

APPLICATION REFERENCE: PL/2018/03187/MINFHO**Site Address:** 193 St. Bernards Road Olton Solihull B92 7DJ

Proposal:	Construction of new vehicular access, gates and walls.
Web link to Plans:	Full details of the proposal and statutory consultee responses can be found by using the above planning application reference number at: https://publicaccess.solihull.gov.uk/online-applications/

Reason for Referral to Planning Committee:	Called in to Committee by Councillor Blunt
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Recommendation:	APPROVAL SUBJECT TO CONDITIONS.
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EXECUTIVE SUMMARY

The existing streetscape of St Bernards Road has a wide range of styles of fencing, walls and gates that define properties frontages. The replacement of the existing low level wall with a new wall and gates would not appear as a discordant or incongruous feature within the streetscape. The design of the wall and gates would conserve, enhance and assimilate into the character and appearance of the streetscape in this area. The proposal would therefore accord with Policy P15 of the Local Plan. This carries significant weight in the planning balance.

The installation of the new driveway to the dwelling associated with the development will require the removal of 4 category C1 trees. The loss of such trees would not harm the visual amenity of the area subject to the imposition of conditions to mitigate the loss of trees/shrubs. The proposal therefore, accords with Policies P10 and P14 of the Solihull Local Plan.

The proposed new access causes no material harm to highway safety and would accord with Policy P8 of the Local Plan.

MAIN ISSUES

The main issues in this application are the effects of the development:

- Firstly, on the character and appearance of the streetscene;

- Secondly, impact on the longevity of the trees the subject of a group Tree Preservation Order to the St. Bernards Road frontage; and
- Finally, impact of the new access on highway safety along St Bernards Road.

Other Material Considerations

- Other matters.

CONSULTATION RESPONSES

Statutory Consultees - The following Statutory Consultee responses have been received:

None.

Non Statutory Consultees - The following Non-Statutory Consultee responses have been received:

SMBC Drainage - No comments.

SMBC Highways – No objection.

SMBC Landscape - No objection subject to condition

PUBLICITY

The application was advertised in accordance with the provisions set down in the Town and Country Planning (General Development Procedure) Order 2015.

7 responses were received including an objection from Councillor Blunt. All correspondence has been reviewed and the main issues raised are summarised below (Planning Committee Members have access to all third party correspondence received):

Amenity

- Resultant works are unsightly; and
- Less screening increases the loss of privacy.

Highway

- No need for a additional highway access onto St Bernards Road;
- Drive way proposes to access/egress onto a zig-zag area and close to an existing pedestrian crossing; and
- St Bernards Road is heavily congested.

Landscape/Ecology

- Trees have a significant amenity value;

- Loss of habitat; and
- Loss of trees and shrubs.

PLANNING ASSESSMENT

Section 38(6) of the Planning & Compulsory Purchase Act 2004 requires that: -

‘Where in making any determination under the planning acts, regard is to be had to the development plan, the determination shall be made in accordance with the plan unless material considerations indicate otherwise’.

The National Planning Policy Framework at paragraph 2 states that planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. The National Planning Policy Framework must be taken into account in preparing the development plan, and is a material consideration in planning decisions. Planning policies and decisions must also reflect relevant international obligations and statutory requirements.

This report considers the proposal against the Development Plan (Solihull Local Plan), the relevant policies of the National Planning Policy Framework (“NPPF”) 2018, the National Planning Practice Guidance

Impact on the character and appearance of the streetscene.

Policy P15 of the Local Plan is a wide-ranging design policy that sets out the relevant guidelines by which development proposals will be assessed. Amongst other things, it states that all development proposals will be expected to achieve good quality, inclusive and sustainable design that conserves and enhances local character and streetscape quality. The policy is consistent with the NPPF and therefore carries significant weight.

The application property consists of a detached house accessed from a private drive way which provides access to an additional 2 detached properties. The wider context of St Bernards Road is characterised by detached houses of varied designs which face road set back behind a generous frontages. The frontage boundaries are either defined by brick walls or railings which are supplemented by hedges and groups of trees that the subject of a group Tree Preservation Order. These features give the area a verdant residential character and appearance.

The proposal seeks to replace the existing low level wall with a new wall with railings and gates. The pillars to the wall would be 1.8m high with a low brick wall at 0.96m and open railings above. The proposed gates would be set 5.5m into the site and would black coated metal gates. Having regard to the existing character of the road and range of styles of fencing, wall and gates that are exhibited, the proposal would not appear as a discordant or incongruous feature within the streetscape. The design of the wall and railings would conserve and enhance the character and appearance of the area and accord with Policy P15 of the Local Plan. Significant weight should be attributed to this matter in the planning balance.

Impact on the longevity of the trees the subject of a group Tree Preservation Order to the St. Bernards Road frontage.

Policy P10 of the Local Plan recognises the importance of a healthy natural environment in its own right. Policy P14 of the Local Plan also requires new developments to safeguard important trees, hedgerows and woodlands. Policies P10 and P14 of the Local Plan are consistent with policies set out in the Framework and full weight can be attributed to these policies.

The frontage trees along this section of St Bernards Road are the subject of a group Tree Preservation Order. This group order protects oak, horse chestnut, whitebeam, lime, cedar, cypress, pine, willow, sycamore, birch and mountain ash along the section of St Bernards Road frontage.

The belt of trees to the property frontage is formed of mixed species with 2 oaks forming the dominant canopy species. The arboricultural assessment identifies these trees to be high quality and have been assigned the retention category A1. Of the understorey, the most important trees both of which are native yew which are category B1. These two trees are currently screened by the lesser quality understorey formed mainly of self-set sycamore, laurel, and none native conifer species.

