objections to the proposals, however there will need to be additional information provided with regards to the landscaping required to screen the fencing. This should not be a solid line of planting at a uniform height as this will accentuate the straight line of the fencing which is not in keeping with the historic character of the parkland. In this case it would be best to have a variety of planting to help to break up the massing and linear nature of the fence. Details of how this will be achieved will need to be agreed prior to the determination of the application.

Comment received 25/04/2024 in relation to planting plan:

A planting plan has been submitted for the application. There are a number of trees proposed to help screen the new fencing within the landscape. The proposed mix of trees would appear appropriate for the location. Therefore, subject to South Staffs Arboriculture being happy with the proposed scheme, there are no conservation objections to the proposed planting scheme.

**Senior Arboricultural Officer**

15th April 2024

I can confirm that the species choice and nursery stock specified on the planting plan are appropriate. The Deodar Cedar appears to be positioned suitably far away to allow it to develop into its mature size, whilst being close enough that it will provide an effective visual screen in years to come; it also being of a species typical for a park setting such as this.

The Amelanchier is a smaller growing specimen that is not more common in parklands only due to its relatively recent rise in popularity, whilst the Hawthorn and Hornbeam are frequently planted native species that can also make good specimen trees.

Therefore, I have no objection to the specification supplied.

**Senior Ecologist - South Staffordshire**

30th April 2024

Following submission of the planting plan for the sailing club application as referenced above, I have reviewed the new documentation and am satisfied with the details. Providing this planting is secured appropriately I have no objection to the application and do not consider that any further conditions or informative notes are necessary.

The ecological survey submitted with the application also indicates that European protected species are likely absent from the site, and no further consideration of the Habitat Regulations is necessary in relation to this application.

I am also satisfied given the scale of the proposal that no significant effects to statutory wildlife sites or habitats are likely to occur as a result of the proposed development.

**Historic England**

13th February 2024

Historic England provides advice when our engagement can add most value. In this case we are not offering advice. This should not be interpreted as comment on the merits of the application.

We suggest that you seek the views of your specialist conservation and archaeological advisers. You may also find it helpful to refer to our published advice at <https://historicengland.org.uk/advice/find/>

It is not necessary to consult us on this application again, unless there are material changes to the proposals. However, if you would like advice from us, please contact us to explain your request.

**Staffordshire Gardens and Parks Trust**

9th March 2024

The application site lies within the grade II Registered Park and Garden surrounding the grade II star listed Himley Hall. The site also lies within the designated Himley Conservation Area. The basis of the present day layout and landscape character of the historic park is little altered from that laid out in the 1760s to the design of Lancelot 'Capability' Brown one of the foremost landscape practitioners of the 18th century. It is therefore a site of considerable historic significance.

A key element in the 18th century design was the sweeping vista westwards from the mansion house across open lawns towards the lake. Today this view encompasses the present intrusive and untidy boat storage area subject of the current application. The Trusts have no objection in principle to measures to address the appearance of the boat store nor to installing enhanced security arrangements but feel that these should be carried out in a way which minimises their impact in the historic landscape: this should include the repositioning of the store to a less prominent location.

The Trusts are concerned that the current application envisages retaining the present location of the store. The proposed erection of a utilitarian 1.8 metre tall boundary fence with taller attendant CCTV masts around a rigid square compound will accentuate its intrusive presence at variance with the surrounding open landscape characterised by softer, more flowing features. As indicated in our pre-application comments of 8 June 2023 to the applicants (copy attached) about a possible reorientation of the storage facility the Trusts do not support retention or reinforcement of the present open location which causes harm to the significance of the heritage assets.

The Trusts are disappointed that the applicant has misunderstood our suggestions to either reposition the facility in the open glade behind the starter hut at the north end of the adjacent woodland or on the rough car park area against its eastern boundary. Visually a new fenced enclosure against the latter would appear subordinate to the treed background. Additional planting around the southern and eastern boundaries of the enclosure this would further soften its impact and help blend it into its setting.

Given that there do appear to be realistic alternative options for the siting of the storage compound and the harm that the current proposals will cause to the significance of the conservation area and RPG the Trusts object to this application.

**Dudley Metropolitan Borough Council**

6th February 2024

Based on the information provided, the Local Planning Authority have no further comments to make in respect of the proposed application.

**Contributors**

No Response Received

**5. APPRAISAL**

The application has been referred to a planning committee meeting as the proposal represents in inappropriate development in the Green Belt, contrary to Local Plan Policy GB1 and Paragraph 154 of the NPPF.

