

**APPLICATION REFERENCE: PL/2020/01648/PPFL****Site Address:** 9 Land Lane Marston Green Solihull B37 7DE

<b>Proposal:</b>	Extension to rear of existing A1 retail shop and change of use of shop to create 3 self-contained residential flats (part retrospective).
<b>Web link to Plans:</b>	Full details of the proposal and statutory consultee responses can be found by using the above planning application reference number at:  <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>Number of representations received</b>
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<b>Recommendation:</b>	<b>APPROVAL</b>
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**EXECUTIVE SUMMARY**

This planning application seeks full planning permission for a change of use of a retail unit and an extension to the rear so to create 3 self-contained residential flats.

The proposed extension is similar to that previously approved although in a different use. The use as residential however would be more akin to the surrounding development which is predominately residential with sporadic commercial buildings. The proposed development would be policy compliant and is not expected to cause any material harm to neighbour amenity, highways or the streetscene/character of the area.

Subject to conditions the proposed use and retention of the extension to the rear of the existing commercial unit is considered appropriate due to the application site's position within a short distance of a local centre, context and immediately surrounding area, the nature of the proposed use and the accessible and sustainable location of the site.

The proposal is therefore recommended for approval

## MAIN ISSUES

The main issues relevant to the assessment and determination of this application are:

- Firstly, whether the principle of residential use is in accordance with relevant planning policy;
- Secondly, the effect of the development on the appearance of the street scene and character and local distinctiveness of the local area;
- Thirdly, the effect of the proposal on the living conditions of the occupiers of neighbouring properties;
- Fourth, whether the proposed flats are of an acceptable size and amenity of proposed residents; and
- The effect of the proposal on highway safety and the free flow of the road network.

### Other Material Considerations

- Drainage
- Landscape/Ecology
- CIL contribution
- Public Sector Equality Duty
- Human Rights

## CONSULTATION RESPONSES

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

SMBC Drainage & LLFA – No observations

Bickenhill Marston Green Parish Council – Objects on the basis of the loss of yet another retail premises in the village the proposed development is not in keeping with the surrounding residential street scene the Parish Council is questioning whether there would be adequate parking facility at the rear for the residents.

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

SMBC Highways – No objection

SMBC Policy and Spatial Planning - 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.

6 representations were 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):

#### General

- Loss of commercial/retail property.
- The original application for treatment rooms to the hairdressers made sense where it neighbours another business on that block.
- It was the intention all along.
- Perhaps property be converted to office units.
- Intensity of development.
- Impact on community facilities.
- Drainage/flooding issues.

#### Neighbouring Amenity

- Loss of light.
- Loss of privacy/overlooking.
- Disturbance at night.
- Noise and Smell.

#### Proposed Living Accommodation

- Proposed flats not fit for habitation.
- Quality appears poor.
- Limited amenity space.
- Health and safety concerns no fire exits.

#### Character/Appearance

- Design of flats not in keeping with surroundings properties.
- No elevations of changes to front elevation.

#### Highways

- Insufficient parking.
- Without proper demarcation and guidelines parking problems will get worse.
- Parking on Land Lane is restricted with double yellow lines in force.
- Heavy demand for parking in the area due to church services and events, library and NHS, train station and airport etc,
- Pedestrian and vehicle access is dangerous.
- The junction between Land Lane and Elmdon Road has had numerous accidents and increased parking demand and traffic will increase the risks to pedestrian and motorists.

- If residents' cars park in the narrow access driveway to the side of the properties there are concerns that this could restrict the already limited route of escape in an emergency situation.

Other

- The building method to connect to neighbouring property needs close inspection.

## **PLANNING ASSESSMENT**

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

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

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

This report considers the proposal against the Development Plan (Solihull Local Plan), the relevant policies of the National Planning Policy Framework ("NPPF") 2019, the National Planning Practice Guidance.

### Whether the principle of residential use in accordance with relevant planning policy

Policy P19 of the Local Plan identifies Marston Green as a local centre which needs to be developed and sustained in a way which ensures their continued sustainability and economic success. The Policy states that the scale and nature of new development should reflect the centre's role and function in serving local needs, the opportunity to reduce the need to travel or the need to sustain the economic viability and vitality of the centre.

