

APPLICATION REFERENCE: PL/2023/00169/PPFL**Site Address:** Five Oaks Church Lane Meriden Solihull CV7 7HX

Proposal:	Retention of replacement dwelling and erection of cart shed.
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:	Referred due to previous application being decided by Committee
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Recommendation:	APPROVAL subject to conditions
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EXECUTIVE SUMMARY

The application seeks permission for the retention of a replacement dwelling and associated outbuildings and new cart shed. Planning permission was previously approved for a similar development, but the new dwelling has been built on a slightly different footprint and the design is different, in the main due to the gable element that was proposed to the front of the dwelling being erected to the rear and built slightly larger than approved.

It is considered that the replacement dwelling and cart shed would not be materially larger than the buildings which they replaced and thus would not be inappropriate development in the Green Belt.

The design/appearance of the replacement dwelling is welcomed and the proposal in its amended form would be considered acceptable in terms of all material considerations, including residential amenity, highway safety, landscape and ecology.

MAIN ISSUES

The main issues in this application are:

- Firstly, whether the proposed development would constitute appropriate development in the Green Belt having regard to the National Planning Policy

Framework and relevant development plan policies

- Secondly, whether the development would have an acceptable impact on the living conditions of the occupiers of neighbouring properties

Other Material Considerations

- Design
- Highways
- Landscape
- Ecology
- Drainage
- Others

CONSULTATION RESPONSES

Statutory Consultees

Meriden Parish Council – no comments received

Non Statutory Consultees

SMBC Drainage - No objection

SMBC Ecology – No objection subject to conditions

SMBC Highways – No objections

SMBC Landscape - No objections

PUBLICITY

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

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

- As built is materially larger
- Incorrect calculations
- Unable to do volume calculations
- Not in accordance with Green Belt Policy
- Drainage
- Landscaping
- Inappropriate development in the Green Belt
- Misleading approach

RELEVANT PLANNING HISTORY

PL/2017/01035/PPFL - Demolition of all existing buildings and construction of replacement dwelling and cart lodge with associated works - Approved

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. At the current time the Plan remains subject to the Examination process and there has been a range of hearings and correspondence in relation to that since the Plan was submitted. With the agreement of the Inspectors however, that process has been ‘paused’ pending the publication of the updated NPPF. Further hearings and modifications to the Plan are then expected prior to its adoption.

This marks the continuation of preparing and adopting 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 proposed development would constitute appropriate development in the Green Belt having regard to the National Planning Policy Framework and relevant development plan policies

Guidance in relation to development within the Green Belt is contained within Chapter 9 of the NPPF, the advice within which is broadly echoed in Policy P17 of the SLP. The NPPF and P17 both clearly state that development within the Green Belt is inappropriate unless it falls within certain identified criteria. One of the 5 criteria is for the replacement of buildings, provided the new building is in the same use and not materially larger than the one it replaces.

The following table shows a break-down of footprint and volume calculations of the Existing, previously approved and as built buildings (as provided by the applicant):

	Footprint (metres square)	Floor area (metres square)	Volume (cubic metres)	Height (metres)
Pre-existing Bungalow	148	132	565	4.5-5.8
Pre-existing garage	33	30	120	4.9
Total pre-existing bungalow/garage	181	162	685	
Previously approved dwelling	126	204	706	6.25-6.95
Existing stables	42	36	169	4.2-5.3
As built dwelling	131	226	758	6.25-6.95
Proposed cart shed	32	32	115	4.6

The previous application took the stance that bearing in mind the proximity of the detached garage to the existing house and guidance within the Council’s Household Extensions SPD, it was considered reasonable to include the garage within the assessment when considering whether the replacement dwelling would be materially larger.

When looking at the calculations above, with the garage taken into account, the

as built dwelling would have a larger floor area but a smaller footprint than the original dwelling. Notwithstanding this, the proposed volume of the as built replacement building would be larger than the pre-existing by 10%. The height of the building would be taller, and when considering all other calculations and particularly the volume it is considered the replacement building is larger in mathematical calculation terms.

What must now be determined is whether or not the increase in size is material, and to reach a view on this an assessment of the actual dimensional increases of the building must be undertaken, having regard to the context of the site and the resultant impact on any increases in size in relation to the development's wider setting.

