

APPLICATION REFERENCE: PL/2022/01731/MINFDW**Site Address:** 2 Hargrave Road Solihull Lodge Solihull B90 1HX

Proposal:	Erect new 1 bedroom dwelling to side garden.
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 by Councillor Maggie Allen
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Recommendation:	REFUSAL
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EXECUTIVE SUMMARY

This application seeks consent for the erection of a single detached dwelling in the form of a bungalow on land adjacent to 2 Hargrave Road, Solihull. The proposed development would be located to the side of the existing dwelling on land which is currently garden land occupied by a small shed.

The Council is currently unable to demonstrate a five-year housing land supply. Consequently, para 11d) of the Framework is engaged. Therefore, according to para 11d) ii) of the Framework, consideration must be had as to whether the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework when taken as a whole.

The proposal would make a very modest contribution of one dwelling, in an accessible location, to the supply of housing. Benefits to the local economy would also be small given the scale of the scheme.

It has been found that the proposal would cause significant harm to the character and appearance of the area having a jarring and unacceptable relationship with the street scene. It would fail to accord with Local Plan Policies P5 and P15 which support housing where it conserves local character. It would also be contrary to the guidance of the New Housing in Context Supplementary Planning Guidance (SPG) and the design aims of the Framework.

Overall, the harm that has been identified would significantly and demonstrably outweigh the benefits. Therefore, the Framework is not a material consideration that indicates a decision other than in accordance with the development plan.

The proposed development therefore conflicts with the development plan when considered as a whole and there are no material considerations, either individually or in combination, that outweighs the identified harm and associated development plan conflict.

MAIN ISSUES

The main issues in this application are: -

- Whether the proposal provides an appropriate residential use in accordance with relevant planning policy;
- The effect of the development on the appearance of the street scene and character and local distinctiveness of the local area; and
- The effect of the proposal on the living conditions of the occupiers of neighbouring properties.

Other Material Considerations

- Highways
- Landscaping;
- Ecology;
- Drainage;
- CIL contribution;

- Planning balance and conclusions

CONSULTATION RESPONSES

Statutory Consultees The following Statutory Consultee responses have been received:

Bromsgrove District Council – No objection.

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

Lead Local Flood Authority - No objection subject to conditions

SMBC Ecology – No objection subject to conditions

SMBC Highways – No objection subject to conditions

SMBC Landscape - No objection subject to conditions

PUBLICITY

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

No responses were received from members of the public. The application was called in by Councillor Maggie Allen who supported the application.

RELEVANT PLANNING HISTORY

PL/2021/00308/PPFL - Erect new 1 bedroom dwelling to side garden. - Withdrawn

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.

On the 13th May 2021 the Local Plan Review was submitted (via the Planning Inspectorate) to the Secretary of State for independent examination.

This marks the next stage in the preparation and adoption of the plan. The advice in the NPPF at paragraph 48 states “Local planning authorities may give weight to relevant policies in emerging plans according to:

- a) the stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given);
- b) the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
- c) the degree of consistency of the relevant policies in the emerging plan to this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given)”.

Greater weight, but not full weight, can therefore be given to the submitted plan, but this may still be dependent on the circumstances of each case and the potential relevance of individual policies. In many cases there are policies in the new plan

which are similar to policies in the adopted plan which seek the same objectives, although they may be expressed slightly differently.

It is considered that relevant policies pertinent to this application have limited weight in the planning balance, and as a result do not alter the recommendation of approval reached in this report.

This report also considers the proposal against the Development Plan (Solihull Local Plan), the relevant policies of the National Planning Policy Framework ("NPPF") 2021, the National Planning Practice Guidance.

Whether the proposal provides an appropriate residential use in accordance with relevant planning policy.

The application site consists of the undeveloped side garden of 2 Hargrave Road, bounded on one side by the dwelling, and the other side by Peterbrook Road.

The National Planning Policy Framework sets out the Government's planning guidance for England and is underpinned by a presumption in favour of sustainable development. Although it aims to boost significantly the supply of housing, great importance is attached to the design of the built environment. It advises that good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.

