

**APPLICATION REFERENCE: PL/2022/01402/MINFDW****Site Address:** 21A Meadow Drive Hampton In Arden Solihull B92 0BD

<b>Proposal:</b>	Construction of two storey dwelling and detached garage.
<b>Web link to Plans:</b>	<b>Full details of the proposal and statutory consultee responses can be found by using the above planning application reference number at:</b>  <a href="https://publicaccess.solihull.gov.uk/online-applications/">https://publicaccess.solihull.gov.uk/online-applications/</a>

<b>Reason for Referral to Planning Committee:</b>	<b>The application has given rise to a significant amount of public opposition (13 objections).</b>
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<b>Recommendation:</b>	<b>APPROVAL SUBJECT TO CONDITIONS</b>
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**EXECUTIVE SUMMARY**

This application seeks consent for the erection of a single detached dwelling on garden land to the rear and side of 21A Meadow Drive to be accessed by an existing rear garden access onto Station Road.

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 any 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.

This report will demonstrate that all aspects of the proposal are visually acceptable and will not be unduly harmful to neighbouring amenity.

The proposal would be in an established accessible residential area and would help to meet an identified need for additional dwellings within the Borough. The principle of development is acceptable and in compliance with Policy P5 of the Solihull Local Plan (SLP). The design respects the local distinctiveness of the area, and the proposal therefore accords with Policies P5, P7, P8, P10, P11, P14 and P15 of the SLP, and policies ENV1, HOU1, HOU2 and objective 4 of the Hampton in Arden Neighbourhood Plan (HIANP).

The proposal, as demonstrated by the content of this report, is deemed acceptable in all other respects and no material harm has been identified that outweighs the benefits of the scheme. The proposal should therefore be approved, subject to conditions.

## **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 street scene and character and local distinctiveness of the local area;
- The effect of the proposal on the living conditions of the occupiers of Neighbouring properties; and
- The effect of the proposal on highway safety and the free flow of the road.

Other Material Considerations

- Ecology;
- Landscape;
- Drainage;
- Climate Change;
- CIL and Affordable Housing;
- Planning balance and conclusions.

## **CONSULTATION RESPONSES**

### **Statutory Consultees**

Network Rail – Subject to re-consultation of amended plans - No Objection detailing;

- *‘With reference to the protection of the railway, Network Rail has no objection in principle to the proposal, but below are requirements which MUST be met as the proposal includes works within 10m of the railway boundary and an interface with the railway boundary.’* Should permission be granted an advisory note to this effect is proposed.

Further to the above, Network Rail have since questioned whether the applicant has a right of way from Station Road, but the applicant advises that he has. This, though, is a civil matter as land ownership issues are not material planning matters. That said, it is important that a vehicular access is provided to the site as proposed, and as such a condition is suggested to require the provision of the access prior to first occupation, and then its subsequent retention thereafter.

Parish Council – Objection detailing;

‘We are aware that a number of affected residents have expressed concerns about this development within the garden of 21A Meadow Drive. We recognise that

residential backland developments have a role to play in delivering housing targets for the Borough. However, they also have the potential to create significant adverse impacts in the communities where they are located. This development would be outside the Conservation Area but within the Inset Area, and therefore would add to the extent and quality of housing stock. However, the access is not straightforward. We would therefore seek an assurance from SMBC that they have established that this proposal is in line with their policy as set out in Supplementary Planning Document (SPD) Residential Backland Development, which we fully support. We assume that Network Rail has given permission for access along the unadopted Station Road, otherwise this proposal would be academic. We have some concerns about the extent of vegetation clearance proposed, and although we believe there are no TPOs, we would appreciate it if the Case Officer could seek some amelioration of the proposed tree loss, and/or a level of tree replacement.

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

- SMBC Drainage - No objection subject to advisory note
- Severn Trent Water - No Objection with advisory note
- SMBC Ecology- No objection subject to conditions
- SMBC Landscape- No Objection subject to conditions
- SMBC Highways - 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.

