

APPLICATION REFERENCE: PL/2021/00313/PPFL**Site Address:** 7 Newfield Close Solihull B91 2SH

Proposal:	Erect new build detached 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:	Called in by Councillor Peter Hogarth and 14 objections.
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Recommendation:	APPROVAL SUBJECT TO CONDITIONS
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EXECUTIVE SUMMARY

This application seeks full planning permission for the erection of a single detached dwelling on land adjacent to 7 Newfield Close.

The principle of this residential development is policy compliant, creating one additional residential unit in an established accessible residential area, and would contribute towards meeting an identified need for smaller residential units within the Borough. The principle of the development is acceptable and in compliance with Policy P5 of the Solihull Local Plan. This report will demonstrate that the design and layout of this proposed new dwelling will respect and enhance the local character of the area and the proposal is therefore in accordance with Policy p15 of the Solihull Local Plan.

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 proposal is therefore in accordance with the adopted development plan and guidance in the National Planning Policy framework. The development therefore benefits from the presumption in favour of sustainable development and the planning balance is firmly in favour for this proposal.

MAIN ISSUES

The following key planning issues are material to the determination of this application:

- Whether the proposal provides an appropriate use in accordance with relevant planning policy;
- The effect of the proposed development by reason of its scale, massing, layout, design and landscaping on the character and appearance of the area;
- The effect of the proposal on the amenities of the occupiers of neighbouring properties; and
- The effect of the proposal on highway safety and the free flow of the road network.
- Other Material Considerations
 - Landscape;
 - Drainage;
 - Ecology;
 - CIL contribution;
 - Other matters;
 - Public sector equality duty; and
 - Human rights.

CONSULTATION RESPONSES

Statutory Consultees The following Statutory Consultee responses have been received:

Lead Local Flood Authority – No objection subject to conditions

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

SMBC Ecology – No objection subject to condition to secure bird/nesting mitigation

SMBC Highways – No objection subject to conditions

SMBC Landscape - No objections

PUBLICITY

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

14 responses were received from 6 different properties. All correspondence has been reviewed and the main issues raised are summarised below (Planning Committee Members have access to all third party correspondence received):

Scale & Design

- Site is too small for a dwelling;
- Dwelling is too tall in relation to neighbouring properties;
- Dwelling would be too close to boundaries; and
- Design not in-keeping with streetscene.

Amenity

- Dwelling will cause overlooking to neighbours on either light;
- Loss of privacy and loss of light to dwellings on opposite side of the road; and
- Loss of privacy from proposed new windows.

Landscape/Ecology

- TPO tree at rear of the site would be damaged; and
- Impact on local wildlife.

Highways

- Lack of parking;
- Additional noise and traffic;
- Concerns over parking during construction;
- Convergence of four driveways at head of cul-de-sac; and
- Concern over other properties leaving their site due to proximity to driveway at new dwelling.

Drainage

- Increased pressure on drainage facilities.

Other Issues

- Land not in ownership of applicant;
- Concerns over future extensions under permitted development;
- Site plan does not accurately show no.9;
- Lack of storage internally in new dwelling;
- Lack of dimensions on plan, and inaccurate dimensions; and
- Breach of 45 degree-line on vertical plane.

PLANNING ASSESSMENT

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

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

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

On the 13th May 2021 the Local Plan Review was submitted (via the Planning Inspectorate) to the Secretary of State for independent examination.

This marks the next stage in the preparation and adoption of 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.

Whether the proposal provides an appropriate use in accordance with relevant planning policy

The NPPF sets out the Government's planning policies for England and is underpinned by a presumption in favour of sustainable development. Although the NPPF aims to boost significantly the supply of housing, great importance is still attached to the design of the built environment. The NPPF makes clear that good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people (paragraphs 124–

132). Decisions should aim to ensure that developments respond to local character and are visually attractive as a result of good architecture and appropriate landscaping.