P14 Amenity seeks to protect and enhance the amenity of existing and potential occupiers of houses, businesses and other uses in considering proposals for new development. Measures are listed as part of achieving these which prospective developers should acknowledge.

Policy P15 'Securing Design Quality' of the Local Plan states that all development will be expected to achieve good quality, inclusive and sustainable design, which meets 7 key principles including conserve and enhance local character, distinctiveness and streetscape quality and ensures that the scale, massing, density, layout, materials and landscape of the development respect the surrounding natural, built and historic environment and ensures that new development achieves the highest possible standard of environmental performance through sustainable design and construction and the location and layout of the development in accordance with the guidance provided.

The Council has also adopted Supplementary Planning Guidance contained within 'New Housing in Context'. This provides greater clarity regarding what constitutes suitable development. The document indicates that all new development in existing residential areas will be required to respect, maintain or enhance local distinctiveness and character. The guidance identifies a number of key characteristics and common elements that lead to local distinctiveness and character, all of which should be taken into account in the determination of the applications, these include plot format, building line build up, building set back, plot access, building format, key dimensions etc.

At present, the Council is unable to demonstrate a five year supply of housing and there is a drive at national level to 'boost significantly' the supply of housing.

Policy P5 of the Local Plan supports new housing on unidentified sites in accessible locations where they contribute to meeting borough wide needs and towards enhancing local character and distinctiveness. Policy P5 of the Local Plan is consistent with policies set out in the Framework and full weight can be attributed to this Local Plan Policy. In order to find support in Policy P5, developments should; (a) be located in accessible locations; (b) contribute to meeting borough wide housing needs and; (c) enhance local character and distinctiveness.

- (a) Accessibility

Ordinarily, Policy P7 of the Local Plan sets out the accessibility criteria for new housing development. However, Policy P7 confirms that residential development proposals for fewer than 3 dwellings in urban areas west of M42 and within rural settlements will be exempt from the criteria. Therefore having regard to the location of the application site the accessibility test in Policy P7 is not engaged in this case. Notwithstanding this, when looking at the accessibility credentials of the site, it is clear that the site lies within an accessible location being within an existing residential area. .

- (b) Contribute to meeting borough wide housing needs

Paragraph 11 of the NPPF indicates that there is a presumption in favour of sustainable development. The correct test to apply is based upon whether an authority can demonstrate a 5-year land supply (5YHLS) or not. If it can't then for decision making the presumption means granting permission unless (i) the application of policies in the NPPF that protect areas or assets of particular importance (that are listed in foot note 6 of the NPPF) provides a clear reason for refusal or (ii) any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in this framework taken as a whole. This is often referred to as the 'tilted balance'. The latest figures the Council has published in relation to the 5YLS indicates that the Council can demonstrate a supply of 3.60 years (as of 1st April 2021) and therefore the tilted balance is engaged. This shortfall is considered to be substantial on a scale of marginal-limited-modest-substantial-severe. As the shortfall is considered to be substantial this should be given significant weight. Policy P5 of the Solihull Local Plan (SLP) supports new housing on unidentified sites in accessible locations where they contribute towards meeting identified housing needs and towards enhancing local character and distinctiveness. The proposal seeks to erect one additional bungalow thus contributing towards housing need. . Issues of character and design are considered in greater depth later on in this report.

- (c) Enhancing local character and distinctiveness

Finally, considering the third test, Policy P15 of the SLP provides guidance on Securing Design Quality. Policy P15 of the SLP requires all development to achieve good quality, inclusive and sustainable design, which conserves and enhances local character, distinctiveness and streetscape quality and ensures the scale, massing,

density, layout, materials and landscape of the development respects the surrounding natural, built and historic environment.

An assessment of the effect of the proposed development by reason of its scale, massing, layout and landscaping on the character and appearance of the area is set out in the next section of this report and identifies harm to the character,

The principle of the development of this site for residential purposes within the C3 class of the use classes order would not enhance local character and distinctiveness and therefore conflicts with one of the three elements of the test in Policy P5, namely enhancing local character and distinctiveness.