All correspondence has been reviewed and the main issues raised are summarised below (Planning Committee Members have access to all third party correspondence received):

13 letters of objection have been received from neighbouring resident addresses with the following concerns;

### Policy Considerations

- It would be a back garden development which is I believe not regarded well;
- It would be an overdevelopment of the site;
- There is no justification for this development. It does not assist with any form of housing shortage and just appears to be a development driven by potential monetary gain (as evidenced by another concurrent application on the same site);
- The overall development (taking in account PL/2022/01289/MINFDW) seems excessive for the piece of land it will be built on. This again seems to be a

development driven by a desire to build as much as possible for financial gain and not the good of the Village/ area;

- We recognise that residential backland developments have a role to play in delivering housing targets for the Borough. However, they also have the potential to create significant adverse impacts in the communities where they are located. This development would be outside the Conservation Area but within the Inset Area, and therefore would add to the extent and quality of housing stock. However, the access is not straightforward. We would therefore seek an assurance from SMBC that they have established
- that this proposal is in line with their policy as set out in Supplementary Planning Document (SPD) Residential Backland Development, which we fully support.

### Amenity

- Potential loss of amenity to the residents;
- There would be loss of privacy for adjoining premises given the proximity of the proposed new build;
- The top storey of the property will look into my bedroom which will be a great loss to my personal privacy;
- There is potential for there to be some loss of light as well;
- Visual amenity will be impacted as I will be looking at a house rather than trees.

### Highway and parking Matters

- The planned site opens on to a private road owned by network rail at a position where they access their service road to the railway and which has to be kept clear at all times. It would be a health and safety issue for the railway to have construction traffic, and in time the cars associated with a four bed house accessing this end of the road;
- There is insufficient manoeuvring room for construction vehicles;
- Access is required by both residents and Rail Trak vehicles throughout the day;
- Should the builders attempt to do waste removal via Station Road it is not possible to site a skip that does not obstruct the access gate or neighbours frontage;
- The increase in commercial traffic would also need to be closely controlled to ensure no loss of amenity to the residents of Station Road;
- This application need to be considered with application PL/2022/01289 because the car parking/vehicular access appear to be utilising the same space in both and this is not right if both applications were to be approved; There is not enough space for 6 cars to be accommodated as these applications suggest;
- There is not enough room on the narrow roads to provide any further on the road parking and this road is already seriously congested with access for emergency vehicles compromised;

- It would affect the access gates used by giant transporters which park at the site to load and unload heavy plant. Each loading/unloading movement can take an extended time;
- Increased on-street parking in the neighbourhood;
- Greater safety risks for pedestrians, including children, who use a footpath which crosses Station Road at near-on 90 degrees;
- Risk of access disputes between Network Rail and owners of any new property;
- I am concerned that the small gate access to the garden is widened and used as an access to Meadow Drive there will be an increase in heavy vehicle traffic, noise, pollution and in particular a major danger to the young children who live on Station Road;
- There is no room for lorries/vehicles outside the property in Meadow Drive and it is difficult to park at the best of times.

### Ecology and Landscape

- The trees in question provide important habitats for hundreds of birds, as well as aiding drainage to the railway and shielding noise from the railway;
- It is not clear from the application how many trees will need to be removed to accommodate this development;
- There has already been a significant reduction in trees in the immediate vicinity of the property in recent times due to the works that Network Rail have undertaken. This has meant less habitat for wildlife to live/ use and loss of more trees would only make matters worse and waste efforts of neighbours to help nature such as birds;
- Living where we do, between HS2 and the M42 'improvements', we have seen the hedgerows devastated and numerous trees felled around our village. The landscape has been decimated and will take years to re-establish. This can't keep going on;
- We have some concerns about the extent of vegetation clearance proposed, and although we believe there are no TPOs, we would appreciate it if the Case Officer could seek some amelioration of the proposed tree loss, and/or a level of tree replacement;
- I object also because of the destruction of wildlife habitats.

### Other Matters

- I am also extremely concerned about the disruption and noise any building works would cause;

Re-consultation with neighbours regarding the amended plans, additional points raised include;

- Whilst the element of being less overlooked (as the top floor resident of the adjacent flats facing this proposed property) is diminished a little, there is still a high level window which would look directly into my property;
- I think sight lines for drivers emerging from the access would be poor.

## RELEVANT PLANNING HISTORY

- PL/2022/01289/MINFDW- Demolition of existing bungalow and construction of new two storey dwelling. **To be determined at planning committee on 1/2/23 at the same time as this application. Officer recommendation of approval subject to conditions.**
- PL/2021/02677/PIP -Erect new dwelling in existing garden. **Withdrawn 28/4/2022 as legislation provision not applicable to garden land.**
- PL/2004/02994/OL- Outline application for one additional dwelling **Withdrawn 03.11.2009**

## 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 13<sup>th</sup> 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.