The application site is within an area that is predominantly residential but with commercial elements integrated including a library, clinic, office and the retail unit which is the subject of this application. The Local Plan does not stipulate exactly what part of the village constitutes the Local Centre. Officers consider that the main commercial core of the village is the main parade of shops on Station Road and other commercial premises centred around the roundabout. This site is circa 500m from the village centre. It is acknowledged that there are community facilities in the immediate vicinity including the library and clinic, however, given the application site's distance from the main retail hub of the village and the residential character of this part of the village, the change of use of the hairdressers, which is currently vacant, is not considered harmful to the village centre.

Officers would draw Members attention to a planning application in 2014 at Ye Olde Village Wine Lodge at 6 Elmdon Lane for change of use from retail to a 10 bed HMO with 4 off-road car parking spaces. Planning Committee refused the application for reasons including loss of retail unit. The application was taken to appeal where the Inspector noted that the application site was a short distance from the hub of the local centre and that there were other alternative core village facilities reasonably close by on foot. The Inspector advised that no evidence had been submitted to establish how the remaining facilities would be less accessible for the local community or that there would be harmful effect on the viability of the centre. He also considered that the change of use would result in more people living locally which would be more likely to contribute to the centre being sustained.

On this basis the proposed development is not considered to contravene Policy P19 of Solihull Local Plan.

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, development 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, doctors 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	200m
Rail station	800m	700m
Food store	800m	400m
Primary School	800m	650m (infant school) 450m (junior school)
GP surgery	800m	650m

Policy P7 expects development to meet certain accessibility criteria “unless justified by local circumstance” and provides ideal distances for new development to be located in relation to existing local services. The application site is located within the

built up area of Marston Green, with excellent connections to the village centre via Station Road. In addition, there are a number of bus stops located along Station Road. As such, the proposal meets the accessibility criteria and the application proposal is considered to accord Policy P7.

For the reasons described above, Policy P7 is met, and the principle of the development of this site for residential purposes within use class C3 of the Use Classes Order (1987) (as amended) meets the accessibility test in Policy P5.

b) Contribute to meeting borough-wide housing needs

Paragraph 11 of the Framework 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 that granting permission unless (i) the application of policies in the Framework that protect areas or assets of particular importance (that are listed in foot note 6 of the Framework) provides a clear reason for refusal or (ii) any adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in this framework when taken as a whole. This is often referred to as the 'tilted balance'. The latest figures the Council has published in relation to the 5YHLS indicates that the Council can demonstrate a supply of 4.19 years (as of 1st April 2020) and therefore the tilted balance is engaged. This shortfall is considered to be modest on a scale of marginal-limited-modest-substantial-severe. As the shortfall is considered to be modest this can have a bearing on the weight attached to the tilted balance.

The principle of the development site 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 the 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 and landscaping 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 the development for 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.

For the reasons set out above, the principle of the development of this site for residential purposes is compliant with Policy P5 of the Local Plan.

This should be accorded neutral weight in the planning balance.

The effect of the development on the appearance of the streetscene 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, including all development proposals will be expected to achieve good quality, inclusive and sustainable design. This local plan policy is consistent with the NPPF and therefore carries significant weight.

The application relates to a modern commercial unit which is currently vacant. The area within which the application site is located displays a mix of residential and commercial units and is approximately 500m from Marston Green village centre.

Regarding the extension to the rear of the existing unit, it is important to note that an extension of identical size and scale has already been approved and is under construction, albeit for use as part of the A1 unit which is now vacant. The neighbouring office unit also has a substantial flat roof single storey section to the rear which the proposal would sit immediately adjacent to the proposed extension.

Third parties have raised concerns that no existing or proposed elevations have been submitted of the front elevation, however, the applicant has confirmed that no changes are proposed.

It is not considered that there would be any harm to the appearance of the street scene or character and local distinctiveness of the area given that the extensions would be to the rear of the existing building and would not be prominent from public vantage points and bearing in mind what has previously been approved.

Furthermore, given that the proposal would bring back into use a currently vacant retail unit and result in environmental improvements, including improved hard surfacing and landscaping, to the enclosed yard/access area to the side and rear of the existing building, it is considered that the proposal, together with its use as residential units, would result in an improvement to the character and appearance of the site.

Furthermore, residential use would be in keeping with the character of the area which is predominantly residential but with commercial elements.

This carries positive weight 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 and enhance the amenity of existing and potential occupiers of houses. Policy P14 of the SLP is consistent with policies set out in the NPPF and again full weight can be attributed to this Local Plan Policy.

In terms of the form of the new extension, this is as already approved. The extension would be single storey with a flat roof which would minimise any overbearing impact and is identical in size to that previously approved.

All windows would be at ground floor level and would thus not cause undue harm by way of overlooking.