The effect of the development on the appearance of the street scene and character and local distinctiveness of the local area

The National Planning Policy Framework sets out the Government's planning guidance for England and is underpinned by a presumption in favour of sustainable development. Although it aims to boost significantly the supply of housing, great importance is attached to the design of the built environment. It advises that good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.

Paragraph 124-132 of the NPPF states that planning policies and decisions should not attempt to impose architectural styles or particular tastes and they should not stifle innovation, originality or initiative through unsubstantiated requirements to conform to certain development forms or styles. It is, however, proper to seek to promote or reinforce local distinctiveness.

It goes on to state that although visual appearance and the architecture of individual buildings are very important factors, securing high quality and inclusive design goes beyond aesthetic considerations. Therefore, planning policies and decisions should address the connections between people and places and the integration of new development into the natural, built and historic environment.

The latest NPPF puts a greater emphasis on design and advises that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

Policy P5 'Provision of Land for Housing' of Solihull Local Plan 2013 states that new houses will be supported on unidentified sites in accessible locations where they contribute towards meeting identified borough-wide housing needs and towards enhancing local character and distinctiveness. This Policy also states that the density of new housing will make the most efficient use of land whilst providing an appropriate mix and maintaining character and local distinctiveness.

Policy P15 'Securing Design Quality' of the Local Plan states that all development will be expected to achieve good quality, inclusive and sustainable design, which meets 7 key principles including "conserve and enhance local character, distinctiveness and streetscape quality and ensures that the scale, massing, density, layout, materials and landscape of the development respect the surrounding natural,

built and historic environment” and “ensures that new development achieves the highest possible standard of environmental performance through sustainable design and construction and the location and layout of the development in accordance with the guidance provided in Policy P9.”

As previously set out, the Council has also adopted Supplementary Planning Guidance contained within ‘New Housing in Context’. This provides greater clarity regarding what constitutes appropriate infill and backland development. The document indicates that all new development in existing residential areas will be required to respect, maintain or enhance local distinctiveness and character. The guidance identifies a number of key characteristics and common elements that lead to local distinctiveness and character, all of which should be taken into account in the determination of the applications, these include plot format, building line build up, building set back, plot access, building format, key dimensions etc.

The proposed detached dwelling would be designed in a single storey bungalow form with gable ends. It is considered that in terms of the appearance of the external elevations of the bungalow it would be acceptable in design having regard to the gable ended and gable fronted properties along both Hargrave Road and Peterbrook Road.

Notwithstanding the acceptable external appearance of the new dwelling, it would be situated on land to the side of 2 Hargrave Road which is currently a grassed area with a small-detached shed surrounded by hedging approximately 1m in height. Due to the location of the proposed new dwelling on the open grassed area it is considered that it would appear uncharacteristic of the surrounding area due to its proximity to the highway junction and projection forward of the building line along Peterbrook Road. The new footprint of the new dwelling would be entirely forward of this building line, highly increasing the visual prominence of this dwelling when travelling up Peterbrook Road and removing the currently green and open corners on either side of Hargrave Road which are characteristic of the surrounding area.

In addition to the breach of the building line, it is considered that the dwelling would be squeezed into the plot, appearing cramped and having no regard to the character of the surrounding area in terms of plot form.

Overall, the development would have a jarring and unacceptable relationship with the street scene which would be harmful to the character and appearance of the area.

Consequently, it is considered that the proposal would cause unacceptable harm to the character and appearance of the area. Therefore, it would fail to accord with Local Plan Policies P5 and P15 which support housing where it conserves local character. It would also be contrary to the guidance of the New Housing in Context Supplementary Planning Guidance (SPG) and the design aims of the Framework.

Significant negative weight should be attached to the harm caused in the planning balance.

Neighbouring Amenity

Policy P14 of the SLP seeks to protect the amenity of existing and potential occupiers of houses when considering new developments. Careful consideration must be made to amenity of both existing neighbours, as well as future occupiers of the proposed dwelling. The policy is consistent with the NPPF and thus carries significant weight.

The proposed new dwelling would be a single storey bungalow situated on land adjacent to the existing dwelling no.2 Hargrave Road. The new dwelling would not breach the 45degree line from the centre point of rear windows at no.2 Hargrave Road and as such would not result in any loss of light through overshadowing.

