

APPLICATION REFERENCE: PL/2021/00074/VAR**Site Address:** 52 Woodlea Drive Solihull B91 1PQ

Proposal:	Vary condition No. 1 (drawings) on planning approval PL/2020/01065/MINFDW to amend the drawings including the roof design of the replacement dwelling.
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:	Application has been called in for Committee determination by Councillor Joe Tildesley.
---------------------------------------------------	------------------------------------------------------------------------------------------------

Recommendation:	APPROVAL SUBJECT TO CONDITIONS
------------------------	---------------------------------------

EXECUTIVE SUMMARY

Planning permission PL/2020/01065/MINFDW for a replacement dwelling at 52 Woodlea Drive was approved subject to conditions on 22nd July 2020.

This application seeks to retrospectively formalise some design changes to the replacement dwelling which include a change to the roof style which now introduces a section of flat roof at the ridge in order to keep within the previously approved height of 8.767m and an increase in the depth of the two-storey part of the property by 300mm towards the rear and an increase in the eaves height by 146mm.

The current scheme to redevelop the site to provide a modern family home of a similar design, scale, mass, and site coverage to that previously approved therefore fully accords with Policy P15 of the Local Plan and criteria therein.

In terms of 'other material considerations' pertinent to the determination of this application, subject to conditions, your officers have concluded that the proposed development is acceptable in all other aspects.

The current scheme would therefore benefit from the presumption in favour of sustainable development and the overall planning balance is in favour for this proposal.

MAIN ISSUES

The main issues in this application are the effects of the development:

- Firstly, Background;
- Secondly, impact on the character and appearance of the host property; and
- Thirdly, impact on the living conditions of the occupiers of neighbouring properties
- Other Material Considerations
 - Drainage;
 - Ecology;
 - Highways;
 - Public sector equality duty; and
 - Human rights.

- Planning Balance and Conclusions

CONSULTATION RESPONSES

Statutory The following Statutory Consultee responses have been received:

Local Lead Flood Authority: No objection.

PUBLICITY

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

Councillor Joe Tildesley has objected to the application raising the following issues:

- The building has been building larger than the agreed planning permission.
- The removal of the roof apex does not address the problem which remains – that the building is not the same size as the original approval.
- The development will impact upon the character and appearance of the area and is out of character within the streetscene and will not enhance local character and distinctiveness as required by Policy P15.
- By its size it will impact upon the amenity of neighbours contrary to Policy P14 of the Solihull Local Plan.

19 responses were received from local residents. All correspondence has been reviewed and the main issues raised are summarised below (Planning Committee Members have access to all third party correspondence received):

Design

- Character of the area;
- Poor design and too high compared to neighbouring properties;
- Imposing appearance dominating the streetscene; and
- Plans are still incorrect

Neighbour Amenity

- Overshadowing of neighbouring properties;
- Loss of light to solar panels;
- Loss of privacy; and
- Loss of light to neighbouring property.

Other

- Previous planning application was misleading; and
- We would have objected to the first application if drawings had been correct.

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.

MAIN ISSUES

Planning History / Background

An application was submitted at the site in 2020 ref. PL/2020/01065/MINFDW for the following:

- Erection of a replacement dwelling

No representations were received and the application was approved under delegated powers on 22nd July 2020.

A site visit undertaken by your officers on 17th December 2020 confirmed that the structure on site was not fully in accordance with the approved drawings. Subsequently this planning application has been submitted for consideration.

It is important to note that if planning permission for the current scheme were to be refused, an appeal to the Secretary of State was unsuccessful; there is a realistic prospect that the 2020 application would be completed.

The 2020 scheme therefore represents a realistic 'fall-back' position which should be given significant weight in the planning balance.

In summary, the main differences between the approved application and current scheme are:-

- A change to the design ridge of the main roof to include a flat section (height remains as previously approved);
- The eaves have been increased in height by 146mm (4.85m to 4.996m);
- The forward projection including the garage has been reduced by 500mm;
- The two storey depth towards the rear has increase by 300mm; and
- The chimney has increased in height by 600mm.

The effect of the proposed development on the character and appearance of the area

Policy P15 of the Local Plan, amongst other matters, seeks to ensure that proposals conserve and enhance local character. Policy P15 of the Local Plan is consistent with policies set out in the Framework and full weight can be attributed to this Local Plan Policy.

Concerns have been received by local residents regarding the size and design of new house being out of keeping with street scene.

Woodlea Drive and the surrounding roads, such as Woodside Way and Streetsbrook Road are characterised by the variety in house types, ages and sizes and there is no particular uniformity within the streetscene. There are however features detail in designs of the properties which are common features and similarity in types of fenestration and materials. Front driveways and properties set back from the highway are common and although the building lines are not completely uniform there is a clear pattern. Along Woodlea Drive the heights of the properties vary, there are a number of sites where replacement dwellings or extensions have been recently constructed. One example which is particularly similar in design to the current proposal is at no. 72 Woodlea Drive which is also recent replacement dwelling (ref. PL/2018/01728/PPFL).