**5.1 Policy & principle of development**

**5.2 Impact on the Heritage Asset**

**5.3 Access, Parking & Highway Safety**

**5.4 Residential Amenity**

**5.5 Ecology & Biodiversity**

## **5.6 Arboriculture**

## **5.7 Human Rights**

### **5.1 Policy & principle of development**

5.1.1 The site is located within the Green Belt. Paragraph 152 of the National Planning Policy Framework (NPPF) states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

5.1.2 Paragraph 154 of the National Planning Policy Framework sets out that the construction of new buildings in the Green Belt is to be regarded as inappropriate development. A 'building' is defined in Section 336 of the Town and Country Planning Act 1990 to include any structure or erection and it therefore includes fences and gates. Fences and gates are not explicitly cited within the exceptions included at paragraph 154. Consequently, the fencing and CCTV poles is inappropriate development in the Green Belt, which is, by definition, harmful to the Green Belt.

### **Very Special Circumstances**

5.1.3 Paragraph 153 of the NPPF provides that when considering any planning application, substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

5.1.4 The boat park is a long-established feature within Himley Hall. The design of the fencing is open in nature (black vertical bars) and will therefore not have a material impact on the openness of the Green Belt than the existing situation. In support of the application the applicant has submitted a crime prevention report from Staffordshire Police, which confirms the recent thefts at the site. Recommendations are made to install a 1.8m high fencing to prevent access to the boat yard and CCTV cameras to act as a deterrent, whilst funds are secured by the Trust for the new fencing.

5.1.5 The boat park is an existing use and functions in providing its members with storage provision to partake in outdoor recreation, which is in principle an appropriate use in Green Belt. It has been concluded that the design of the fencing and the CCTV poles will cause minimal harm on the openness of the Green Belt and clear justification has been provided for its requirement. On balance it is considered that very special circumstances have been demonstrated.

### **5.2 Impact on the Heritage Asset**

5.2.1 Chapter 16 of the NPPF and Policy EQ3 of the adopted Core Strategy state that care and consideration must be taken to ensure no harm is caused to the character or appearance of a heritage asset. Heritage assets are buildings, sites, monuments, places, areas or landscapes identified as significant features in the historic environment. Conservation areas are designated under Section 69 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and defined as "an area of special architectural or historic interest, the character or appearance of which it is desirable to preserve or enhance." The NPPF stipulates that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.

5.2.2 The site is located within the Himley Conservation Area and is within the Grade II registered park. The park is the work of Lancelot "Capability" Brown and forms the setting of the Grade II\* listed Himley Hall.

5.2.3 The edges of the lake have been altered over time to facilitate the use of the lake for boating. The

boats have been in this location for a number of years and are a prominent feature within the landscape. The low timber post and rail fence, has proved insufficient in terms of the security required for the club in what is an exposed and vulnerable location. The Councils Senior Conservation Officer has commented that there are no objections to the proposal given that the boats themselves are a highly visual feature in the landscape and clear justification has been provided for the need for new fencing and CTTV poles.

5.2.4 The Staffordshire Gardens and Parks Trust, have raised concerns with the boat store being kept where it is and request for an alternative location in the park setting. Prior to the submission of this application pre-application discussions took with the applicant regarding alternative locations for the boats and these raised arboricultural and ecological issues, and as such the existing park is considered to be the best option. In order to ensure that the proposed fencing does not draw additional attention to the boat park, a planting plan has been submitted, which proposes a variety of species at different heights to help break up the massing and linear nature of the fencing and these details will be secured by a condition. This planting scheme, as suggested by the Senior Conservation Officer, was submitted after the comments provided by the Staffordshire Gardens and Parks Trust. Taking all of the considerations in account it is not concluded that the proposal would result in any significant harm being caused to the designated assets beyond that of the existing situation, particularly to a degree that would warrant refusal of the proposed development.

### 5.3 Access, Parking & Highway Safety

5.3.1 There are no access, parking or highway considerations as a result of this proposal.

### 5.4 Residential Amenity

5.4.1 In accordance with Local Plan Policy EQ9, all development proposals should take into account the amenity of any nearby residents, particularly with regard to privacy, security, noise and disturbance, pollution, odours and daylight.

5.4.2 The boating area is set within the extensive grounds of Himley Hall and as such the application poses no neighbouring amenity issues. There is no conflict with policy EQ9 of the Local Plan.

### 5.5 Ecology & Biodiversity

5.5.1 The Wildlife and Countryside Act (as amended) 1981 covers the protection of a wide range of protected species and habitats and provides the legislative framework for the designation of Sites of Special Scientific Interest (SSSIs). To comply with the guidance contained within Paragraphs 9, 112 and 122 of the NPPF and the Council's biodiversity duty as defined under section 40 of the NERC Act 2006, new development must demonstrate that it will not result in the loss of any biodiversity value of the site.