In addition to this, it would be situated over 20m from the boundary with no.41 Peterbrook Road to the south-east and again would therefore not result in loss of light.

Having regard to the location of the proposed new dwelling and surrounding properties, as well as the single storey nature of the bungalow it is not considered that it would result in a loss of privacy through overlooking.

In summary it is considered that the proposed new dwelling would be situated in a location that would not have an unreasonable impact on the amenities of the neighbours in terms of loss of light, privacy or overbearing impact and thus the development would accord with Policy P14 in this regard. This carries neutral weight in the assessment and determination of this application

Other Material Considerations

- Highways

The NPPF indicates that developments should only be prevented if a safe and suitable access to the site cannot be achieved.

Policy P7 seeks to focus new development in the most accessible locations and seek to enhance existing accessibility levels and promote ease of access.

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.

The Council's Highway Engineers have reviewed the submission and advise that the site is in an accessible location and benefits from nearby amenities and public transport options within acceptable walking distances.

The access is to remain as per the existing dwelling, with both properties (the new dwelling and existing 2 Hargrave Road) sharing the existing dropped kerb, and a new parking area to accommodate 2 additional parking spaces for the new dwelling whilst retaining 2 spaces for the existing dwelling.

The parking bays would not need to be formally marked out, but the plans indicate that the space available is sufficient to accommodate 4 spaces. It is noted that there is no indication of what is parking area and what is landscaped, but this could be secured at detailed design. Furthermore, the Design & Access statement includes details of a construction management plan which will seek to minimise any disruption during construction.

On this basis of the above, the proposed development would be compliant with the requirements of Policy P8 of the Solihull Local Plan and neutral weight should be attributed to this in the decision-making process.

- Landscaping.

Policy P10 of the SLP recognises the importance of a healthy natural environment in its own right. Policy P14 requires new development to safeguard important trees, hedgerows and woodland.

The application site is currently a side garden with a well-established hedge boundary which contributes greatly to the character of the road, particularly in this prominent corner position. The submitted Design and Access Statement states that this hedge will be retained and that no trees will need to be removed in the garden, and this is welcomed and considered a positive approach, however the parking area to the front appears awkward and indicates that some hedging may be required to be removed to facilitate this access.

The hedge and any trees on site as well as the Council-owned birch tree on the grass verge will need to be protected from the construction works, and a tree/hedge protection plan will need to be produced, but it is considered that this can reasonable be conditioned.

Furthermore, the front access and parking area, plus any planting enhancements can be the subject of a hard and soft landscape condition.

Having regard to the above there is therefore no objection to the proposal and the proposal is considered to be in accordance with policy P10 of the Solihull local Plan. Neutral weight is therefore attributed to the matter in the planning balance.

- Ecology.

Policy P10 of the SLP seeks to protect habitats and to conserve, enhance and restore biodiversity. The policy is consistent with the NPPF and thus carries significant weight.

The proposals seek to retain the existing vegetation on site, especially the boundary hedgerow which is welcomed. The proposal includes the erection of one bird box on a north facing elevation with a clear flight line entry. The location of this box and other biodiversity enhancements to enable the development to achieve a net gain to biodiversity can be provided via condition. In addition these details relating to soft landscape in relation to the above can be secured via condition.

There is therefore no objection to the proposal and the proposal is considered to be in accordance with policy P10 of the Solihull local Plan. Neutral weight is therefore attributed to the matter in the planning balance.

- Drainage.

The Framework confirms that when determining applications, local planning authorities should ensure flood risk is not increased elsewhere and only consider development appropriate in areas at risk of flooding where it is informed by a site-specific flood risk assessment.

The Council's Drainage Engineers have raised no objection to the scheme. There is therefore no objection to the proposal and the proposal is considered to be in accordance with policy P11 of the Solihull local Plan. Neutral weight is therefore attributed to the matter in the planning balance.

- CIL contribution.

However, the proposal involves the provision of new housing in an urban area and as such the Community Infrastructure Levy (CIL) contribution is required. In this instance the CIL amount generated by the proposal relates to the addition of 62 square metres of new internal floor space equating to a liability of £5696.56 (at £91.88 per square metre for residential in the mature suburbs).