The changes between the approved application and current scheme are set out above and shown in the previously approved and proposed drawings. The design, scale, mass, and site coverage of the proposed scheme would not be dissimilar to the approved scheme and, as such, would not be out of character with the surrounding development. The ridge height of the building is no higher than previously approved, it is the roof design which has changed and introduced a section of flat roof area at the ridge of the property. This aspect of the design can be viewed from within the streetscene but is well set back into the site and is not considered to result in an unacceptable impact upon the design of character or the replacement dwelling or the visual amenity of the surrounding area.

The proposed development would assimilate with the pattern and form of surrounding development and the design, scale, mass, and site coverage of the proposed development would respect and enhance the character and appearance of the area.

In summary, the proposal would not conflict with Policy P15 of the Local Plan, which among other things require new housing development to be well-designed, and to respect and enhance local character including scale and layout. For the same reasons it would not conflict with the requirements of paragraphs 128 - 130 of the National Planning Policy Framework (the Framework), which seek to encourage good design.

This should be accorded neutral weight in the planning balance.

The effect of the proposal on the amenities of the occupiers of neighbouring properties

Policy P14 of the Local Plan, amongst other matters, seeks to protect the amenity of existing and potential occupiers of houses when considering new developments. Policy P14 of the Local Plan is consistent with policies set out in the Framework at paragraph 127 and full weight can be attributed to this Local Plan Policy.

Concerns have been raised by local residents with regards to potential overlooking to their properties and gardens, as well the development having an overbearing impact in terms of loss of light and privacy and loss of light to solar panels.

The proposal potentially affects the amenities of both neighbours – Nos 50 and 54.

In terms of impact on No. 50, to the front the proposal does not extend beyond the front of No. 50. This accords with the 45 degree rule and as such there is no overbearing impact to the front. To the rear, the proposal complies with the 45 degree rule, which is acceptable. As such, also having regard to its orientation to the north, this element of the proposal will not have an unduly overbearing impact. The proposal as a whole will not therefore be harmful to the amenities of No. 50 by way of overbearing impact or loss of light.

Furthermore, the first floor side facing windows are to serve en-suites and will be conditioned to be high opening only and obscurely glazed.

In terms of impact on No. 54, the proposal complies with the 45 degree rule to both the front and rear, and there is therefore no perceived overbearing impact. The additional 300mm projection at two stories towards the rear of the site when compared to the consent scheme would not have any further significant impact with regards to daylight and sunlight or overshadowing. With regards to the loss of light to solar panels on the rear roof slope of no.54 this would not affect the residential amenities of the occupiers and would not conflict with P14 of the SLP. With regards to privacy and overlooking, only a single side facing window is proposed at first floor level that serves a bathroom, which will be obscurely glazed to avoid overlooking. The proposal will therefore not be harmful to the amenities of No. 54.

In summary, the proposal would not have an adverse effect on the amenities of the occupiers of neighbouring properties. It would therefore not conflict with Policy P14 of the Local Plan which, amongst other matters, seeks to protect the amenity of existing and potential occupiers of houses when considering new developments.

This should be accorded neutral weight in the planning balance.

Other Material Considerations

- 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 application, 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, 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 considerations set out in this report.

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. For decision-takers this means approving development proposals that accord with an up-to-date development plan without delay.

The outcome of this application therefore depends on:

- Whether there are any adverse impacts which would 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 P8, P10, P11, P14 and P15 of the Local Plan and relevant criteria therein.

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 is 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. CSOO Compliance with all plans
2. CS06 – materials as previously approved
3. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order), no windows or other openings shall be inserted in the side elevations of the development hereby permitted at first floor level without the prior written approval of the Local Planning Authority.
4. The first floor windows to be installed in the side elevations (north and south elevations) of the dwelling hereby approved which face 50 and 54 Woodlea Drive shall be obscurely glazed, and non-opening unless the parts of the window that can be opened are more than 1.7 metres above the floor of the room in which the window is installed. The windows shall thereafter be permanently retained in that condition.
5. The development hereby approved shall not be occupied until full details of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority and these works shall be carried out as approved. These details shall include proposed finished levels or contours; means of enclosure; car parking layouts; other vehicle and pedestrian access

and circulation areas; hard surfacing material. Soft landscape works shall include planting plans; schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate; implementation programme.

6. All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with a programme agreed in writing with the Local Planning Authority. 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
7. 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.
8. The development hereby approved shall not be first used or occupied until there has been submitted to and approved in writing by the Local Planning Authority a plan indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatment shall be completed before the building is occupied. Development shall be carried out in accordance with the approved details.