

<b>Date of Meeting</b>	25 <sup>th</sup> November 2015
<b>Application Number</b>	15/09226/FUL
<b>Site Address</b>	30 Palairet Close Bradford on Avon Wiltshire BA15 1US
<b>Proposal</b>	Proposed single storey extension, alterations to boundary wall to form small court, and internal alterations to ground floor layout.
<b>Applicant</b>	Mrs E Dawe
<b>Town/Parish Council</b>	BRADFORD ON AVON
<b>Electoral Division</b>	BRADFORD-ON-AVON SOUTH – Councillor Ian Thorn
<b>Grid Ref</b>	382949 159996
<b>Type of application</b>	Full Planning
<b>Case Officer</b>	Kate Sullivan

### Reason for the application being considered by Committee

Councillor Ian Thorn has requested that the application be considered by the Local Planning Authority for the following reasons:

- The proposals significantly undermines the entire landscape strategy that was conceived for Palairet Close and surrounding roads when the scheme was built and are the thin end of the wedge.
- The Western Area Planning Committee on 12<sup>th</sup> August 2015 previously refused application 15/05185/FUL and whether what has now been proposed by the applicant has overcome those refusal reasons.

#### 1. Purpose of Report

To assess the merits of the proposal and to recommend approval of the application

#### 2. Report Summary

The main issues to consider are:

- Principle of development
- Design issues
- Impact on the character and appearance of the area
- Impact on neighbouring amenity
- Impact on the protected tree

- Highway impact
- Other

### 3. Site Description

The application site is a dwelling within the residential area of Bradford on Avon known as the Southway Park Estate.

The application site is a two storey, detached dwelling which occupies a corner plot. Within the application site is a lime tree which is protected with a Tree Preservation Order (TPO Ref. W/05/00005/IND).

The land to the side of the dwelling outside the existing boundary wall is in the ownership of the application site. The Applicant has submitted a land registry search showing the extent of the properties ownership. The Highways Department have confirmed that the land in question is not within Highway ownership.

### 4. Planning History

15/05185/FUL	Proposed single storey extension, internal alterations and proposed realignment of boundary wall Refused at Committee 12.08.2015  Refusal reason: The proposed re-alignment of the boundary wall would adversely impact the trees subject of a TPO and remove one tree and some visual open space from the public realm which would adversely affect the character and appearance of the open plan estate contrary to Core Policy 51 and Core Policy 57 of the Adopted Wiltshire Core Strategy.
15/03194/PREAPP	Single storey extension
W/12/02085/TPO	Crown thin Lime Tree (T1) by 15% and crown lift to 3m – Approved 10/12/12
W/85/00640/FUL	Construction of external chimney – Approved 09/07/85
W/06/00973/TPO	Crown thinning and crown raising of Common Lime tree – Approved 15/06/06
W/86/01051/FUL	Conservatory to rear – Approved 28/10/86
W/77/00407/FUL	Residential development of 42 dwellings, Phase 3A – Approved 13/08/77
W/77/00819/FUL	Proposed erection of 31 dwellings – Approved 03/03/78 This permission includes a condition stating: 3. In order to safeguard the appearance of the estate as a whole and notwithstanding the provisions of the Town and Country General Permitted Development Orders 1973-74 no extensions shall be carried out to the dwellings hereby permitted, no additional garages shall be constructed and no gates, fences, walls, hedges or other means of enclosure shall be erected, planted or maintained in front of the forward most part of the front of any dwellings house or in front of the

flank/screen wall on return frontages, without permission granted on the application made in that behalf under Part 3 of the Town and Country Planning Act 1971.

W/76/00784/HIS Outline for residential development

W/76/00231/HIS Phase 3 and 4 Residential Development. (Approval of matters reserved)

## 5. The Proposal

The application seeks to realign the boundary wall to enclose some land to the side of the dwelling and to construct a small single storey side extension which would be set back slightly from the front elevation to create a study. The extension would be constructed of materials to match the existing dwelling.