## **MAIN ISSUES**

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

The application site consists of the undeveloped garden land to the side and rear of 21A Meadow Drive bounded on one side by number 21A, and the other side by the landscape grounds of neighbouring apartments in Meadow Drive and with an existing frontage and access to Station Road at the rear. The railway is located beyond and parallel to Station 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

In terms of the first test, Policy P7 of the Local Plan provides accessibility criteria in relation to local circumstances. Policy P7, amongst other things, seeks to ensure that new development is focused in the most accessible locations and promotes ease of access. When looking at housing development, this Policy sets out criteria of walking distances that new development should seek to achieve and comments on distances from primary schools; doctor’s surgeries and food shops as well as distances from bus stops and railway stations. The intention is that development should be easily accessible and linked to existing amenity facilities that are capable of being arrived at on foot. Policy P7 of the Local Plan is consistent with policies set out in the Framework and full weight can be attributed to this Local Plan Policy.

	Policy P7 distance requirement	Local Authority calculation of distance
Bus stop	400m	300m
Rail station	800m	300m
Food store	800m	850m
Primary School	800m	850m George Fentham Endowed School
GP surgery	800m	750m

Policy P7 expects development to meet certain accessibility criteria (as shown in the table above) “unless justified by local circumstance”. It is recognised that the development falls only just outside some of the ideal distances that Policy P7 aspires to, but the differences are not considered to be significant. Importantly, the application site is located within an existing residential settlement, which is well served by a rail station and also bus services into Solihull and surrounding districts. As such, the application proposal is considered to accord with spirit of Policy P7.

For the reasons set out above, the spirit of Policy P7 is met, and the principle of the redevelopment of this site for residential purposes within the C3 Class of the Use Classes Order (1987) (as amended) meets the accessibility test in Policy P5.

Turning to the second test, 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 dwelling 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 Local Plan provides guidance on Securing Design Quality. Policy P15 of the Solihull Local Plan 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, design on the character and appearance of the area is set out in the next section of this Report. Officers have concluded that the proposal would meet the relevant criteria as set out in Policies P5 and P15.

The principle of further redevelopment of this site for residential purposes within the C3 Class of the Use Classes Order (1987) (as amended) would enhance local character and distinctiveness and therefore meet the test in Policy P5.

#### - Summary

For the reasons set out above, the principle of the redevelopment of this site for residential purposes within the C3 Class of the Use Classes Order (1987) (as amended) is compliant with Policy P5 of the Local Plan.

This should be accorded significant weight in the planning balance.

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

Policy P15 of the SLP 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. The policy is consistent with the NPPF and thus carries significant weight.

To supplement the above policies the Council's Housing in Context SPG aims to maintain and enhance the local distinctiveness, character and quality of Solihull's residential areas, encouraging the most efficient use of land, whilst complementing surroundings. It identifies a number of key characteristics and common elements that lead to local distinctiveness and character that should be taken into account in the determination of applications. The guidance also highlights other considerations in assessing applications for residential development, such as impact on amenity, car- parking standards, and access to the site and other relevant planning considerations whilst recognising that its methodology does not require proposals to be a copy or pastiche of existing styles & development. Furthermore, development not in harmony with its context will exceptionally be allowed but only where it is of outstanding individual quality and where it is appropriately located.

Objective 4 and Policies HOU1 and HOU2 of the Hampton In Arden Neighbourhood Plan (HIANP) are applicable to this application which detail;

- Objective 4: Ensure the provision of affordable family homes, affordable homes for single people and retirement homes and bungalows for the growing elderly should a need be identified through a careful, controlled and balanced development of housing on approved sites which meet the needs of the local community.
- Policy HOU1 – New Housing Developments: Where suitable sites are identified residential development will be supported where it comprises one or a combination of the following types:
  - 1/ Affordable housing for residential or shares ownership some of which may be for those with local connection in accordance with the Solihull MBC Housing Allocation Scheme and to meet the needs of first-time buyers and small families (as defined in Meeting Housing Needs SPD)
  - 2/ Smaller properties suitable for those seeking to downsize and
  - 3/ Properties suitable for the elderly, located close to key facilities and designed to current national recommendations.
- Policy HOU2 – Design: All new developments will have regard to the Hampton-in -Arden Village Design Statement and where appropriate, the

Conservation Area Appraisal. New Development in the Parish should:

- 1/ Be within the Inset Area noting that any Rural Exemption Sites will be outside the Inset Area.
- 2/ Respect for the existing settlement pattern and retain the character of the village including maintenance and extension of footpath links.
- 3/ Maintain overall balance and provision for all sections of the community with appropriate density of land use.
- 4/ Protect and enhance existing open space and greens within the village.
- 5/ Ensure that new development achieves the highest possible standards of environmental performance through sustainable design construction including Secure by design.
- 6/ Retain or enhance the streetscene and avoid development to the rear of existing properties which adversely affect them.

