REPORT OUTLINE FOR AREA PLANNING COMMITTEES Report No. 4

Date of Meeting	12th August 2015
Application Number	15/05185/FUL
Site Address	30 Palairet Close Bradford on Avon BA15 1US
Proposal	Proposed single storey extension, internal alterations and proposed realignment of boundary wall
Applicant	Mrs E Dawe
Town/Parish Council	BRADFORD ON AVON
Ward	BRADFORD-ON-AVON SOUTH
Grid Ref	382949 159996
Type of application	Full Planning
Case Officer	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 enclosure of gardens takes away significant visual and community amenity from other residents
- The enclosure of gardens creates greater opportunities for crime and anti-social behaviour
- The proposed enclosures appear to be partially on third party land and therefore cannot be delivered
- Being mindful of local opinion. There is considerable community and political opposition to the proposals

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 upon the character and appearance of the area

- Impact upon the neighbouring amenity
- Impact on the protect 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 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

W/12/02085/TPO Crown thin Lime Tree (T1) by 15% and crown lift to 3m – Approved 10/12/12

W/06/00973/TPO Crown thinning and crown raising of Common Lime tree – Approved 15/05/06

W/86/01051/FUL Conservatory to rear (28 Palairet Close) – Approved 28/10/86

W/85/00640/FUL Construction of external chimney (32 Palairet Close) – Approved 09/07/85

W/77/00407/FUL Residential development of 42 dwellings, Phase 3A – Approved 13/08/97

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 an application made in that behalf under Part 3 of the Town and Country Planning Act 1971.

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 (Approval of matters reserved) Withdrawn

W/76/00784/HIS Outline for residential development – Approved 07/03/97

5. The Proposal

The application seeks to realign the boundary wall to enclose some of the 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.

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 internal alterations included along with the application would not be subject to planning permission.

6. Local Planning Policy

Wiltshire Core Strategy, 2015
CP1 Settlement Strategy
CP2 Delivery Strategy
CP7 Bradford on Avon Community Area
CP57 Ensuring High Quality Design and Place Shaping
CP58 Ensuring Conservation of the Historic Environment (Landscape Setting)
CP61 Transport and Development

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;
- Realignment of the boundary wall would put at risk the long-term survival of an important protected lime tree;
- Covenants restrict the development on the land which is subject to the planning application;
- The proposal fails to respect the importance of the landscape and is contrary to the good design requirements of the NPPF and Wiltshire Core Strategy.

Bradford on Avon Preservation Trust: No comment to make on the application.

Tree and Landscape Officer: Supports the application: Drawing 68/05A shows the proposed block wall addition is perilously close to the existing Lime trees. The applicant will need to submit detailed plans and designs of a screw thread piling system around

the tree roots. As these trees have not reached full maturity, there will still be a significant amount of root expansion in this area which could lead to extensive disruption of the proposed wall. There is clear evidence of underground utilities too, either within the pavement or adjacent in the grass area.
The designing of the wall foundations will need to consider this proposed root development and future seasonal fluctuations within the soil environment.

If permission is granted the following conditions should be included:

- Detailed plans of services in relation to the trees;
- Erection of screen walls/ fences to prevent overlooking;
- No-dig specification;
- Tree work to accord with BS3998;
- Tree work crown lifting;
- Tree root pruning.

Highways Officer: Have confirmed that the land is not highway land or owned by the Council and that the visibility splays are provided by the existing road and pavements.

8. Publicity

The application was advertised by a site notice and neighbour notification letters. The deadline for any correspondence was 6 July 2015.

14 letters of objection were received raising the following concerns:

- The proposal to move the boundary will erode the original plans for the estate which are open plan;
- The attempt at absorbing communal green verges into private land boundaries is out of character;
- Permitting this application will set a precedent for other applications;
- The site is a corner plot and the alterations will be very noticeable;
- The proposed block wall may compromise the attached wall to the rear;
- The new wall would be located very close to the lime tree protected by a Tree Preservation Order which is located within the neighbours dwelling at number 32 Palairet Close and the protected lime tree within the application site;
- In order to maintain the protected lime tree in the adjacent garden, access would be required from the neighbouring property;
- Covenants on the land restrict this development;
- Planning permission has been refused in the past for proposals in the area;
- The loss of the green verges will alter the street scene balance between homes, private gardens and open public spaces;
- The permitting of this scheme will send a clear signal that the Council has had a change in policy.

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 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.

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 Landscape 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 planted with domestic plants.

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. Therefore it is not considered that the proposed realignment of the boundary wall would 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 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 and the new wall, and the pavement, and this would not harm the neighbouring amenity. The character of the area is considered to be retained and the realigned wall is not considered to harm the neighbouring amenity.

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 it is not 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 of the existing boundary wall that is protected by a tree preservation order. The proposals would enclose the tree within the new boundary wall. The applicant has undertaken discussions with the Council's Tree Officer who, subject to a number of conditions to ensure that the long-term survival of the tree is not compromised by the development, would support the proposals.

It is therefore considered that subject to conditions being imposed on the application that the proposals would comply with the relevant criteria of CP58 of the Wiltshire Core Strategy.

9.6 Highway Impact

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 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 onto 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.

There is no evidence that realigning the boundary wall would compromise the adjoining wall to the rear of the dwelling. However, if permission is granted for the proposal the applicants would be responsible to ensure that the proposals do not compromise the adjoining wall.

It is understood that there is a covenant on the land restricting the moving of the boundary wall, however, covenants are a civil matter and the granting of planning permission would not change the covenant whereby separate permission would be required.

10. Conclusion

In conclusion whilst it is acknowledged that the proposals 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.

RECOMMENDATION

It is recommended that the application is approved subject to 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 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.

3 Detailed landscaping plans to be submitted prior to work being undertaken on the site shall include a plan at not less than 1:200 scale, showing the position of any trees proposed to be retained and the positions and routes of all proposed and existing pipes, drains, sewers, and public services, including gas, electricity, telephone and water. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order, 1995 (or of any Order revoking and re-enacting or amending that Order with or without modification), no services shall be dug or laid into the ground other than in accordance with the approved details.

REASON: To ensure the retention of trees on the site in the interests of visual amenity.

4 No development shall commence on site until a full 'No-Dig' specification for works within the root protection area/canopies of protected and retained trees has been submitted and approved in writing by, the Local Planning Authority. The construction of the surface shall be carried out in accordance with approved details and thereafter retained.

REASON: The application contained insufficient information to enable this matter to be considered prior to granting planning permission and the matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, in order to protect trees on and adjacent to the site which are to be retained with surfacing placed near to or over the trees root system.

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 The crown lifting hereby granted by consent shall be carried out such that the lowest part of the crown is now more than 5 metres above ground level.

(to provide adequate access during construction of the block wall)

REASON: In the interest of maintaining healthy trees and the visual amenity and character of the local area.

7 No root pruning shall be carried out until a site meeting has been 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

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

Proposed ground floor plan received 5 June 2015

Existing ground floor plan received 5 June 2015

Proposed elevations received 5 June 2015

Existing Elevations received 5 June 2015

Proposed alterations received 5 June 2015

Land registry title

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