- Climate Change.

In October 2019 the Council made a climate emergency declaration and a statement of intent to protect the environment. This was unanimously approved by the Council and has led to the development of the Council's Net Zero Action Plan and supported the evidence base to deliver new policies within the Solihull Local Plan Review (SLPR). As explained earlier in this report, the SLPR is currently going through the examination process and hearings have taken place with the Planning Inspectors. Once adopted, the plan will replace the Solihull Local Plan 2013 and will have full weight. Until that time, policies within the SLPR hold limited weight, but not full weight in the decision-making process. Whilst adopted policy P9 sets out measures to help tackle climate change through new development, it does not set clear requirements relating to new technologies and initiatives. As such, the updated policy P9 will provide the Council with greater leverage in requiring new development to meet up to date Climate Change and sustainable policies – responding to the aims and objectives of the Climate Change deceleration.

Nevertheless, existing planning applications such as this, are already required to perform well against wider climate change and sustainable policies. To this end, officers have sought to achieve the best solutions as part of this application within the remits of adopted policy. Whilst not yet reaching net zero, such standards will, by their very nature, help reduce energy demand for heating, lighting and cooling and minimise carbon dioxide emissions.

Furthermore, it is important to note that amended Building Regulations came into effect on 15th June 2022 and become applicable to new builds. This relates to Part L (conservation of fuel and power), Part F (ventilation) and a new Part O (overheating) of the Building Regulations. Part S (Infrastructure for the charging of electric vehicles) are also bolstered and become a building regulation requirement. Whilst new measures will not apply to schemes which are already subject to a building notice; full plans application to Building Control; or initial notice to Building control and which commence work for each building before 15 June 2023, it is our understanding that anything subject to such Building Control applications after the 15th June 2022 will need to meet these new regulations as standard. An informative is added to the recommended decision to alert the applicant to this.

PUBLIC SECTOR EQUALITY DUTY.

In determining this application, Members 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 balanced against other relevant factors. It is not considered that the recommendation to refuse permission in this case will have a disproportionately adverse impact on a protected characteristic.

HUMAN RIGHTS

In determining this request for approval, Members 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.

Members 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. The recommendation for refusal is considered a proportionate response to the submitted request based on the considerations set out in this report.

CONCLUSION

The Council is currently unable to demonstrate a five-year housing land supply. Consequently, para 11d) of the Framework is engaged. Therefore, according to para 11d) ii) of the Framework, consideration must be had as to whether the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework when taken as a whole.

The proposal would make a very modest contribution of one dwelling, in an accessible location, to the supply of housing. Benefits to the local economy would also be small given the scale of the scheme.

As set out above, it has been found that the proposal would cause significant harm to the character and appearance of the area. It would fail to accord with Local Plan Policies P5 and P15 which support housing where it conserves local character. It would also be contrary to the guidance of the New Housing in Context Supplementary Planning Guidance (SPG) and the design aims of the Framework.

Overall, the harm that has been identified would significantly and demonstrably outweigh the benefits. Therefore, the Framework is not a material consideration that indicates a decision other than in accordance with the development plan.

The proposed development therefore conflicts with the development plan when considered as a whole and there are no material considerations, either individually or in combination, that outweigh the identified harm. and associated development plan conflict.

RECOMMENDATION

Refusal is recommended for the following reason:

1. The proposed detached dwelling would introduce a significant breach to the building line at the corner of Hargrave Road with Peterbrook Road and in doing so would set an unwelcome precedent for other similar development. The proposal represents poor urban design, not sitting comfortably within the site parameters and breaks a well established building line, bringing development forward of the line, appearing cramped, contrived and squeezed onto the site having a jarring and unacceptable relationship with the street scene being alien and out of character. The proposed new dwelling would therefore fail to respect, maintain or enhance the local distinctiveness and character of the surrounding area contrary to Policy P5 and P15 of the Solihull Local Plan, guidance of the New Housing in Context Supplementary Planning Guidance (SPG) and the design aims of the Framework.