With regard to the original submitted plans, Network rail raised an original objection regarding the close proximity of the new dwelling to railway land, specifying minimum standards to comply with, while neighbours raised concerns regarding the proposal as inappropriate development at this location.

On this basis amended plans were submitted and re-consulted with Network Rail and Neighbours. The main difference between the submitted plans and the amended plans include;

1. Relocating a smaller footprint at least 3 metres away from the adjacent railway land boundary as requested by Network Rail (NR);
2. In the process, removing the integral garage from the house and locating it as a detached garage, deeper into the site and with adequate vehicular access and driveway to allow vehicles to enter, turn within the site and leave in a forward gear.
3. Widen the existing gated entrance from the rear garden of 21A onto Station Road to provide a new vehicular access at least 5 metres wide with Station Road.
4. Reduce the footprint, scale and massing of the new dwelling, to include reducing the rear first floor elevation built along the common side boundary facing the neighbouring apartment and their landscaped grounds by approximately 51 % from approximately 17 metres wide to 8.2 metres wide, with the remainder as single storey only. The resulting two storey gable element would be built smaller and as a blank wall only, incorporating a single rear facing obscure glazed en-suite window.

Having considered the amended plans in detail it is considered that:

The proposed new dwelling would be built fronting Station Road, utilising the existing gated entrance from the rear garden land of number 21A Meadow drive and not as a back land development.

The new plot as subdivided from number 21A, would act as a new bookend plot to Station Road, being triangular in shape but maintaining a similar frontage width of to the other closest neighbouring plots fronting Station Road between numbers 10 and 12 and all parallel to the railway, beyond which the remaining frontages get narrower. The new dwelling would be built no further forward than the neighbouring dwelling at number 12, which is part of an established linear frontage along Station Road containing a mixture of detached and semi-detached dwellings of various designs and sizes. While the proposed plot depth of approximately up to 26 metres would not be as deep as neighbouring plots along Station Road, being the end plot and at this intersection with Meadow Drive, it would be similar to plot depths along Meadow Drive, between numbers 11 to 21 which have similar plot depths. Beyond number 11, up to number 1 Meadow Drive the plot depths vary and some are less deep than the proposed.

The overall area of the proposed plot at approximately 460 square metres would not be dissimilar to the plot areas of the houses along Meadow Drive with number 21A and 21 retaining approximately 390 and 380 square metres respectively and directly adjacent in Station Road numbers 12, 11 and 10 being 780, 450 and 480 square metres respectively.

Given the characteristics of the neighbouring plots, Officers maintain the retained subdivided plot of number 21A and the proposed plot would both not appear squeezed in the surrounding grain of development, but would be characteristic of the wider grain of development, while the proposed plot would also benefit from existing access and frontage along Station Road and not considered as a backland site.

The resulting main garden area in the proposed plot would be triangular and range in depth from approximately 5.5 to 12 metres deep which would be acceptable as a garden area and would not be out of character, given other houses along the run in Meadow Drive between number 1 to 7 have similar front and rear garden depths.

The new dwelling would have a plan frontage width of approximately 11.5 metres wide and a floor plan area of approximately 109 square metres which would be acceptable. This is given in comparison the neighbouring property at number 12 Station Road has an approximate frontage width of 15.5 metres and a foot print of approximately 165 square metres and similar to neighbouring dwellings in Meadow Drive, with number 21A, 21 and 19 Meadow Drive having footprints of approximately 76, 89 and 118 square metres respectively.

The new dwelling and detached garage would be built of brick with pitched tiled gabled roofs, characteristic of other dwellings on surrounding plots, while the overall height of the amended house design would be a modest 7.6 metres high and would be similar to the height of other two storey houses along Station Road and Meadow Drive which contain a mix of detached and semi-detached houses and a dormer bungalow.