The site is located within the mature sustainable residential area of Solihull. Challenge C of the Solihull Local Plan (SLP) acknowledges the challenge of accommodating more development in the mature suburbs and rural settlements while conserving the qualities that make them attractive. The SLP sets objectives to meet the challenge including by ensuring high quality design and conserving the qualities of the environment that contribute to character and distinctiveness (which envisages mature suburbs retaining their leafy suburban character) and ensuring development doesn't adversely impact on residential or other amenities.

Policy P5 of the SLP 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 SLP is consistent with policies set out in the NPPF and full weight can be attributed to this SLP 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

Policy P7 of the SLP gives accessibility criteria in relation to local circumstances, and helps to test requirements of Policy P5 which requires windfall development to be sited in accessible locations. These policies are consistent with the NPPF and thus carry significant weight. The site lies within an accessible location within approximately 1 mile from Solihull Town Centre and close to frequent bus and train services. Therefore the principle of the redevelopment of this site for residential purposes is supported in this accessible location and carries weight in the planning balance.

Policy P7 of the SLP, inter alia, 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 carries sets down a series of recommended distances that new housing development should meet to ensure that it is located in a sustainable location near to local services. Whilst the application site performs well against such criteria it should be borne in mind that Policy P7 states that for proposals for fewer than 3 dwellings in urban areas west of M42 (or within rural settlements) are exempt from such criteria. Therefore, this planning application and its proposal for one new house falls below the set threshold and this part of Policy P7 is not engaged.

For this reason the spirit of Policy P7 is met and as such the application proposal is considered in accordance with Policy P7. Neutral weight should be added to the planning balance.

- (b) Contribute to meeting borough wide housing needs

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 4.19 years (as of 1st April 2020) 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.

Policy P5 of the Solihull Local Plan (SLP) supports new housing on unidentified sites in accessible locations where they contribute towards meeting identified housing needs and towards enhancing local character and distinctiveness. The proposal seeks to demolish an existing residential house and replace this with a new building comprised of 5 apartments of a design in keeping with the context and streetscene, thus enhancing local character and distinctiveness. Issues of character and design are considered in greater depth later on in this report.

- (c) Enhancing local character and distinctiveness

Finally, considering the third test, Policy P15 of the SLP provides guidance on Securing Design Quality. Policy P15 of the SLP 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.

The design of the dwelling now incorporates the key design features of the other dwellings within the streetscene in terms of being a gable ended property and following through in terms of window design. The proposal building design, site layout and plot format is considered to produce a design response to the site that enhances its surroundings, responding to the built character of the locality and local distinctiveness of the area.

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 given that the proposal building design, site layout and plot format is considered to produce

a design response to the site that enhances its surroundings, responding to the built character of the locality and local distinctiveness of the area.

- Summary

The site is located within an accessible location where the principle of development is supported. The proposal would not detract from the character and appearance of the area, rather the development would be a respectful addition to the street scene responding acceptably to its location. The proposed dwelling would not be out of place within the street scene.

The development would therefore be appropriate in terms of its scale, massing, layout, design and landscaping and fully accords with guidance in Policies P5, P10, P14, and P15 of the Local Plan. This should be accorded neutral weight in the planning balance.

The effect of the proposal development by reason of its scale, massing, layout, design and landscaping on the character and appearance of the area

The NPPF is underpinned by a presumption in favour of sustainable development. Although it aims to boost significantly the supply of housing, great importance is attached to the design of the built environment. It advises that good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.

Policy P15 of the Local Plan requires all development to achieve good quality, inclusive and sustainable design, which conserves and enhances the local character, distinctiveness and streetscape quality and ensures that the scale, massing, density, layout, materials and landscape of the development respect the surrounding natural, built and historic environment. Further, developments will be expected to contribute to or create a sense of place.

The Council's New Housing in Context SPD notes that each street has particular characteristics and rather than one single generic character, there are a number of key characteristics which have been identified as being the most essential elements contributing to the character or local distinctiveness of a street or residential area. These may include, plot width, plot format, plot access, building format.

