

**APPLICATION REFERENCE: PL/2023/00492/PPFL****Site Address:** Hampton Court 55 Marsh Lane Hampton In Arden Solihull B92 0EW

<b>Proposal:</b>	Conversion of roof space to form a total of six apartments in the roof space (Resubmission of planning application PL/2022/01634/PPFL).
<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>8 letters of objection received from different addresses</b>
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<b>Recommendation:</b>	<b>APPROVAL SUBJECT TO CONDITIONS</b>
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**EXECUTIVE SUMMARY**

Planning permission is sought for the conversion of part of the roof space of the building to form six residential apartments comprising of 4 one bed roomed residential apartments and 2 three bed roomed apartments. This will also comprise of elevation and roof alterations to form 3 front balconies on 3 existing front gable walls overlooking the public parking area with open fields beyond, and the insertion of side, front and rear facing dormer windows in the main apartment building roof slopes.

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, P14 and P15 of the SLP, and policies HOU1, HOU2 and objective 4 of the Hampton in Arden Neighbourhood Plan (HIANP).

## **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;
- Drainage;
- Climate Change;
- CIL and Affordable Housing;
- Planning balance and conclusions.

## **CONSULTATION RESPONSES**

**Statutory Consultees** - None

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

- SMBC Drainage - No objection
- SMBC Ecology- No objection
- SMBC Highways - No objection subject to conditions
- SMBC Public Protection – 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.

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

- Parking provision will be inadequate resulting in congestion;
- Inadequate provision of bin storage and cycle store;
- This is the 5<sup>th</sup> application now just trying to maximise their profits without any regard to existing residents;

- Increased likelihood of multi-occupancy.
- The rear of the bin store is a raised bank backing onto residential gardens so this would have to include a supporting wall to these gardens.
- Loss of valuable garden space and trees which block out some air traffic noise would also need to be removed.
- The diagram does not show the lamp post in the corner or the electrical points currently next to the bin store which contractors use. Where will these be re sited?
- Will there be sufficient space to open car doors adjacent to the bin and cycle stores?
- The plans are not to scale and show no actual measurements, or any details of the size of the resituated bin and bike stores.
- It will be impossible to fit in the new parking spaces without totally removing or drastically reducing the size of both stores.
- It will also mean the loss of some established trees at the rear of the stores which we believe are there to help reduce aircraft noise.
- With a potential 11 or more residents then smaller stores is not realistic. Bin areas are already overflowing with current number of residents.
- Mr. Shah who submitted these plans only owns the roof space itself not the land/carpark area or any other part of the apartment buildings. Surely to go ahead permission would be needed from the landlord MZL Holdings if these areas are to be altered in any way.
- Would permission not also be needed from residents to erect scaffolding outside of their homes?
- The sale of the planning permission has already been advertised for sale at £345,000, the applicant never had any intention of building these apartments, their only interest is in making money while the residents of Hampton Court suffer.
- The car parking is insufficient and the proposals are impractical and contravene the existing facilities sold on purchase
- I am horrified that previous applications have been passed without a member of the planning team visiting the site and seeing the lack of feasibility in person.
- Loss of light
- Over intensity of development
- Unacceptable Noise - in legal terms this is a leave of inconvenience. building and construction works continuing for many months will result in a breach of the covenant by the freeholder.
- The following part of the Lease applies to BOTH the tenant and Freehold owner. Schedule 5 - The Regulations
- 5.4 No to do anything at the property which may become a nuisance or annoyance or cause loss, damage or injury, to the landlord or the Flat Tenants or the occupiers of any neighbouring property.
- 5.8 Not to overload any structural part of the building nor any service media at or servicing the property or the building.
- 5.9 Not to do anything which may lessen the support or protection given by the property to other parts of the building.
- There was an act in 1954 known as 'the 1954 act' which was passed to protect leaseholders from future developments, in simplistic terms there is

now a need to insert a redevelopment clause to the lease. BOTH parties need to agree this.