Given the above analysis, Officers maintain the proposed new dwelling and detached garage as amended, would be built to an acceptable design, scale,

appearance and density and would not be squeezed into the plot or appear as overdevelopment or contrived. A sense of place would be maintained in this residential area and the overall character and local distinctiveness of Hampton-in-Arden would be enhanced making efficient use of this urban land while allowing for a good quality design by introducing a cohesive development compliant with the objectives and detailed requirements of P5, P15 of the SLP, policy HOU1, HOU2 and objective 4 of the HIANP and guidance contained in the NPPF.

Limited weight should be attributed to this in the planning balance.

#### The effect of the proposal on the living conditions of the occupiers of neighbouring properties

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 new dwelling. The policy is consistent with the NPPF and thus carries significant weight.

With regard to neighbour concerns regarding potential loss of privacy, potential overlooking, potential loss of light and additional noise and disturbance from residents in neighbouring 3 storey apartments, the proposed dwelling would on the amended plans, be orientated with a smaller two-storey blank gable wall 8.2 metres wide (incorporating only a single obscure glazed non habitable room en-suite window) at an approximate 45 degree angle towards the various habitable room windows of the adjacent apartment building.

Officers maintain this relationship would be acceptable given this closest gable element built 7.6 metres high would be built set back approximately 1 metre from the common side boundary with the neighbouring apartments and with a separation distance of between approximately 16 to 20 metres with the landscaped gardens of the apartments in-between. The main two storey gable element facing the neighbouring apartments would in the amended plans, be reduced from 17 to 8.2 metres wide and therefore have less bulk and mass and not be considered as overbearing to neighbouring properties and given the new dwelling would be built on lower land than the adjacent apartments which are 3 stories high.

The proposed dwelling would front the railway boundary and with a frontage lining through with the neighbour at number 12 and with a blank two storey side gable with chimney built facing the side of the neighbouring dormer bungalow at number 12 which has side facing ground floor window only and a sloping roof above and separated by a gap of at least 12 metres.

The new dwelling would have a main rear two storey elevation with both ground and first floor habitable room windows facing the existing bungalow at number 21A and with these proposed windows mainly facing the side, rather than the main rear elevation of number 21A and with a gap of between 5.5 and 12 metres in-between which would be acceptable.

Regarding the proposed dwelling in this application and the proposed replacement dwelling at number 21A in planning application PL/2022/01289/MINFDW - *Demolition of existing bungalow and construction of new two storey dwelling*, also being determined at planning committee on 1/2/23 at the same time as this application, the new relationship between these two new dwellings would also be acceptable.

This is given that the existing bungalow at number 21A is to be replaced with a two storey detached house that would project further to the rear garden and be built taller with a closest two storey side elevation with only a non habitable side facing stairway first floor window. Given this additional bulk and mass, the relationship between the replacement house at number 21 A and the additional new dwelling at land at number 21A considered in this application would be acceptable, given the resulting garden depth of between 5.5 and 12 in this application and the overall separation distances. Officers maintain the replacement dwelling at number 21A would not be considered to be overbearing or result in loss of privacy or amenity between these 2 new dwellings.

In summary, it is considered that the proposed development is appropriately proportioned and sited so as not to have an adverse effect on the living condition of the occupants of neighbouring properties or the proposed replacement dwelling in application PL/2022/01289/MINFDW detailed above regarding being overbearing, or result in unacceptable loss of light, amenity, privacy or result in unacceptable additional noise.

In this regard, the development would accord with Policy P14 of the SLP, and neutral weight should therefore be attached to this material consideration.

#### The effect of the proposal on highway safety and the free flow of the road

With regard to the subsequent objection received on 13-1-23, (detailed above in this report) from Network Rail (NR), Officers maintain this is a private matter between the applicant and Network Rail and a planning condition (number 12) detailed at the end of this report can ensure that the development hereby approved shall not be occupied unless and until the vehicular access to the site from Station Road as shown on drawing No.1569-11-A has been fully constructed. Once constructed the access shall thereafter be permanently retained for the lifetime of the development.

With regard to neighbour concerns regarding highway safety, access arrangements, parking provision and the construction phase, the SMBC Highway Officer has no objection subject to the amended plans and adherence to the submitted Construction Method Statement (CMS) document submitted and which can be secured via condition detailed at the end of this report.

On the basis of the above, the proposed development would be compliant with the requirements of Policy P7 and P8 of the SLP (2013) and neutral weight should be attributed to this in the decision making process.