The proposed new dwelling would be constructed at the end of the cul-de-sac, and on land adjacent to the existing dwelling 7 Newfield Close. Newfield Close is predominantly comprised of semi-detached gable ended properties, with the exception of no.9 Newfield Close which is a detached property which has seen significantly extended.

Throughout the lifetime of the application, amended plans have been received which have amended the scale and design of the proposed new dwelling to ensure it better relates to the neighbouring properties and when viewed within the streetscene.

The design of the dwelling now incorporates the key design features of the other dwellings within the streetscene in terms of being a gable ended property and

following through in terms of window design. It is noted that the new dwelling would be marginally lower in height than the neighbouring pair of semi-detached properties, but would provide a transition in height to that of no.9 Newfield Close which sits at a lower level.

The new dwelling would provide an area of hardstanding to the front to allow for parking of 2 cars, and whilst the loss of the existing hedge is noted, it is not considered that this would have a significant impact on the appearance of the site within the streetscene and it is recognised that other sites along the road have large areas of hardstanding and removed the entirety of their landscaped areas over time.

Whilst it is noted that the new dwelling would be detached in nature, whilst the prevailing character of the area is semi-detached properties, it is not considered that this would have a detrimental impact on the character of the area. Furthermore, whilst the plot would be marginally smaller than neighbouring plots, it would not be out of character with plot form within the wider area and would still provide a suitable level of amenity space for the new dwelling.

The proposed new dwelling would be detached in nature and would sit further back within its plot in comparison to the neighbour no.7 Newfield Close, however it would provide a transition in terms of building line with no.9. it is also noted that there is a staggered building line along this section of Newfield Close.

Overall, whilst there would be some limited change to the character and appearance of the area this is considered to be minimal and the proposal building design, site layout and plot format is considered to produce a design response to the site that enhances its surroundings, responding to the built character of the locality and local distinctiveness of the area, and thus fully complies with guidance in Policy P15 of the SLP. Neutral weight should therefore be attached to this material consideration

The effect of the proposal on the amenities of the occupiers of the 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.

The proposed new dwelling would be detached in nature and would sit further back within its plot in comparison to the neighbour no.7 Newfield Close, resulting in projection past the rear of no.7 Newfield Road. It is however noted that there would be no breach of the 45-degree line from rear facing windows on no.7 Newfield Close at ground or first floor and as such there would be no detrimental impact in terms of loss of light from overshadowing.

The new dwelling would be a minimum of 5.6m from the side elevation of no.9 Newfield Close which sits to the south west of the site, and having regard to the separation and the path of the sun throughout the day it is not considered that there would be a loss of light or overbearing impact as a result of the new dwelling.

Turning to potential for loss of privacy through overlooking, it is considered that the ground floor side facing windows would not result in overlooking given their height and location close to boundary treatments, and the proposed first floor side facing window would serve a stairwell and as such would be conditioned to be obscurely glazed and top opening to secure privacy. It is also considered reasonable to condition that no additional windows could be added to side elevations of the dwelling without prior consent. Whilst concern has been raised with regards to 45 degree line from side facing windows and the vertical plane, it should be noted that this is not a test used by the council in relation to loss of light, but notwithstanding that there are no concerns regarding loss of light to side facing windows.

Concerns have been raised with regards to the impact on dwellings on the opposite side of Newfield Close, but having regard to the separation distances at a minimum of 20m, it is not considered that this would give rise of overshadowing and resultant loss of light, or a loss of privacy from overlooking.

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 new dwelling. 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.

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

Policy P8 of the Solihull Local Plan explains that development which results in a reduction in safety for any users of the highway will not be permitted. Policy P8 of the Local Plan is consistent with policies set out in the Framework and full weight can be attributed to this Local Plan Policy.

Paragraph 109 of the Framework explains 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.

The Highway Authority previously requested further information to be submitted, to provide details of the proposed vehicular access and car parking proposed to serve the new dwelling. Revised Drawing Number 567-5 Rev. H has since been submitted which illustrates that two off-street car parking spaces will be provided to the frontage of the proposed dwelling.