- Part of this act also covers that the freeholder is responsible for all costs to put right any damage caused during the works.
- At the time of the original development, the building was unoccupied, the situation has now changed, and any further development would cause disruption and disturbance for the surrounding and adjacent homes.
- Unacceptable design and appearance and overdevelopment; The building in question was the recipient of a design award in 1990 and any changes will be detrimental to the aesthetics of this unique piece of modern architecture.
- The introduction of Dormer Windows would greatly change the original design and appearance of the building.
- The apartments should be protected by listed status.
- There is currently no consideration or proposals where the construction compound or building material store will be situated.
- The bottom of Marsh Lane has become a traffic bottle neck since the introduction of the gated barrier immediately outside the entrance to Hampton Court, many visitors and walkers park on the Lower End of Marsh Lane, through fear of being locked in at dusk, and the entrance can be both blocked and obscured, hampering entry and exit of Hampton Court for residents.
- Additional construction traffic could also impede emergency vehicles.
- Loss of Privacy - On inspection of the proposals, the introduction of Dormers (or Skylights) will overlook and look directly into bedrooms, bathrooms and gardens of three properties 43, 45 and 47 Marsh Lane and remove their privacy.
- The perimeter of the site is currently lined with mature conifers, as residents, we are NOT allowed to trim or reduce the height of these trees due to the same above reason, the plans suggest that some of these trees will be removed?
- Impact on community facilities
- Currently there are TWO Community Bin Stores, and TWO Community Bike Storage Sheds, the one on Plan 1 currently contains approx. 18+ Bikes and Assorted Items. Any Reduction in size of the Waste Bin Stores will also impact the community, they are already at capacity and the introduction of another 6 residents waste will only increase the pressure on the space.
- The Plans also show Road Humps which do NOT Exist, so I question whether the architect has actually visited the site?
- It should be considered that there will be an increase of ventilation pipes protruding through the roof, and not shown on the plans.
- This proposal will NOT Be affordable housing.
- The proposal given this will be on the third floor will NOT be suitable for anyone suffering from physical disabilities.
- There are concerns over the ownership of the Freehold. The plans have been submitted by the previous owner Abbey Homes – Mr Shah on Friday 26th November, and not the current owner Vladimir Bermant of MZL Limited. It should be noted that MZL Limited took out their own Building Insurance on 7th October 2021 which pre-dates submission of planning by Mr Shah

- This sale took place without the knowledge of the Apartment Owners, and we should have been offered the right to purchase the freehold, this was not forthcoming.

Members have access in full to all submitted neighbour correspondence.

## RELEVANT PLANNING HISTORY

- PL/2014/02326/PNJKM- Prior notification of a change of use from offices to up to 26 No. residential apartments. **APPROVED 2/1/2015.**
- PL/2015/50172/PPFL- Alterations to the external appearance of Howard House, Hampton in Arden and erection of single storey extensions, balconies, bin, and cycle stores. **APPROVED 2/3/2015.**
- PL/2021/03103/PPFL- Conversion of part of roof space to form a 3 bed single residential apartment. **APPROVED AT COMMITTEE ON 02/02/2022**
- PL/2021/00500/PPFL- Conversion of part of the roof space to form four residential apartments. **APPROVED AT COMMITTEE ON 13/07/2022**
- PL/2022/01588/PPFL- Conversion of part of the roof space to form four residential apartments (Following planning approval PL/2022/00500/PPFL). **APPROVED at COMMITTEE ON 5/10/2022**
- PL/2022/01634/PPFL - Conversion of roof space to form a total of six apartments in the roof space. **REFUSED BY DELEGATED POWERS** on 24/01/2023.

## BACKGROUND

Application PL/2021/03103/PPFL- *Conversion of part of roof space to form a 3 bed single residential apartment* was approved by planning committee on 2/02/2022.

Subsequently, application PL/2021/00500/PPFL- *Conversion of part of the roof space to form four 1 bed residential apartments* was approved at planning committee on 13/07/2022.

Subsequently, application PL/2022/01588/PPFL- *Conversion of part of the roof space to form four residential apartments (Following planning approval PL/2022/00500/PPFL)* was approved at planning committee on 5/10/2022.

Subsequently application PL/2022/01634/PPFL - *Conversion of roof space to form a total of six apartments in the roof space.* was refused by delegated powers on 24/01/2023 for the following reason;

*'The proposed amended parking provisions regarding spaces 6 would replace an existing area of footway which seeks to enhance existing accessibility levels and promote ease of access. These facilities are required to ensure that pedestrian links are appropriate for all users, particularly vulnerable road users. While space 5 via reconfiguration removes the existing circulation space that was required to ensure the existing parking spaces could be appropriately accessed. This additional space is located immediately adjacent to the wall of the bin store, which would make access to the parking space difficult. On this*

*basis the proposed parking provision as amended, fails to accord with Policy P7 and P8 of the Solihull Local Plan 2013 and guidance contained within the NPPF.'*

The main difference between this application and the most recent approved application PL/2022/01588/PPFL is the increase in the number of apartments from 4 to 6, including the increase in additional parking spaces from 4 to 6 spaces with the conversion of ALL the roof void space to living accommodation.