This application has been revised following the recent Committee refusal (12.08.2015) and seeks to overcome the reasons for refusal by reducing the additional land proposed to be enclosed to a small area which would not extend out as far as the existing conservatory and would result in the TPO tree remaining outside the boundary wall. The proposed side extension would remain as previously proposed.

## 6. Local Planning Policy

Wiltshire Core Strategy, 2015

CP1 Settlement Strategy

CP2 Delivery Strategy

CP7 Bradford on Avon Community Area

CP51 Landscape

CP57 Ensuring High Quality Design and Place Shaping

CP58 Ensuring Conservation of the Historic Environment (Landscape Setting)

CP61 Transport and Development

CP64 Demand Management

National Planning Policy Framework, 2012

Planning Practice Guidance, 2014

## 7. Summary of consultation responses

Bradford on Avon Town Council: Recommend that the application is refused on the following grounds:

- Realignment of the boundary wall would adversely affect the open character of Southway Park;
- Covenants restrict the development of the land which is the subject of the planning application;
- The proposal fails to respect the importance of good design requirements of the NPPF and Wiltshire Core Strategy.

Bradford on Avon Preservation Trust

No objection to the position of the extension and boundary changes. We are pleased to see the revised scheme maintains the TPO'd tree but are concerned that a wall will still be built within its canopy that may have a negative impact on the value of the tree.

Tree and Landscape Officer: Recommended that the no objection is raised regarding the proposal. The following comments have been made:

- An improvement to the original application by way of the reduced incursion of the root zone of the TPO'd Lime tree;
- It appears that there could be significant root activity with the RPA and the applicant is advised to dig a trial pit to ensure its protection and any necessary protection measures are put in place.

The applicant, following discussions with the Tree Officer, has dug the suggested trial pits and has submitted the findings. These photographs have been reviewed by David Wyatt (Tree Officer) who has made the following further comments:

From the photos submitted by the applicant, it appears that the roots visible in the pictures are borderline with the dimensions suggested in BS5837-2012 Design, Demolition and Construction and I would advise that the roots within the proposed development area are carefully pruned back to suitable side roots. This work should be carried out by a competent arboriculturalist and where at all possible cut back to a distance of approximately 0.5 metres from the foundations of the wall.

It is also suggested that a suitable root barrier is installed at 0.5m from the wall so that this will guide the new extended root growth away from the new wall. The barrier will not prevent the roots extracting water from the soil, merely limiting the directional spread of them.

To further limit the pressure from the roots of this very young and fast growing tree, it may be considered to install pile and beam foundations for the boundary wall. As this tree is still very young, there is a great potential for future pressure on the wall.

Highway Officer: No objection.

The Highways team have confirmed that the land proposed to be enclosed/ developed is not highway land or owned by the Council and that the visibility splays are provided by the existing highway owned land provided by the existing road and pavements.

In a second email received on the 29.10.15 the highways team have asked that a replacement parking space (in lieu of the garage) has not been provided and as there would not be a reduction in the size of the dwelling a plan should be submitted to detail an additional parking space to avoid a negative recommendation.

## **8. Publicity**

The application was advertised by site notice and neighbour notification letters. The deadline for any correspondence was 19 October 2015.

11 Letters of objection have been received raising the following concerns:

- Loss of open green space which has a detrimental effect on the design appearance and layout of the estate;
- Original objection has not been resolved as a result of the revised plans;
- Land grabbing contrary to the open nature of the estate;
- Petitions show that neighbours do not want change;
- Photographs submitted show Wiltshire Council haven't enforced previous breaches;
- Bradford on Avon Neighbourhood Plan, page 17, GS4 States that land should remain predominantly undeveloped to maintain the contribution to the character and quality of the local neighbourhood.
- Proposal is contrary to the covenant that should be enforced by Wiltshire Council as West Wiltshire District Councils successor;
- Potential damage to the roots of the protected tree;
- Damaging accumulative effect of the development;
- Object to photographs of dwelling being included, as owners property only converted the garage and porch and did not build forward of the building line;
- Extension would degrade the street scene;
- Existing fence should not have been erected;
- Inaccurate photographs;
- Extension would impede vision at the road junction
- Study shows a lobby and shower room included, this would become a granny annexe.
- Request that the committee be taken on a tour of the estate to see first-hand and not the distorted photos.

