

APPLICATION REFERENCE: PL/2021/00232/PPFL**Site Address:** 38 Dove House Lane, B91 2EB

Proposal:	Demolition of existing dwelling. Erect 6 x 2 bedroom apartments with associated parking.
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:	The application has given rise to a substantial amount of public concern and in the opinion of the Head of Development Management should be referred to Planning Committee
---	---

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

EXECUTIVE SUMMARY

The principle of this residential development is policy compliant, creating six additional residential units on a site currently in residential use (Class C3) in an established accessible residential area, and would help to meet an identified need for small dwellings in an accessible location within the Borough. The principle of development is acceptable and in compliance with Policy P5 of the Solihull Local Plan 2013 (SLP).

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

MAIN ISSUES

The main issues in this application are:

- The first issue is whether the proposal provides an appropriate residential use in accordance with relevant planning policy;
- The second issue is the effect of the proposal on highway safety and the free flow of the road network;

- The third issue is the effect of the proposal on the character of the area and appearance of street scene;
- The fourth issue is the effect of the proposal on the amenities of the occupiers of neighbouring properties; and

Other material consideration

- Landscape,
- Ecology,
- Drainage,
- CIL
- 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 subject to conditions
- SMBC Ecology – No objection received
- SMBC Highways – No objection subject to conditions
- SMBC Landscape – No objection subject to conditions

PUBLICITY

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

10 responses were received including an objection from Councillor Karen Grinsell. All correspondence has been reviewed and the main issues raised are summarised below (Planning Committee Members have access to all third party correspondence received):

Highway safety

- Lack of visibility at access;
- Highway safety with speeding vehicles; and
- Highway safety impact during construction

Design and character

- Loss of existing building;
- Out of keeping with street scene; and
- Undesirable type of development

Neighbour amenity

- Loss of light
- The proposed building will be imposing; and
- Loss of privacy.

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 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	483m
Rail station	800m	1126m
Food store	800m	483m
Primary School	800m	805m
GP surgery	800m	483m

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 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 wholly residential area of Solihull between the main A41 and B452 Lode Lane, both of which are linked by regular bus services serving linking local shops and services and the Solihull town centre and train station. As such, the application proposal is considered to accord with 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.

- (b) Contribute to meeting borough wide housing needs

Turning to the second test, 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 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 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 4.64 years (as of 1st April 2019) and therefore the tilted balance is engaged. This shortfall is considered to be limited on a scale of marginal-limited-modest-substantial-severe. As the shortfall is considered to be limited this can have a bearing on the weight attached to the tilted balance.

The principle of the redevelopment of this 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 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 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 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 limited positive weight in the planning balance.

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

The NPPF indicates that developments should only be prevented if a safe and suitable access to the site cannot be achieved.

Policy P8 of the SLP states that development which results in a reduction in safety for any users of the highway will not be permitted. The policy is consistent with the NPPF and thus carries significant weight.

There is an existing vehicular access to the site via Dove House Lane, which is proposed to be widened by the development. The development would yield 5 more residential units on the site (6 in total) and will introduce additional movements to and from the site. This intensification of use of the access arrangement does not cause any harm to highway safety.

The proposals include the use of the existing vehicular access and driveway to the frontage of the existing dwelling to provide 12 off-street car parking spaces. Eight of the car parking spaces proposed will be in a tandem arrangement. The Highway Authority notes that the car parking spaces proposed in a tandem arrangement appear to be allocated to the same apartments, which should prevent an occupant from one apartment requiring an occupant of another apartment moving their vehicle to allow them to manoeuvre into/out of a space. A minimum width of 6m will be provided in between parking bays, which is considered to be sufficient for vehicles to

manoeuvre into/out of the car parking spaces. The 12 car parking spaces proposed is considered to be sufficient to serve the six apartments proposed.