5.5.2 The Councils Senior Ecologist has raised no concerns with the proposal and has recommended additional planting as suggested by the ecological report. A planting plan has been produced in agreement with the Councils Conservation Officer and Arboricultural Officer however this is not for a formal hedge, as initially requested by the Ecologist as this would have accentuated the linear nature of the area. The Councils Senior Ecologist has reviewed the revised planting scheme and has expressed no concerns.

5.5.3 The site is in a Green Impact Zone for Great Crested Newts. As the proposal is of a low risk an informative to the decision notice is appropriate.

### 5.6 Arboriculture

5.6.1 Paragraph 186 of the NPPF advises that permission should be refused for development resulting in

the loss of aged or veteran trees, unless the benefits of the development outweigh the harm. Strategic Objective 3 and 4 seek to protect, conserve and enhance the District's natural environment, whilst Policy EQ4 states that "The intrinsic rural character and local distinctiveness of the South Staffordshire landscape should be maintained and where possible enhanced. Trees, veteran trees, woodland, ancient woodland and hedgerows should be protected from damage and retained, unless it can be demonstrated that removal is necessary and appropriate mitigation can be achieved"

5.6.2 The application does not result in the loss of any trees. With regards to the planting plan the arboriculturist has confirmed that the species choice and nursery stock are appropriate for the park landscape. There is no conflict with policy EQ4.

## 5.7 Human Rights

5.7.1 The proposals set out in the report are considered to be compatible with the Human Rights Act 1998. The proposals may interfere with an individual's rights under Article 8 of Schedule 1 to the Human Rights Act, which provides that everyone has the right to respect for their private and family life, home and correspondence. Interference with this right can only be justified if it is in accordance with the law and is necessary in a democratic society. The potential interference here has been fully considered within the report in having regard to the representations received and, on balance, is justified and proportionate in relation to the provisions of the policies of the development plan and national planning policy.

## 6. CONCLUSIONS

6.1 The proposed fencing and CCTV poles represent an inappropriate form of development in the Green Belt and very special circumstances have been clearly demonstrated in the application to outweigh the harm caused (i.e. limited harm to openness, necessary for outdoor recreation and security).

6.2 Heritage concerns have been raised given the parks sensitive setting and alternative locations within the park have been explored and discounted. The existing boats are a long established prominent feature, and on balance it is not considered that the proposal would cause any significant further harm. The planting plan includes a variety of species at different heights to help break up- the massing and linear nature of the fencing and improve the appearance of the boat store from views of Himley Hall. Approval is therefore recommended.

### RECOMMENDATION - APPROVE Subject to Conditions

1. The development to which this permission relates must be begun not later than the expiration of 3 years beginning with the date on which this permission is granted.
2. The development authorised by this permission shall be carried out in complete accordance with the approved plans and specification, as listed on this decision notice, except insofar as may be otherwise required by other conditions to which this permission is subject.
3. The landscape scheme shown on the approved plan(s) 'planting plan' received 15th of April; shall be implemented concurrently with the development and completed within 6 months of the completion of the development. The Local Planning Authority shall be notified when the scheme has been completed. The planting shown on the approved plan(s) shall be retained and maintained for a minimum period of 10 years by the applicant or land owner from the notified completion date of the scheme. Any plant failures that occur during the first 5 years of the notified completion date of the scheme shall be replaced with the same species within the next available planting season (after failure).



## Reasons

1. The reason for the imposition of these time limits is to comply with the requirements of Section 91 of the Town and Country Planning Act 1990.
2. In order to define the permission and to avoid doubt.
3. To safeguard the amenity of the area in accordance with policy EQ11 of the adopted Core Strategy.

Informative - Please note that the application site is within a Green Impact Risk Zone for Great Crested Newts. Whilst the proposal is considered to be low risk, there is the possibility that those species may be encountered once work has commenced. The gaining of planning approval does not permit a developer to act in a manner which would otherwise result in a criminal offence to be caused. Where such species are encountered it is recommended the developer cease work and seek further advice (either from Natural England or NatureSpace) as to how to proceed.

Proactive Statement - In dealing with the application, the Local Planning Authority has approached decision making in a positive and creative way, seeking to approve sustainable development where possible, in accordance with paragraph 38 of the National Planning Policy Framework, 2023.

## Plans on which this Assessment is based

Plan Type	Reference	Version	Received
Proposed Site Plan			24 April 2024
Landscape Plan			15 April 2024
Other Plans	CCTV Lamp Post		14 January 2024
Other Plans	Fencing Options		7 January 2024



Himley Hall, Himley Road, Himley, DUDLEY DY3 4DF