A petition has been submitted in which was signed by 219 local residents asking that the planning committee refuse planning permission for any application that does not support keeping the Southway Park Estate green and open for perpetuity.

No letters of support have been received.

## **9. Planning Considerations**

### **9.1 Principle of development**

The application site is located within the limits of development of the Market Town of known as Bradford on Avon where there is a presumption in favour of sustainable development. The application is therefore considered to comply with CP1, CP2 and CP7 of the Wiltshire Core Strategy.

### **9.2 Design issues**

The proposed realignment of the boundary wall would not be incongruous to the design of the dwelling. Currently a boundary wall runs along the side elevation of the property and the proposal would move this closer to the road, but would still retain open land to the side of the dwelling, which would retain the open character of the estate. The amount of land proposed to be enclosed has been reduced since the previous application and the protected tree would remain in the public realm.

The proposed extension would be a small, subservient extension that would match the existing dwelling in terms of design and materials and would be considered appropriate to the host dwelling. The proposal is therefore considered to comply with the relevant criteria of CP57.

- 9.3 Impact on the character and appearance of the area including the Landscaping Setting  
The estate in which the application site is located is characterised by open space with boundary walls being set back from the pavement. The land outside the boundary walls has in many cases been landscaped.

Although the realignment of the boundary wall would remove some of the land from public view, the proposal would still retain land to the side of the proposed development which would remain outside of the realigned boundary wall. The revised plans have decreased the amount of land to be enclosed which also results in the TPO tree being retained outside the repositioned boundary wall. Therefore it is considered that the proposed realignment of the boundary wall would not unduly harm the character and appearance of the neighbouring area.

The small single storey side extension would not be incongruous to a dwelling of this size and style and is not considered to harm the character or appearance of the immediate area or the landscape setting of the wider town of Bradford on Avon given the small subservient nature of the development and the use of matching materials. It is therefore considered that the proposal complies with the relevant criteria of CP51, CP57 and CP58 of the Wiltshire Core Strategy.

- 9.4 Impact upon neighbouring amenity

The realignment of the boundary wall would relocate the wall closer to the road than currently exists on the site; however, land would remain outside the proposed extension. The amount of land proposed to be included has been reduced to also ensure the TPO tree is retained within the public realm.

The proposed extension would be single storey and given the context of the site and the distance from the front windows to the dwelling on the opposite side of the road and given the context of the site would not overshadow neighbouring properties. It is therefore considered that the proposed extension would harm the neighbouring amenity.

The conversion of the garage to a kitchen and the removal of the garage door and its replacement with a window would not require planning permission and could be carried out under the properties permitted development rights. The proposal is therefore considered to comply with the relevant criteria of CP57.

- 9.5 Impact on the protected tree

It is noted that a lime tree is currently located outside the existing boundary wall that is protected by a tree preservation order. The amended proposal has reduced the length of the proposed new boundary wall which would result in the protected tree remaining outside the boundary wall.

The Council's Tree Officer has been consulted and has not raised any objection to the proposal, although he has made a number of recommendations to ensure that any roots are not disturbed in the construction of the proposed wall and that the tree is not compromised by the development.

It is therefore considered that the proposals would comply, subject to conditions with the relevant criteria of CP51 and CP58 of the Wiltshire Core Strategy.

#### 9.6 Highway Impact

Whilst the Highways Team have requested a replacement parking space in lieu of the conversion of the garage, the loss of the existing garage and the conversion of this space to create an enlarged kitchen would not be controlled through the planning system and the 1977 permission does not restrict the use of the existing garages on the site.