#### Other Material Considerations

## Ecology

With regard to neighbour concerns regarding loss of biodiversity, the Council's Ecology Officer has no objection subject to conditions detailed at the end of this report and details;

'I have viewed the updated Preliminary Ecological Appraisal Report, which now includes measures for the safeguarding of amphibians and reptiles. I recommend that works are undertaken in strict accordance with mitigation measures outlined in the report. This can be secured through a condition.

As per my previous response, species enhancements should be provided, and this could also be secured through a condition.'

On this basis the Council's Ecology Officers raise no objection to the proposal subject to conditions as listed at the end of this report and accordingly the proposal would accord with policy P10 of the SLP 2013. Neutral weight is therefore be attached to this in the decision-making process.

## Landscape

Policy ENV1 – Trees of the HIANP details 'All development proposals should include a landscaping scheme that:

- Wherever possible retains existing mature and established trees;
- Provides for additional tree planting to enhance, soften and screen the development
- Utilises tree species that reflect the existing pattern of tree cover in the Parish; and,
- Wherever possible includes for some semi-mature trees to aid the early maturity of the landscaping.

With regard to neighbour concerns regarding loss of tree on the application site, the Council's Landscape Officer has no objection subject to landscape conditions as listed at the end of this report and details;

'No objection subject to the following comments;

The proposals require the removal of several trees T3, 4, 5, 6 and 7 and group 3 plus T8 (within 3.5m of the new building) would probably require removal as recognised within the submitted Arboricultural Impact Assessment (AIA). This breaks down into five category C trees, one category C group of trees (nine former hedge conifers) and one category U tree for removal.

Given the category/quality of the trees proposed to be removed, we consider this is acceptable in Landscape terms subject to the conditioning of a hard and soft Landscape scheme.'

In the submitted AIA detailed on page 18, it details 6 better quality trees to be replanted to comprise of Acer campestre 'Elsrijk' & Malus 'Comtesse de Paris' and where Protective fence to be erected and maintained to BS5837:2012 for retained trees on the site during the construction phase.

On this basis the Council's Landscape Officers raise no objection to the proposal subject to landscape conditions as listed at the end of this report that can ensure replanting of trees is carried out as per details in the submitted AIA. Accordingly the proposal would accord with policy ENV 1 of the HIANP, P10 and P15 of the SLP 2013. Neutral weight is therefore be attached to this in the decision-making process.

### Drainage

The Council's Drainage Engineers have raised no objection subject to a note detailed at the end of this report.

Severn Trent Water have no objection but offer an advisory note detailed in the conditions at the end of this report.

On this basis the proposal would be compliant with Policy P11 of the Solihull Local Plan 2013 and neutral weight should be attributed to this in the balancing exercise.

### 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. Officers note that new dwelling will be constructed to modern Building Regulation standards and will therefore have a far greater thermal efficiency than older dwellings. 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 are to come into effect from 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 of 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.

### Affordable Housing

In terms of affordable housing, the proposal would create 1 new dwelling which would not exceed the 1,000 sq. m 'floor space' threshold set out in Policy 4a of the SLP. As such, no affordable housing provision is required to be provided by the proposal. The proposal is therefore compliant with Policy P4a of the SLP and HOU1 of the HIANP and neutral weight should therefore be attached to this material consideration.

### CIL

The proposal would be liable for the CIL charge if planning permission is granted. This would amount to a net additional 169 square metres of internal floor area based on the amended plans, following demolition of the existing buildings equating to a levy of £33,206.81 based on the contribution rate for new residential dwellings in a 'Rural Areas' location index for 2023 @ £196.49 per square metre for Residential Rural Areas.

### 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 grant 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 approval is considered a proportionate response to the submitted request based on the considerations set out in this report.

## Planning balance and conclusion

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 Framework is an important material consideration. It advises that housing applications should be considered in the context of the presumption in favour of sustainable development which, in the absence of an up-to-date Development Plan (as in Solihull) means granting permission unless adverse impacts of the scheme significantly and demonstrably outweigh the benefits (as assessed against the Framework as a whole), or specific policies in the Framework indicate otherwise. This is often referred to as the 'tilted balance'.

The outcome of this application therefore depends on:

Whether there are any adverse impacts which would significantly and demonstrably outweigh the benefits; and whether the overall planning balance would be in favour or against the scheme.