It is unlikely that vehicles will be able to turn within the application site therefore vehicles would have to reverse onto the driveway however; this appears to be the case for a number of the existing properties within the vicinity of the application site.

The revised drawing also demonstrates that a vehicular access measuring approximately 3.1m wide will be provided to serve the proposed driveway. The Highway Authority notes that the kerb fronting the application site is already dropped to provide vehicular access.

The Highway Authority is satisfied that the development proposals should not 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. In addition a condition is proposed to request submission of a construction method statement prior to commencement of works on site.

For the reasons set out above, there would be no conflict with the requirements of Local Plan Policy P8 or policies of the Framework.

This should be accorded neutral weight in the planning balance.

- Other Material Considerations

- *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, the Council's Landscape Architects have considered the submitted details which have set out the proposal in relation to the new, revised footprint of the development proposed under this scheme and have concluded that there are no objections to the proposal.

It is considered that the development can be undertaken without compromising the health or longevity of and that a suitable condition can be used the TPO tree which sits to the rear of the site given the separation distance. Furthermore, whilst the development would result in the loss of a native hedge to the front it is noted that not every property within the immediate area has a front hedge, a condition can be used to secure details of hard and soft landscaping scheme to retain the landscape character of the area.

The proposal is therefore compliant with Policies P10 and P14 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 Council's Drainage Engineers have considered the proposal and raised 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.

- 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.

The Council's ecologist noted that the development would result in the removal of a hedge (non-native ornamental) and an area of existing garden. It is recognised that the hedge will provide habitat for nesting birds and must therefore be replaced somewhere within the site, however the Council ecologist also notes that should there be insufficient space to provide a replacement hedge, then suitably designed bird boxes will be acceptable. It is therefore considered acceptable to use a suitably worded condition to secure these.

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

- Other matters

Concerns have been raised with regards to land ownership and the entirety of the site not being within the applicant's control. Further clarification has been sought from the agent who has advised that their client owns the site, and they have signed certificate A on the application form. Notwithstanding this however, land ownership is not a planning consideration in the determination of planning applications, and should the land not be owned by the applicant this would be a legal matter between the applicant and any land owner.

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.

Conclusion

The principle of this residential development is policy compliant, creating one additional residential unit in an established accessible residential area, and would help to meet an identified need for smaller residential units within the Borough. The principle of the development is acceptable and in compliance with Policy P5 of the Solihull Local Plan. The design and layout enhances the local character of the area and the proposal therefore fully accords with Policy P15 of the Solihull Local Plan. 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 proposal is therefore in accordance with the adopted development plan and guidance in the National Planning Policy Framework (the Framework). The development therefore benefits from the presumption in favour of sustainable development and the planning balance is firmly in favour for this proposal. Therefore, for the reasons given above, and taking account of all other considerations, the application should be approved.

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 with 3 years
3. CS06 – materials to be submitted
4. CD11 – no additional side facing windows
5. CL04 – hard and soft landscaping scheme to be submitted

6. No development shall take place until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority and Local Highway Authority. The Construction Management Plan shall be strictly adhered to and shall provide for: the anticipated movements of vehicles; the parking and loading/unloading of staff, visitor, and construction vehicles; the loading and unloading of plant and materials; hours of operation and deliveries; the storage of plant and materials used in constructing the development; a turning area within the site for 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.

7. The development hereby permitted shall be undertaken in the presence of a qualified bat worker appointed by the applicant to supervise all destructive works to ridge tiles and hanging tiles on the front elevation. All roofing material is to be removed carefully by hand. Appropriate precautions must be taken in case bats are found, such as the erection of at least one bat box on a suitable tree or building. Should evidence of bats be found during this operation, then work must cease immediately while Natural England are consulted for further advice. Any subsequent recommendations or remedial works will be implemented within the timescales agreed between the bat worker and the Local Authority Ecologist/Natural England. Notwithstanding any requirement for remedial work or otherwise, the qualified bat worker's report shall be submitted to the local planning authority within 1 month following completion of the supervised works to summarise the findings.

Reason: To ensure that protected species are not harmed by the development.