In this instance, the dwelling occupies a small portion of what is a very spacious site, and the wider area is generally devoid of development, with the exception of two large nearby dwellings and their associated curtilages. Within this context the proposed increases in size are less noticeable and 'material' than, say, if the site were to be located within a heavily urbanised part of the borough with a more defined and legible urban grain. In this setting, the 10% increase in size as set out above would have only a very limited impact upon openness and character to the extent that the increase in size of the proposed buildings is deemed to represent a non material increase in size over and above that of the pre-existing buildings.

This NPPF exception criteria that this application is being assessed against (erection of replacement buildings) is whether the building is materially larger or not and in this instance it is considered that the as built dwelling and cart shed would not be materially larger than the buildings they have replaced. Thus, the development is considered to comply with the NPPF guidance, the requirements of Policy P17 of the Local Plan, and represents appropriate development in the Green Belt.

This carries neutral weight in the planning balance.

Whether the development would have an acceptable impact on the living conditions of the occupiers of neighbouring properties

Local Plan Policies seek to protect and enhance the amenity of existing occupiers of neighbouring properties.

Concerns have been raised from residents at Alspath House regarding the position of the building and its potential for overlooking.

Alspath House is a detached house set in substantial grounds immediately south of the application site. The two properties are separated by a tall and very dense coniferous hedge although it must be accepted that this could be removed at any time as it is not protected.

The replacement dwelling is considered acceptable in terms of impact on light and overbearing given its scale and position, with the main consideration being whether the development would cause unacceptable loss of privacy.

Two dormer windows are positioned on the side elevation of the replacement dwelling. The plans showed these to be between 11.5 and 13m from the boundary to Alspath House. The previous approved scheme for the replacement dwelling was amended which moved the replacement dwelling north so that there is a separation distance of 11m between the closest dormer window and the boundary which is what is normally considered an acceptable distance between habitable room windows and site boundaries so not to cause overlooking to neighbours. Therefore the re-siting of the dwelling further away from the boundary with Alspath House moves these windows further away from the boundary and within what is seen as an acceptable distance from the boundary.

It is therefore considered that the proposal does not result in any undue impacts upon the amenities enjoyed by the occupiers of any nearby dwelling. The proposal is therefore compliant with Policy P14 of the Local Plan, and neutral weight should be attributed to this in the balancing exercise.

OTHER MATERIAL CONSIDERATIONS

Design

Local Plan policies seek to ensure that development proposals achieve good quality, inclusive and sustainable design that conserves and enhances the local character, distinctiveness and streetscape quality.

Church Lane is characterised by detached buildings, of various ages and sizes, set in generally large and mature gardens. Notwithstanding the Green Belt issues above, the replacement dwelling is considered to be well designed to respect the rural character of the lane and by minimising the bulk and mass of the replacement building. The variety of materials used is also welcomed.

In design terms the replacement building is considered to be an improvement to the pre-existing bungalow and as such the proposal would be in accordance with Local Plan Policy and moderate weight should be given to this in the planning balance. The proposal is therefore compliant with Policy P15 of the Local Plan.

Highways

As the application is for the replacement of one dwelling with another which is situated at the end of a long drive, the Council's Highway Engineer has confirmed that the proposals do not cause undue harm to highway safety.

The proposal is therefore compliant with policies P7 and P8 of the Solihull Local Plan, and neutral weight should be given to this in the planning balance.

Landscape

Policy P10 of the SLP recognises the importance of a healthy natural environment in its own right. Policy P14 of the SLP requires new development to safeguard important trees, hedgerows and woodlands. The policy is consistent with the NPPF and thus carries significant weight.

In respect of trees on and around the development site, SMBC Landscape Architects have considered the landscape plan submitted with the application and have concluded that proposed works would not/have not compromised the health or longevity of important trees on and around the site. No objection has been raised subject to all works to and adjacent to retained existing trees are to be carried out in.

The proposal is therefore compliant with Policies P10 and P14 of the SLP and neutral weight should therefore be attached to this material consideration

Ecology

A Bat Survey Report had been submitted with the previous application. The initial bat survey found a small number of droppings resembling those of the brown long-eared bat. None of the subsequent activity surveys detected any bats emerging from or entering the buildings and the Council's Ecologist is satisfied that sufficient surveys have been undertaken.

The bat survey report concluded that the droppings represent an abandoned roost and that the proposed works were not expected to impact roosting bats. Replacement roost features are recommended to comply with the NPPF and the intention to include roost opportunities within the new development, which would ensure no net loss of bat roosting habitat, is welcomed.