In terms of the benefits of the scheme, the development would accord with Policies P5, P7, P8, P10, P11, P14, and P15 of the Local Plan, Objective 4 and Policies, ENV 1, HOU1 and HOU 2 of the HIANP.

The purchase of materials and services in connection with the construction of the proposed dwelling, local employment during the construction period are all economic benefits that weigh in favour of the scheme. In terms of scheme's benefits, taken together, significant weight should be given to the economic, environmental and social benefits of the new homes.

In terms of adverse impacts, subject to conditions and notes, the development would not conflict with Policies within the Local Plan, Objective 4 and Policies HOU1 and HOU 2 of the HIANP or guidance in the Framework. This should be accorded neutral weight in the planning balance.

In conclusion, for the reasons outlined above, the proposed development would benefit from the presumption in favour of sustainable development and the overall planning balance must be in favour for this proposal.

In coming to this recommendation, your officers have also taken into consideration all of the representations made in respect to the proposal. In view of the matters set out above however, they do not alter the overall conclusion.

The proposal is therefore recommended for approval subject to appropriate conditions.

## **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 plans
2. CS05 commencement with 3 years
3. CS06 materials to be submitted
4. CD11 no additional openings
5. CD15 windows to side and rear elevations above ground floor facing to be obscurely glazed and opening restricted
6. CL04 Hard and Soft Landscaping details to be submitted
7. CL06 Implementation of landscaping scheme
8. CL10 Boundary treatment details to be submitted
9. The development hereby permitted shall be timetabled and carried out to wholly accord with the measures set out in the Preliminary Ecological Appraisal Report produced by Countryside Consultants Ltd on 5th December 2022 (pages 20-21). A brief letter/report shall be submitted to the Local Planning Authority within 1 month following completion of the works to confirm the measures have taken place and the outcome.

Reason: In accordance with NPPF and Policy P10.

10. The development hereby permitted shall not commence until a scheme for biodiversity enhancements has been submitted and approved in writing by the Local Planning Authority. The scheme should include details of type, specifications for bat and bird boxes, native, fruit bearing or nectar-bearing tree and shrub species planting and access gaps for hedgehogs in any new fences.

Reason: In accordance with NPPF, ODPM Circular 06/2005.

11. The submitted Construction Method Statement (CMS) shall be strictly adhered to and shall provide for: the anticipated movements of vehicles; the parking and loading/unloading of staff, visitor, and construction vehicles; the loading and unloading of plant and materials; hours of operation and deliveries; the storage of plant and materials used in constructing the development; and, wheel washing facilities and other measures to prevent mud/debris being passed onto the public highway.

Reason: In the interest of highway safety in accordance with Policy P8 of the Solihull Local

Plan 2013.

12. The development hereby approved shall not be occupied unless and until the vehicular access to the site from Station Road as shown on drawing No.1569-11-A has been fully constructed. Once constructed the access shall thereafter be permanently retained for the lifetime of the development.

Reason: In the interest of highway safety in accordance with Policy P8 of the Solihull Local Plan 2013.

NOTE - Given that it is proposed to connect the development to a new soakaway, it is recommended that the applicant carries out soakaway tests to ensure that the proposed soakaway will work and is sized correctly. As the borough predominantly has impermeable soils there is a reasonable chance that the soakaway, unless correctly sized, designed and constructed, will not infiltrate effectively and will pose a flood risk as a result. Further advice, guidance and reviews of infiltration tests can be

obtained from Solihull Council as the Lead Local Flood Authority (LLFA) on 0121 704 8000 or [drainage@solihull.gov.uk](mailto:drainage@solihull.gov.uk)

If the applicant chooses not to carry out infiltration tests and/or installs an ineffective soakaway, the applicant is potentially making themselves liable if the soakaway causes flooding within the site or on neighbouring land. Solihull Council as the LLFA has a duty to investigate all reports of flooding, including flooding on and from private land.

NOTE: Severn Trent Water ; As the proposal has minimal impact on the public sewerage system I can advise we have no objections to the proposals and do not require a drainage condition to be applied. Severn Trent Water advise that there may be a public sewer located within the application site.

Although our statutory sewer records do not show any public sewers within the area you have specified, there may be sewers that have been recently adopted under the Transfer Of Sewer Regulations 2011.

Public sewers have statutory protection and may not be built close to, directly over or be diverted without consent and contact must be made with Severn Trent Water to discuss the proposals. Severn Trent will seek to assist in obtaining a solution which protects both the public sewer and the building.