The existing vehicular access will be widened to serve the driveway and off-street car parking area. The existing vehicular access measures approximately 4m wide. The Highway Authority requires a vehicular access serving multiple residential units to measure at least 4.5m wide to enable two vehicles to pass each other within the vehicular access. This should prevent vehicles waiting for another vehicle to pass within the access and potentially obstruct the public highway. The plans have been altered to reflect a 4.5m width access in accordance with The Highway Authority's comments

The application site is considered to be in a relatively accessible location. A bus stop is available at the junction of Warwick Road (A41) and Dove House Lane, a walking distance of approximately 370m from the application site. The 4 bus service calls at the bus stop, which operates approximately every 8-10 minutes during the peak periods and provides services to Solihull Town Centre and Birmingham City Centre. The 4 bus service also stops within a short walking distance of Olton Railway Station. A parade of shops is also provided along Warwick Road (A41) within a walking distance of up to approximately 450m. The parade of shops offers local facilities and amenities including a SPAR, takeaway units, retail units, and MedicSpot Clinic.

Concerns have been raised regarding the potential for disruption to the highway during the construction phase; however, it is considered any such disruption can be mitigated by a condition relating to a Construction Method Statement

Finally, conditions relating to secure cycle storage, car parking and cycle parking to be provided prior to first occupation are considered necessary in the interests of highway safety and to promote sustainable means of transport.

It is unlikely that the development proposals will generate a significant increase in vehicle trips to have a severe impact on public highway safety, or on the operation of the local highway network. SMBC Highway Authority is therefore satisfied that the proposals accord with Policies P7 and P8 of the Solihull Local Plan 2013. SMBC Highway Authority considers the development proposals to be acceptable and should not be refused on highway grounds as per Paragraph 109 of the NPPF, as the development should not have an unacceptable impact on highway safety, nor will the residual cumulative impacts on the road network be severe.

Neutral weight should therefore be attached to this material consideration

The effect of the proposal on the character of the area and appearance of street scene

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.

The proposal seeks to demolish the existing house and erect an apartment building with 6 flats in a similar position to the house. There would be 6 x 2 bed apartments with 12 associated parking spaces on the frontage.

Number 38 Dove House Lane is an existing large detached house located between the junction of Reservoir Road and Heaton Road. The house dates from the 1930s and constructed of predominately brick with render and Tudor style boarding. The back garden is 30m long and backs onto properties in Heaton Road and garage area for Coppice Close. The site area is just under 0.12 hectares

In this case there can be no dispute that there would be a significant uplift in density. However, the development with its single central doorway would appear in most views as a detached residence similar, albeit larger, to the existing dwelling as opposed to apartments.

The question then arises as to whether the density and the appearance of the building itself would cause unacceptable harm to the character of the area which is residential in nature, with a degree of uniformity in terms of the height and style of buildings on the south side of Dove House Lane. There is also a prominent apartment development (Coppice Close) and two new developments of apartments north east of the application site.

Having regard to the grain of development within the vicinity, it is considered the building has been carefully designed to incorporate elements of the existing dwelling such as projecting gables, stepped elevations, dormer window, and a prominent chimney stack. Whilst balconies are perhaps more unusual, they are a feature of apartments at Coppice Close and the adjacent apartment blocks approved at number 48 and 46.

There can be little doubt that the proposed building would be larger than number 36 Dove House Lane, but this maintains the existing context. The application site is spacious and even with the additional footprint proposed there would be suitable and sufficient areas of private circulation and amenity space about the building. The neighbourhood has a wide variety of house types, sizes and materials and so a proposed building of differing style and height will not appear out of character. In addition, the design of the proposed apartments mirrors that of the approved scheme at number 46 and 48 in the streetscene.