Swallows were found to be nesting in the stables and there was also evidence of house martins nesting on the exterior of the building. The proposed cart shed appeared to provide an ideal opportunity for swallow nesting platforms, where shelves could be fitted to prevent droppings from falling onto vehicles or stored materials below.

The Council's Ecologist makes no objections to the scheme subject to conditions and informatives.

Drainage

Policy P11 of the SLP advises that new development will not normally be permitted within areas at risk of flooding. The policy is consistent with the NPPF and thus carries significant weight.

Third parties have raised concerns with regards to sewerage and mains water connection however, no objections have been raised by the drainage team, subject to an informative with regards to carrying out soakaway tests.

The proposal is therefore compliant with Policy P11 and this carries neutral weight in the assessment of the application.

Other

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 from 15th June 2022 and are 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.

It should be pointed out that this property has been constructed with a ground source heat pump for heating and ventilation and is self sufficient for heating energy.

CIL

The Council adopted the Community Infrastructure Levy (CIL) Charging Schedule at Council on 12th April 2016. The development is not subject to CIL if planning permission is granted, as a self build exemption has been submitted.

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 application represents a replacement dwelling and cart shed that would not be materially larger than the pre-existing and stable block that were replaced. The proposal therefore represents appropriate development within the Green Belt.

The design/appearance of the replacement dwelling is welcomed to which moderate weight should be given. The proposal in its as built form would have an acceptable impact upon residential amenity, highway safety, landscape and ecology and as such neutral weight is attributed to these issues in the decision making process.

In terms of the benefits of the scheme, the development would accord with Policies P5, P7, P8, P10, P11, P14, P15 and P17 of the Local Plan and relevant criteria therein. In terms of the scheme's benefits, taken together, significant weight should be given to the economic, environmental and social benefits of the new home.

In terms of adverse impacts, subject to conditions, the development would not conflict with Policies within the Local Plan 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 CS01 – Plan numbers

2 All hard and soft landscape works shall be carried out in accordance with the approved details on plan number 19-015.PAS- 03, 19-015.PAS- 04 Rev A and Plant Schedules and implementation report. If within a period of 5 years from the date of planting of any tree, that tree or any tree planted in replacement for it, is removed, uprooted, destroyed, dies or becomes seriously damaged or defective, another tree of the same species and size as that originally planted shall be planted at the same place within the next planting season (October-March), unless the Local Planning Authority gives its written consent to any variation.

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

3 The sewage disposal/drainage works for the development hereby approved shall be completed in accordance with the submitted plan 20.2196.BR.01 Rev P01.

To secure the satisfactory drainage of the site in accordance with policy P11 and P15 of the Solihull Local Plan 2013

4. A detailed schedule of bat mitigation measures (to include timing of works, supervision of roof works by a suitably qualified bat worker, replacement roost details, monitoring and further survey if deemed necessary) shall be submitted to and approved in writing by the Local Planning Authority. Such approved mitigation measures shall thereafter be implemented in full.

To safeguard the presence and population of a protected species in accordance with NPPF and ODPM Circular 2005/06.

5. A scheme for the provision of suitable nesting platforms for swallows to be erected on a building within the site shall be submitted to and approved in writing by the Local Planning Authority. The scheme to include details of design, location and timing of works. Thereafter, the platforms shall be installed and maintained in perpetuity.

To safeguard the presence and population of a protected species in accordance with NPPF and ODPM Circular 2005/06

6 Details of all external light fittings and external light columns shall be submitted to and approved by the Local Planning Authority. The development shall not be carried out otherwise than in full accordance with such approved details. In discharging this condition the Local Planning Authority

expects lighting to be restricted on the perimeter of the site and to be kept to a minimum at night across the whole site in order to minimise impact on emerging and foraging bats. This could be achieved in the following ways:

- Narrow spectrum lighting should be used to avoid the blue-white wavelengths
- Lighting should be directed away from vegetated areas
- Lighting should be shielded to avoid spillage onto vegetated areas
- The brightness of lights should be as low as legally possible;
- Lighting should be timed to provide some dark periods;
- Connections to areas important for foraging should contain unlit stretches.

To safeguard the presence and population of a protected species in accordance with NPPF and ODPM Circular 2005/06

INFORMATIVES

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

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.