The existing access and off road car parking space would not be affected by the proposals and the highways department have confirmed that the realignment of the boundary wall would not impact on the visibility splays required on the street. It is therefore considered that the proposals comply with the relevant criteria of CP61 and CP64 of the Wiltshire Core Strategy.

#### 9.7 Other

The applicant has submitted a land registry extract showing that the land which is proposed to be taken inside the boundary wall is in the ownership of the applicant. The highways team have confirmed that the land is not within their ownership or interest.

Previously a number of planning applications have been refused on the grounds that "the height and relocation of the boundary wall encroaching on land to the side of the property would be visually intrusive in the street scene and harmful to the openness and historic spatial characteristics of the area".

It is noted that since these applications were refused there has been a number of changes in planning policy including the adoption of the Wiltshire Core Strategy and the NPPF. Whilst this proposal does encroach on to the land to the side of the dwelling, as already noted, it would still retain land outside of the boundary wall which would retain the open characteristic of the area. As the boundary wall would be rebuilt it would be in keeping with the surrounding area. In previously refused permissions the new boundary walls would be relocated closer to the boundary of the property/pavement which would reduce the openness of the area.

The issue of covenants on the land fall outside of the planning system, and the granting of the planning system, and the granting of planning permission would not grant a change to the covenant which should be sought separately.

Any breaches of planning control should be brought to the attention of the Enforcement Team in writing detailing the specific breach. These would then be investigated.

### 10. Conclusion

In conclusion whilst it is acknowledged that the proposal would result in a reduction of land between the boundary wall and the pavement, it is not considered that the proposal would harm the overall open characteristics of the immediate area. The land is considered to be within the residential curtilage of the application site and this would not be altered as a result of the proposals.

The scale of the proposals has been reduced since the previous application was put before the Planning Committee which has resulted in more land remaining outside the boundary wall including the lime tree which is protected by a Tree Preservation Order. Conditions have been recommended to be included on any permission to ensure that the protected tree would not be compromised as a result of the proposals. It is therefore considered that the current proposal overcomes the previous reasons for refusal and should be granted permission.

## **RECOMMENDATION**

Approve with conditions.

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

REASON: To comply with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

- 2 Pile and beam foundations should be used for the foundations of the proposed wall to prevent future pressure on the wall. Details of which should be submitted to the Local Planning Authority in writing prior to any works commencing on site.

REASON: To prevent future pressure on the wall

- 3 The materials to be used in the construction of the external surfaces of the development hereby permitted shall match in material, colour and texture those used in the existing building.

REASON: In the interests of visual amenity and the character and appearance of the area.

- 4 No root pruning shall be carried out until a site meeting has been arranged and has arranged by the applicant, their appointed arboricultural consultant and a representative from the Local Planning Authority (LPA) to discuss details of the working procedures and that meeting has taken place with the Local Planning Authority in attendance. Any approved works shall subsequently be carried out under strict supervision by the LPA immediately following that approval.

REASON: In order that the Local Planning Authority may be satisfied that the trees to be retained on-site will not be damaged and to ensure that as far as possible the work is carried out in accordance with current best practice

- 5 The applicant should note that the work hereby permitted should be carried out in accordance



with good practice as set out in the "British Standard Tree Work - Recommendation for Tree Work", BS 3998: 2010 or arboricultural techniques where it can be demonstrated to be in the interests of good arboricultural practice.

- 6 A suitable root barrier should be installed at 0.5 mm from the wall to guide extended root growth away from the wall.

REASON: To ensure the future stability of the wall.

- 7 The development hereby permitted shall be carried out in accordance with the following approved plans:

Proposed ground floor plan received 16.09.2015

Existing floor plan received 16.09.2015

Location Plan received 16.09.2015

First Floor Plan received 16.09.2015

Existing elevations received 16.09.2015

Proposed elevations received 16.09.2015

REASON: For the avoidance of doubt and in the interests of proper planning.