Overall, there would be some change to the character and appearance of the area, however, the application property and area is not subject to any special designation and a certain degree of change or diversity is inevitable as reflected in the wording of Policy P15. Moreover, the degree of change, the building design, and site layout is considered to produce an appropriate design response to the site and its surroundings, responding acceptably to the built character of the locality and local distinctiveness of the area, that will serve to enhance the character of the area by means of a well-designed and proportioned building with a robust native landscaping scheme to be secured by condition. The proposal thus complies with guidance in Policy P15 of the SLP and limited weight in support of the proposal should therefore be attached to this material consideration.

The effect of the proposal on the amenities 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.

Concern has been raised by the adjacent residents over the impact on light and outlook to their windows. The building does not infringe any 45 degree sightlines taken from the rear facing windows at the neighbouring property number 36. Whilst outlook would be altered to windows in the rear of No.36, the building would be outside the 45 degree sightline and the building would be positioned a distance of 2.3m between the properties. There would be some overshadowing to the rear garden at No.36 given the orientation of the building to the south west of the application site, but not the extent that any harm would be material.

The main building has first floor side facing windows, which to maintain privacy levels and help avoid potential overlooking, it is recommended that they are fitted with obscure glazing / and or restricted openings. Finally, the main building contains a number of Juliet balconies which maintain privacy and prevent overlooking.

Turning to the impact on the living conditions of the occupants of Coppice Court. The main building is located 18.5m from the boundary with the application site and the proposed building is a further 1.75m from the boundary. Given the distances there would be no impact on the living conditions of the occupants of Coppice Close.

Opposite the site concern has been raised with regards to impact on their property. Given the separation distances of in excess of 39m and Dove House Lane between them there would be limited impact on their living conditions that already from the existing detached property on the site. Properties to the rear of the site in Heaton Road are located between 23-29m. Again this is a significant distance added with the orientation of the properties there would be limited to no impact with regards to the living conditions of the occupiers.

With respect to the living conditions of future occupiers, the drawings submitted demonstrate that a sizable area of useable space would be located to the rear of the building for use by occupants of the apartments. As a consequence, the proposal would have an acceptable effect on the living conditions of future occupiers of the development in terms of external space provision.

In summary, it is considered that the proposed building is appropriately proportioned and sited so as not to have an adverse effect on the living condition of the occupants of nearby dwellings / apartments or future occupiers of the development. In this regard, the development would accord with Policy P14 of the SLP, and neutral weight should therefore be attached to this material consideration

Other issues

Landscape

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

In respect of trees on and around the development site, SMBC Landscape Architects have considered the landscape plan submitted with the application and have concluded that proposal can be undertaken without compromising the health or longevity of important trees on and around the site. Hard and soft landscaping for the wider site, including the important boundary adjacent to Dove House Lane, can be secured by condition. The proposal is therefore compliant with Policies P10 and P14 of the SLP and neutral weight should therefore be attached to this material consideration

Ecology

Policy P10 of the SLP seeks to protect habitats and to conserve, enhance and restore biodiversity. The policy is consistent with the NPPF and thus carries significant weight.

SMBC Ecologists have considered submitted bat and bird survey and raised no objection subject to the standard bat and nesting bird notes. The proposal is therefore compliant with Policy P10 of the SLP and neutral weight should therefore be attached to this material consideration

Drainage

Policy P11 of the SLP advises that new development will not normally be permitted within areas at risk of flooding. The policy is consistent with the NPPF and thus carries significant weight. The site lies within Flood Zone 1.

SMBC Drainage Engineers have considered the proposal and raises no objection subject to a condition to secure appropriate drainage of the site. The proposal is therefore compliant with Policy P11 of the SLP and neutral weight should therefore be attached to this material consideration

Affordable housing

In terms of affordable housing, the proposal would create six two bedroom apartments which would not exceed the 1,000 sq.m 'floor space' threshold set out in Policy 4a of the SLP. Thus 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 levy of £58,429.44 based on the contribution rate for new residential dwellings in a 'mature suburb' location (£92.16 sq.m).

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.