Concerns have been raised regarding noise and disturbance, particularly at night. Given the commercial nature of the site as it is now would suggest that comings and goings would likely reduce during daytime hours although in the evening there would likely be activity in an area where there was previously very little or none given that the existing use had opening times restricted to 8pm on weekdays and 6pm at weekends. However, activity associated with residential uses would be similar to the neighbouring residential uses as the area is predominantly residential in character. Cars would not be able to use the existing access drive with the exception of car parking at the frontage which means any activity would be movement of people rather than vehicles. It is not considered that 3 residential flats would cause unacceptable harm to living conditions of neighbouring properties by way of noise and disturbance.

Whilst a vehicular access is currently immediately adjacent to the boundary adjacent to no. 7 Land Lane, there would be no turning or parking available and thus would be more akin to a shared amenity space. As this space is adjacent to other residential gardens it is not considered to cause undue harm subject to a condition to prohibiting vehicles using the access.

Given the mix of uses within the area with other residential properties immediately to the east the use of the site as residential is considered wholly appropriate.

The neighbouring commercial unit has a window facing the application site which the proposed extension would be built up against. This window serves a WC, which is not a habitable room, and the impact will be no different to what has previously been approved.

Concerns have also been raised about location of waste and recycling bins, there is ample space between the buildings and the eastern boundary for these to be provided without causing harm to neighbours.

On this basis, the proposal would accord with Policy P14 of the Local Plan, SPG New Housing in Context and guidance contained within the NPPF.

Neutral weight should be attributed to this in the decision making process.

Whether the proposed flats are of an acceptable size and amenity of proposed residents

Third parties raise concerns about the size of the flats being too small with insufficient amenity space. Whilst the Local Plan does not have any policies that stipulate minimum sizes, the Department for Communities and Local Government has published Technical housing standards – national described space standard.

All 3 flats would have one bedroom and the following table outlines the proposed dimensions (all measurements are m2)

	Flat 1	Flat 2	Flat 3
Living room/kitchen	42.82	23.46	22.54
Bedroom	13.68	17.68	16.25
bathroom	5.6	4.2	4.2
TOTAL	62.1	45.34	42.99

The minimum gross internal floor area for a 1 bedroom flat with 1 storey is 39m2 for a 1 person bed space and 50m2 for a 2 person bed space. This would mean that flat 1 would be suitable for 2 persons and flats 2 and 3 would be suitable for 1 person.

The majority of windows to all 3 units look out to the existing side access drive. The exception is the existing shop window which would serve the living room of flat one and a secondary window which is proposed on the rear elevation servicing the kitchen/living room of flat 3. There would be just a 3 metre gap between the windows and the side boundary. The boundary treatment here is taller than a standard 1.8m high boundary fence due to buildings within neighbouring property gardens however, there are windows on the side elevation that already face this boundary and it is considered that 3m is sufficient for residents to receive adequate daylight.

The properties will also be facing east so it is unlikely that this outdoor space will receive much direct sunlight, however, there is space available which is not always the case when there are flats to the rear or above commercial units within a parade.

This space would not be used for vehicles and so it could be adapted to provide a meaningful shared amenity space. These details could be secured by condition and on this basis the impact on future residents is considered acceptable and compliant with Policy P14.

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

Policy P8 of the SLP advises inter alia that: ‘All development proposals should have regard to transport efficiency and highway safety [and] development will not be permitted which results in a significant increase in delay to vehicles, pedestrians or cyclists or a reduction in safety for any users of the highway or other transport network’.

Paragraph 109 of the Framework indicates that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

A mixture of on-street parking restrictions have recently been introduced along Land Lane and nearby roads. To the frontage of the application site, on-street parking restrictions in the form of single yellow lines have been installed, which prohibit on-street parking from occurring between the hours of 10:00-11:00 and 14:00-15:00 Monday to Friday. The single yellow line parking restrictions have been implemented to prevent on-street parking from occurring during the daytime, which was likely associated to the nearby railway station. Double yellow lines have also been installed along Land Lane, to the south of the junction with Hall Drive. The level of parking proposed to serve the development has not been specified however, the Highway Authority notes that on-street parking could be accommodated along sections of Land Lane outside of the hours it is prohibited. There is existing vehicular access and driveway which could provide access to the rear of the application site which could potentially be used for off-street parking. However it is proposed that this area be restricted for access to allow for amenity space to be created to the front of the residential units. There is space on the frontage which would likely accommodate 1 car and a condition could be imposed to secure a scheme for frontage parking prior to the occupation of the development.