The main difference between this application and the refused application PL/2022/01634/PPFL, is the re-design of the 2 additional parking spaces required to accommodate the 2 additional apartments.

## **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. 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 proposal provides an appropriate residential use in accordance with relevant planning policy

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	600m
Rail station	800m	1000m

Food store	800m	750m
Primary School	800m	650m
GP surgery	800m	700m

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 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.

The principle of the further redevelopment of this apartment building to provide 4 x one bed and 2 x three bed residential units for residential purposes within the C3 Class of the Use Classes Order (1987) (as amended) would contribute to meeting borough wide housing needs and therefore meets the housing test in Policy P5.

(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.

The proposed 6 new apartments would occupy all of the central and end gables of the existing pitched tiled roof void of the existing apartment building complex, and involve the insertion of 51 small dormer windows overall in the existing roof slopes.

In detail, in the central gable, 3 dormers would be inserted either side of the central front gable element and a further 14 dormers inserted to the front and 9 dormers to the back of the main apartment roof.

A front balcony would be inserted at 2<sup>nd</sup> floor level in the central front gable overlooking the front public carpark and open countryside beyond.

At either ends of the apartment complex in the north and south gables elements, 6 dormers would be inserted on the outside and 3 dormers on the inside of each gable element and 2 further dormers inserted to the back of the main apartment roof for these apartments.

A front balcony would be inserted at 2<sup>nd</sup> floor level in each of the end north and south gables overlooking the front public carpark and open countryside beyond.

The number of window openings overall would increase from 34 in that already approved to 51 in this proposal.

All of the dormers would be acceptable, set down and set into the existing roof slopes and each dormer would be no wider or taller than 1metre and with a characteristic oval arched design to match the existing apartment building architectural fenestration design at 1<sup>st</sup> floor, which also have arched openings. Overall, the new dormers would all appear well proportioned within this apartment complex building and well placed within the roof slopes and subservient to the existing apartment building complex.

The proposed 3 inserted front gable balconies at 2<sup>nd</sup> floor level would be acceptable, being of a similar design, scale and appearance to the existing 1<sup>st</sup> floor balconies located across the existing main front elevations.

A planning condition can ensure all of the materials and finishes to the dormers and balcony are matched or are chosen most appropriately to complement the existing building, prior to construction.

In summary, the new apartment dwellings would be acceptable, being accommodated at 2<sup>nd</sup> floor level in an existing large roof void in an existing apartment building. The insertion of dormers and balconies to the existing building would be of an acceptable design, scale, character and appearance. 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 building and 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.

Moderate 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 apartments. The policy is consistent with the NPPF and thus carries significant weight.

With regard to potential loss of privacy, potential overlooking, noise and disturbance, all of the proposed inserted dormers into the existing roof slopes would have no more potential to overlook neighbouring habitable room windows in the apartment building than the existing first and ground floor windows of the apartment building located directly below the dormers.

With regard to potential overlooking, noise and disturbance from the proposed additional balconies, this would be no different from the existing situation with regard to the existing 1<sup>st</sup> floor balconies that are inserted across the front elevations of the

existing apartment building. The proposed balcony would also face onto the public parking area with the railway line and open countryside located beyond, having no other impact on other neighbours outside of the application site.

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 adjoining and adjacent apartments or other residential properties located behind and along Marsh Lane or future occupiers of the development. The potential noise and disturbance from the existing adjacent railway is likely to be no different for the proposed residential units than the existing situation regarding the occupied residential apartments at Hampton Court which share the same aspect and relationship with the adjacent railway. To ensure this SMBC have no objection subject to condition and note at the end of this report.

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

In this re-submission, parking arrangements have been reconfigured and designed in the submitted plans.

With regard to neighbour concerns regarding parking provision, access arrangements and the resulting bin and cycles store sizes and locations, the SMBC Highway Officer has no objection subject to conditions and has provided the following comments;

This proposal is for the conversion of roof space to form a total of six apartments in the roof space (Resubmission of planning application PL/2022/01634/PPFL). The previous application ref. no. PL/2022/01634/PPFL was refused for the following reason(s):

*'The proposed amended parking provisions regarding spaces 6 would replace an existing area of footway which seeks to enhance existing accessibility levels and promote ease of access. These facilities are required to ensure that pedestrian links are appropriate for all users, particularly vulnerable road users. While space 5 via reconfiguration removes the existing circulation space that was required to ensure the existing parking spaces could be appropriately accessed. This additional space is located immediately adjacent to the wall of the bin store, which would make access to the parking space difficult. On this basis the proposed parking provision as amended, fails to accord with Policy P7 and P8 of the Solihull Local Plan 2013 and guidance contained within the NPPF.'*

In this resubmission, the applicants have made positive changes to the proposals to address the previous concerns and reason(s) for refusal.