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 and relevant criteria therein. The purchase of materials and services in connection with the construction of the dwellings, 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, the development would not conflict with Policies within the Local Plan or guidance in the Framework. This should be accorded neutral weight in the planning balance.

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

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

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

RECOMMENDATION

Approval is recommended subject to the following précis of conditions a full list of standard conditions is available using the following link:

<http://www.solihull.gov.uk/Resident/Planning/searchplanningapplications>:

- 1) CS00
- 2) CS05
- 3) CS06
- 4) The development shall not be occupied until a Car Parking Management Strategy has been submitted to and approved in writing by the Local Planning Authority, which should provide details of the allocation of parking spaces. The car parking area shall thereafter only be operated in accordance with the approved strategy.

In order to secure the satisfactory development of the application site in the interests of highway safety in accordance with Policy P8 of the Solihull Local Plan 2013.

- 5) The development shall not be occupied until a detailed scheme for the provision of secure sheltered cycle parking has been implemented in

accordance with details to be submitted to and approved in writing by the Local Planning Authority.

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

6) The development shall not be occupied until a refuse collection strategy has been submitted to, and approved in writing by, the Local Planning Authority, which should provide details of refuse storage and collection.

To ensure adequate refuse storage and collection facilities are provided in accordance with Policy P8 of the Solihull Local Plan 2013.

7) No development shall take place until a Demolition and Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority and Local Highway Authority. The Plan shall be strictly adhered to and shall provide for: the anticipated movements of vehicles; the parking and loading/unloading of staff, visitor, and demolition/construction vehicles; the loading and unloading of plant and materials; hours of operation and deliveries; the storage of plant and materials used in demolishing/constructing the development; a turning area within the site for demolition/construction vehicles; and, wheel washing facilities and other measures to prevent mud/debris being passed onto the public highway.

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

8) Before the development hereby approved is occupied (or at such later time as may be agreed in writing by the Local Planning Authority) a Green Travel Plan shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the occupier or the premises shall review the Green Travel Plan on a biannual basis. The review report shall be submitted biannually to and approved in writing by the Local Planning Authority and thereafter implemented in accordance with the approved details.

To encourage the use of sustainable modes of transport in accordance with Policy P8 of the Solihull Local Plan 2013.

9) CL04

10) CL06

11) CL07

12) The development shall not be commenced until such a time as a scheme to manage the surface water runoff from the development has been submitted to and approved in writing by, the Local Planning Authority, with no occupation until the scheme is operational. The submitted details should include:

- a) Site layout plan, incorporating SuDS drainage design, site ground levels, finished floor levels, any integration with landscaping, earthworks or other features.
- b) Calculations and any model files to support the drainage layout

- c) Construction details of the drainage components
- d) On and off site extreme flood flow routing and proposed resilience measures that ensure the buildings and infrastructure are safe from flooding
- e) Maintenance plan for the whole drainage system in accordance with the SuDS manual

13) No occupation shall take place until a Verification Report for the installed surface water drainage system for the site based on the approved Flood Risk Assessment has been submitted in writing by a suitably qualified independent drainage engineer and approved by the Local Planning Authority and Lead Local Flood Authority. The details shall include:

- A) Any departure from the agreed design is in keeping with the approved principles
 - b) Any As-Built Drawings and accompanying photos
 - c) Results of any Performance testing undertaken as a part of the application process (if required / necessary)
 - d) Copies of any Statutory Approvals, such as Land Drainage Consent for Discharges etc.
- Confirmation that the system is free from defects, damage and foreign objects

NOTE: There will be works to be carried out within the limits of the public highway. Before commencing such works the applicant / developer must enter into a Residential Vehicle Access Crossing. Applications should be made to the Highway Services Team, and can be contacted at duljit.madahaar@solihull.gov.uk or 0121 704 6487.

NOTE: Bat 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 2010 (as amended). 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.

NOTE: Nesting Bird Note

Work 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 inclusive, 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.