The application site is considered to be in a relatively accessible location, with Marston Green Railway Station located within a walking distance of approximately 700m from the application site, offering services to Birmingham, Coventry and London. Bus stops are provided at the Railway Station in addition to two bus stops available along Station Road to the north-east of the site, within a walking distance of approximately 200m from the application site. A number of services are provided at the bus stops, including the 72 and 72A services which offer a higher frequency service. A number of other local facilities and amenities including convenience store, restaurants, Marston Green Junior School and Marston Green Infant Academy are also located within a reasonable walking distance from the application site. It is therefore envisaged that future residents of the flats will make use of the public transport facilities available.

It is unlikely that the development proposals will generate a significant increase in vehicle trips or demand for parking compared to the existing uses. It is also unlikely that the proposal will have a severe impact on public highway safety, or on the operation or capacity of the local highway network.

Officers would draw Members attention to a planning application in 2014 at Ye Olde Village Wine Lodge at 6 Elmdon Lane for change of use from retail to a 10 bed HMO with 4 off-road car parking spaces. Planning Committee refused the application for two reasons including insufficient car parking and amenity of the area and highway safety. This application was taken to appeal where the Inspector noted that Marston Green lies in a sustainable location with a range of services and employment and where there are opportunities to travel by car. The Inspector also advised that in the absence of clear evidence of local parking issues he did not consider that the proposal would result in a material shortage in parking provision off road in this location. Nor had it been demonstrated that even if there was a material deficiency it would be bound to have a harmful effect on highway safety. It was also considered that the existing use as a shop would have likely resulted in some on-street parking demand which would have been displaced by the proposal.

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

### Other issues

#### Drainage

Third parties have raised concerns regarding localised flooding that occurs during heavy rainfall which they are concerned will be exacerbated by the proposed development.

The Council's Lead Local Flood Authority have made no observations regarding the proposal and no concerns have been raised from third parties in this regard.

#### Landscape/Ecology

The site is wholly laid to hardstanding with no existing trees or shrubs. No details of proposed landscaping have been provided with the application, however, a condition is recommended that seeks a scheme for shared amenity space on part or all of the existing access drive would provide the applicants the opportunity to introduce some soft landscape features. This would provide some betterment in terms of landscape and ecology.

#### CIL Contribution

The proposal involves the provision of new housing in a mature suburbs and as such, the Community Infrastructure Levy (CIL) contribution of £8,140.38 is required.

#### Public Sector Equality Duty

In making your decision, you must have regard to the public sector equality duty (PSED) under s.149 of the Equalities Act. This means that the Council must have due regard to the need (in discharging its functions) The PSED must be considered as a relevant factor in making this decision but does not impose a duty to achieve the outcomes in s.149 is only one factor that needs to be considered, and may be balance against other relevant factors. It is not considered that the recommendation to grant permission in this case will have a disproportionately adverse impact on a protected characteristic

#### Human Rights

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

You are referred specifically to Article 8 (right to respect for private and family life), Article 1 of the First Protocol (protection of property). It is not considered that the

recommendation to grant permission in this case interferes with local residents' right to respect for their private and family life, home and correspondence, except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation to grant permission is considered a proportionate response to the submitted application based on the consideration set out in this report.

## **CONCLUSION**

This planning application seeks consent for a change of use of the existing A1 unit and extension to rear to create 3 dwelling units.

The principle of C3 residential units within the location is appropriate. Subject to conditions it is considered that the proposal will not result in unacceptable noise and disturbance to nearby residential uses. The development would not cause undue harm to the character and appearance of the area and the proposal will not have a detrimental impact on highway safety.

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.

As such the proposal is considered to be in accordance with Policies P5, P7, P8, P14, and P15 and of the Solihull Local Plan. The application is therefore recommended for approval.

## **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 in 3 years
- 3 – No dwelling shall be occupied until a detailed scheme for the provision of vehicular and cycle parking has been implemented in accordance with details to be submitted to and approved in writing by the Local Planning Authority.

In the interests of satisfactory parking and to encourage sustainable travel in accordance with Policy P8 of the Solihull Local Plan 2013.

- 4 – The existing access to the side of the dwelling shall not be used for vehicular access for the lifetime of the development. A scheme should be submitted for Landscaping in this area to create private amenity space for the individual units

To safeguard the amenities of adjacent neighbours and future occupiers in accordance with Policy P14 of the Solihull Local Plan 2013

5 – CL05  
6 – CL06