The footway adjacent to car park space 6 now has a dropped kerb proposed to allow for an acceptable crossing point across the site and therefore accords with Policy P7, which seeks to enhance existing accessibility levels and promote ease of access. The proposals are now considered to satisfy Policy 8.b., which seeks to

ensure the routes to the site from nearby services and local public transport stops are good quality, direct and attractive to use for all users through the improved pedestrian access.

Additional space has been provided for between car park space 5 by setting back the cycle store and bin store from the previously submitted plans that now provides satisfactory circulation space required to ensure the existing and proposed parking spaces can be appropriately accessed.

Therefore, the Highway Authority is satisfied that the development proposals do not have a severe impact on public highway safety, or on the operation or capacity of the local highway network.

No Objection subject to condition ; Car-parking spaces shall be provided before the development hereby approved is brought into use, in accordance with details of number, siting and layout which shall have first been submitted to and agreed in writing by the local planning authority, and thereafter shall be retained for parking purposes at all times in accordance with that scheme.

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

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

The Council's Ecology Officer has no objection subject to notes as listed at the end of this report and details;

'Our comments remain the same as provided for the previous applications for this site. (PL/2022/01634/PPFL)

On this basis the Council's Ecology Officers raise no objection to the proposal subject to notes 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.

#### Drainage

The Council's Drainage Engineers have raised no objection subject to a note detailed 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 dwellings 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 6 apartments 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 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 580 square metres of internal floor area, following demolition of the existing buildings equating to a levy of £113,964.20

based on the contribution rate for new residential dwellings in a 'mature suburbs' location index for 2022 @ £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.

### Other matters

With regard to the following concerns the submitted plans are not scaled drawings;

-The submitted parking plans numbers 1, 2 and 3, detail scaled drawings at scale 1:200, which can be measured providing comparisons of existing and proposed bin and cycle store floor dimensions.

- Plan 3 details additional parking spaces 5 and 6 and with proposed bin and cycle store floor areas of 17 and 27 square metres respectively to a scale of 1:200.
- Plan 2 details existing bin and cycle stores floor areas, with 10 and 19 square metres respectively to a scale of 1:200.
- Plan 1 details the already approved parking spaces 1, 2, 3 and 4 and the relocated bin and cycle stores with sliding doors, on a scaled drawing 1:200

-Matters of covenants, freehold and lease regarding the tenants and the landlord are private matters, not planning matters.

-Scaffold erection and ventilation matters are a matter for approval under the building regulations.

## 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 HOU1 and HOU 2 of the HIASPD.

The purchase of materials and services in connection with the construction of these additional residential apartments, 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 HIASPD 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:](http://www.solihull.gov.uk/Resident/Planning/searchplanningapplications)

1. CS00 – compliance with plans
2. CS05 – commencement within 3 years
3. CS06 – materials to be submitted
4. Before the development hereby approved is brought into use a noise assessment report shall be submitted to and agreed in writing by the Local Planning Authority. The report shall detail the measurement, prediction and assessment of railway noise impacts upon the proposed development. Assessment shall be undertaken by an appropriately qualified and experienced acoustics professional.
5. Car-parking spaces shall be provided before the development hereby approved is brought into use, in accordance with details of number, siting and layout which shall have first been submitted to and agreed in writing by the local planning authority, and thereafter shall be retained for parking purposes at all times in accordance with that scheme.  
In the interest of highway safety in accordance with Policy P8 of the Solihull Local Plan 2013.
6. Prior to the occupation of the development hereby approved cycle storage and bin store facilities shall be provided within the site in accordance with the approved plans and maintained throughout the lifetime of the development. In the interest of highway safety in accordance with Policy P8 and to minimise the effect of the proposal on the neighbourhood in the interests of the character of the site and amenities of the area in accordance with policy P14 and P15 of the Solihull Local Plan 2013
7. 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.
8. 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.
9. Drainage Note - The applicant is advised that according to mapping produced by the Environment Agency and held by the Council, the site is at risk of

surface water flooding during extreme storm events. It is therefore recommended that the development is constructed using flood resilient construction techniques and ensuring the site levels design does not cause an increased flood risk to third parties. Flood risk information can be obtained from <https://flood-warning-information.service.gov.uk/long-term-flood-risk/map>.

Further information relating to this 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).

10. NOTE: Noise During Construction - 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.

11. NOTE: EV Charging points

12. Climate Change – Building Control