Please note that there is no guarantee that you will be able to build over or close to any Severn Trent sewers, and where diversion is required there is no guarantee that you will be able to undertake those works on a self-lay basis. Every approach to build near to or divert our assets has to be assessed on its own merit and the decision of what is or is not permissible is taken based on the risk to the asset and the wider catchment it serves. It is vital therefore that you contact us at the earliest opportunity to discuss the implications of our assets crossing your site. Failure to do so could significantly affect the costs and timescales of your project if it transpires diversionary works need to be carried out by Severn Trent.

**Bat Note** - Note Buildings of all ages and trees with suitable features (i.e. rot-holes, cracks, fissures) are frequently used by roosting bats. Bats and their 'roost' sites are fully protected under the Wildlife and Countryside Act 1981 (as amended) and the Conservation of Habitats and Species Regulations 2019 (EU Exit). It is a criminal offence to disturb or destroy a bat 'roost', even if the roost is only occasionally used. Where a bat 'roost' is present a licence may be necessary to carry out any works. Further information about species licensing and legislation can be obtained from the Species Licensing Service on 02080 261089. If evidence of bats is found during works, work should stop immediately and Natural England must be contacted on 02080 261089 for advice on the best way to proceed.

**Nesting Bird Note** - Works should avoid disturbance to nesting birds. Birds can nest in many places including buildings, trees, shrubs dense ivy, and bramble/rose scrub. Nesting birds are protected under the Wildlife and Countryside Act 1981 (as amended). The main nesting season lasts approximately from March to September, so work should ideally take place outside these dates if at all possible. N.B birds can nest at any time, and the site should ideally be checked by a suitably qualified ecologist for their presence immediately before work starts, especially if during the breeding season.

NOTE: Noise During Construction: Noise from construction and associated works has the potential to cause disturbance to neighbouring residents. In order to minimise this, this Authority would normally recommend that any work audible beyond the boundary of the site should only be carried out between the hours of

8.00am to 6.00pm on Mondays to Fridays and 8.00am to 1.00pm on Saturdays; there should be no noisy works carried out on Sundays or Bank Holidays. Best practicable means to prevent noise from the site should also be employed as defined in British Standard BS 5228 Part 1: 1984 (or its successors/revisions). Failure to keep these hours or to employ best practicable means to control noise could lead to the service of an enforcement notice under Section 60 of the Control of Pollution Act 1974. We would encourage applications for prior consent under Section 61 of the Act, particularly where the construction and/or demolition phase(s) may be prolonged or if work may be undertaken beyond the aforementioned hours. Please contact the Contact Centre (0121 704 8008) for further details.

Burning or Refuse on Demolition and Construction Sites: Because of the potential for nuisance to neighbours, burning of refuse prior to or during the construction phase is not generally acceptable and may be contrary to waste regulation legislation. If you do have special circumstances, such as a requirement to dispose of wood infected by disease or insects, please contact the Contact Centre (0121 704 8008) for further details.

Dust Control on Demolition and Construction Sites: Because of the potential for nuisance to neighbours and damage to property, reasonable steps to reduce dust emissions should be employed, particularly during any demolition works and in periods of dry weather.

NOTE: EV Charging points

NOTE Climate Change – Building Control

NOTE Network Rail -

With reference to the protection of the railway, Network Rail has no objection in principle to the proposal, but below are requirements which MUST be met as the proposal includes works within 10m of the railway boundary and an interface with the railway boundary.

For further general information on interfacing with Network Rail please see the link on our website:

Living by the railway - Network Rail

To the council - please forward the attached documents/forms/asset protection contact details to the applicant for actioning. An interface with Network Rail is REQUIRED for this proposal – the outside party is advised that Network Rail will need to agree and supervise this proposal.

This is to ensure that the works on site, and as a permanent arrangement, do not impact upon the safe operation and integrity of the existing operational railway and for the avoidance of doubt of both the council and the developer who may not be aware of the potential for outside party proposals to impact upon the railway.

The SMBC Council in response to this will send a copy of this note and advice to the Agent with the Decision Notice as detailed in the following 12 page email from;

From: Diane Clarke <Diane.CLARKE@networkrail.co.uk>

Sent: 09 December 2022 09:56

To: Planning (Places Directorate - Solihull MBC) <planning@solihull.gov.uk>

Subject: solihull pl-2022-01402-minfdw 21a meadow drive hampton dwelling