The installation of the new driveway would require the removal of 4 no. category C1 trees (namely a Lawson Cypress, 2 no. Western Red Cedar and a Sycamore). Further, a group of category C1 trees would also be required to be removed. These are all small trees along the front and within the footprint of the proposed drive.

The installation of the drive will also cut into the Root Protection Areas (RPA's). However, such a small incursions into the RPAs is unlikely to have a significant negative impact on tree health when it is considered that the RPAs can be extended in all other directions. That said, as a precaution, all excavations for the drive within the RPAs would need to be carried out strictly by hand, which can be controlled by condition (Condition 30).

The Council's Landscape Architect has raised no objection to the proposal subject to conditions that requiring a no dig construction of the proposed driveway. The materials indicated (providing a porous construction) on the plan and the works method statement is to be strictly adhered to. Further, mitigation for the loss of existing vegetation to be provided in the form of replanting.

Thus, subject to the imposition of conditions, the proposal accords with Policies P10 and P14 of the Solihull Local Plan and neutral weight can be attributed to the matter in the planning balance.

Impact of the new access on highway safety.

Policy P8 of the Solihull Local Plan requires all development proposals have regard to transport efficiency and highway safety. This Local Plan is consistent with policies set out in the Framework and again full weight can be attributed to this Local Plan Policy.

A new vehicular access is proposed to the dwelling from St Bernards Road with gates set back from the footway by 5.5m. Adjacent to the site is a pedestrian crossing to Langley Primary School and a bus stop. It should be noted that in this area there are existing accesses with similar traits. Whilst it is acknowledged that St Bernards Road is busy and suffers from congestion at peak times, the proposed access is not unsafe. The Council's Highway Engineer has raised no objection to the proposal on highway safety grounds and thus the proposal is in accordance with Policy P8 of the Local Plan and neutral weight can be attributed to the matter in the planning balance.

Other material considerations

- Other issues

- Public Sector Equality Duty

In making your decision, you must have regard to the public sector equality duty (PSED) under s.149 of the Equalities Act. This means that the Council must have due regard to the need (in discharging its functions)

The PSED must be considered as a relevant factor in making this decision but does not impose a duty to achieve the outcomes in s.149 is only one factor that needs to be considered, and may be balance against other relevant factors.

It is not considered that the recommendation to grant permission in this case will have a disproportionately adverse impact on a protected characteristic.

- Human Rights

In making your decision, you should be aware of and take into account any implications that may arise from the Human Rights Act 1998. Under the Act, it is unlawful for a public authority to act in a manner that is incompatible with the European Convention on Human Rights.

You are referred specifically to Article 8 (right to respect for private and family life), Article 1 of the First Protocol (protection of property). It is not considered that the recommendation to grant permission in this case interferes with local residents' right to respect for their private and family life, home and correspondence, except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation to grant permission is considered a proportionate response to the submitted application based on the considerations set out in this report.

CONCLUSION

The existing character of St Bernards Road in this area has a range of styles of fencing, walls and gates. The replacement of the existing low level wall with a new wall and gates would not appear as a discordant or incongruous feature within the

streetscape. The design of the wall and gates would conserve and enhance the character and appearance of the streetscape in this area and would accord with Policy P15 of the Local Plan. Therefore, positive weight should be attributed to this matter in the planning balance.

The installation of the new driveway to the dwelling will require the removal of 4 category C1 trees. The loss of such trees would not harm the visual amenity of the area subject to the imposition of conditions. The proposal therefore, accords with Policies P10 and P14 of the Solihull Local Plan.

The proposed new access causes no material harm to highway safety and would accord with Policy P8 of the Local Plan.

The proposal also accords with all other relevant planning policies within the Solihull Local Plan as set out in the report above.

In coming to this decision all representations have been taken into consideration in respect to the proposal and recommendation. In view of the matters set out above, they do not alter the overall conclusion.

RECOMMENDATION

Approval is recommended subject to the following précis of conditions a full list of standard conditions is available using the following link:

<http://www.solihull.gov.uk/Resident/Planning/searchplanningapplications:>

1. CS00 - Compliance with all plans.
2. CS05 - Commencement within 3 years – full.
3. Before the walls, gates and driveway hereby approved are commenced an Arboricultural Method Statement detailing the special engineering operations, materials and working methods for the construction walls and driveway within the root protection area of the safeguarded trees shall be submitted to and approved in writing. Thereafter the scheme shall be implemented in accordance with the approved details.

To ensure the wall does not damage tree roots in accordance with Policies P10 and P14 of the Solihull Local Plan.

4. CS06 - Materials to be submitted.
5. The development hereby approved shall not be occupied until a planting scheme of native woodland shrub / small tree species such as hazel, holly, and hawthorn including the proposed times of planting have been submitted to and approved in writing by the Local Planning Authority. Thereafter, all tree planting shall be carried out in accordance with those details and at those times specified.

To minimise the effect and enhance the character of the development in accordance with Policy P10 and P15 of the Solihull Local Plan 2013.

6. CL07 - Replacement of trees or hedging lost.
7. Prior to the commencement of work on site, all existing trees/hedges and large shrubs except those agreed for removal, shall be protected by barriers in accordance with the approved Tree Protection Plan EA-2017-065(TPP) and specification contained in the Arboricultural Impact Assessment BS5837:2012 Reference EA-2018-028 (AIA) dated 19 September 2018. Thereafter, the protected areas shall be kept free of all materials, equipment and building activity during the site development, and ground levels within the protected areas shall not be raised or lowered.

To minimise disturbance to existing vegetation during development in accordance with Policy P10 and P15 of the Solihull Local Plan 2013.