CASE OFFICER'S REPORT

Application Reference:	PL/2022/07061
Application Type:	Full planning permission
Site Inspection:	
Consultation ends:	15 August 2023
Case officer:	Gen Collins

Site Address:	6 LEIGH PARK ROAD, BRADFORD ON AVON, BA15 1TE
Proposal:	To create a one bedroom independent dwelling from existing annex
Recommendation:	Approve with Conditions

Proposal and Site Description

This application seeks retrospective full permission for the use of a previously approved two-storey side extension under ref:19/04468/FUL, to be used as separate self-contained living accommodation. The site has been subject to an enforcement investigation and this retrospective application has been submitted seeking to regularise the planning position following a previous refusal.

The application site comprises an existing semi-detached two-storey dwelling located to the north of Bradford on Avon within the defined development limits.

Policies

National Context:
National Planning Policy Framework (NPPF)
Planning Practice Guidance (PPG)

Local Context:
Wiltshire Core Strategy (WCS) adopted 2015

WCS - CP1 Settlement strategy
WCS - CP2 Delivery strategy
WCS - CP7 Spatial Strategy for the Bradford on Avon Community Area
WCS - CP57 Ensuring high quality design and place shaping
WCS - CP60 Sustainable transport
WCS - CP61 Transport and development
WCS - CP64 Demand Management

Wiltshire Council Minimum Residential Car Parking Standards set out in the Wiltshire Local Transport Plan 2011- 2026 Appendix 1 Car Parking Strategy

Bradford On Avon 'made' Neighbourhood Plan

Key Issues
Principle of Development
Design and Visual Appearance
Residential Amenity
Highway Safety and Parking

Relevant Planning History
19/04468/FUL: Proposed two storey extension and single storey rear extension and alterations Approved with conditions 01.07.2019
PL/2022/00387: Partial use of approved annex extension on the ground floor in a flexible manner either as self-contained personal accommodation or ancillary to the host dwelling. Refused. 04.08.22.

Consultation Responses
Bradford on Avon Town Council: No objection
Bradford on Avon Preservation Trust: Object on the following grounds: If this operates as an entirely separate dwelling unit such as a holiday let or Air B&B it would result in additional movements to and from the dwelling resulting in nuisance and loss of amenity to the neighbouring occupiers in what is essentially a quiet residential area.
Wiltshire Council Highways Officer: No objection subject to a plan showing sufficient off street parking to be secured by condition

Representations
7 representations have been received from 2 local residents objecting to the application on the following grounds:
inaccurate plans
For the additional accommodation at number 6 being allowed as a separate accommodation it should: -
1. Be structurally separate from number 6 which is possible.
2. Have a separate address, presumably 6a.
3. Be registered with the Land Registry.
4. Contain whatever utilities, such as an electricity meter, as is required for separate accommodations. And crucially,
5. it should have tenancy agreement prohibiting subletting by the tenant or the owner.
For reasons in previous objections, I would still not be happy with this development, but I would accept that it meets the requirements for a separate accommodation.

Although this Planning Application addresses the reasons raised in the refusal of Planning Application No PL/2022/00387, it fails to mention the original conditions that were placed by Wiltshire Planning department when granting permission for the annexe/extension to be built 2 years ago under 19/04468/FUL. As far as I am aware those conditions are still extant and no relaxation of them has been granted in the intervening period. When granting that permission, the clear and unambiguous caveat that was applied (in section 5) was as follows:

“The applicant is respectfully advised that this application includes the provision of an annexe. Annexes have to have direct, functional and dependant relationship with the main dwelling, which has been demonstrated in this application. However, if the applicant(s) wish to rent out, let or sell the annexe, a separate planning permission would be required. Therefore, to stay within the terms of this permission, the dependency on the main dwelling must remain”

• The reporting officer for 19/04468//FUL also made the following statement in his report

The annexe building hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as 6 Leigh Park Road, Bradford-on-Avon, Wiltshire.

REASON: This permission is granted having regard to the particular circumstances advanced in support of the development.

It should be noted that the details of the “particular circumstances” that were advanced in support of Planning Application 19/04468/FUL were not shared with those people who were invited to make comments on that application. Had we known about the intention to let both the upstairs and downstairs units separately on a commercial basis, we would have put in a strong objection when the original build of the annexe was proposed under 19/04468/FUL.

On the face of it, PL/2022/07061 seeks solely to address the reasons why PL/2022/00387 was refused. However, by default it also seeks to overturn the caveats placed upon 19/04468/FUL by proposing that access between the main house and the annexe be completely blocked off. Blocking off the annexe from the main house would override the caveat that was placed under 19/04468/FUL namely that “…the dependency on the main dwelling must remain”.

Additionally, the impact of creating an independent self-contained dwelling would be threefold:

• Firstly, what is currently an annexe to the main house would become a separate, self-contained dwelling in its own right (for example 6a Leigh Park Road). As such it could be registered with the Land Registry and potentially be sold separately to the main house. This has been mentioned as a possibility in the application letter with a suggestion that a condition could be imposed which would prevent this from happening.
• Secondly, as a separate dwelling it would turn the two semi-detached houses (numbers 4 and 6 LPR) into a terrace of three houses (4 and 6 and 6a LPR). This would be inconsistent with other houses in the neighbourhood as are no other terraced houses on the Leigh Park estate. Not only would it be incongruous, but it would also set a precedent.
• Thirdly, if allowed to become a separate dwelling, it would place significant pressure on my shared driveway with Number 6. This shared driveway was only ever intended to serve 2 houses namely that of number 6 and my house (number 8).

As I stated in my comments pertaining to Planning Application (PL/2022/00387), I have no objection to Mr Neary’s residence in the annexe. Extending his living space to include the upstairs unit would overcome the situation whereby Mr Neary is currently living in what has been deemed to be substandard accommodation in terms of internal space (see reason for refusal of Planning Application PL/2022/0387). By extending Mr Neary’s living space to include the upstairs unit

would also alleviate the parking issues that we still continue to experience whilst the upstairs self-contained unit within the annexe is additionally being let through portals such as Airbnb and Booking.com.

If the only doorway between the annexe and the main house is kept in situ, then the annexe's usage would comply with the original restriction placed under 19/04468/FUL (namely that the annexe must be subsidiary to the main house).

In summary, for the reasons given above, my objection to this Planning Application is the fact that it proposes that the whole annexe be a completely independent dwelling separated from the main house.

In addition to my previous objection regarding the above, I note when viewing the detail held within the application form of this and previous Applications (the contents of which, until now, I was unaware), some of the answers to questions are wrong .
1. Parking
2 Flooding
3.Foul Sewage
4.Section 12 in application 19/04468/FUL(residential units) covering Market Housing/Social Rented/Intermediate application was signed off as not applicable. It is now in this application as Market Housing!
In brief, these are points that have been overlooked, wrongly presented which may or may not have bearing on the outcome of this application. I strongly object to this application which in no way represents the annex approval of 19/004468.

Planning Considerations and Assessment

Section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004 require that the determination of planning applications must be made in accordance with the Development Plan, unless material considerations indicate otherwise.

Principle of Development:
The proposed development comprises a separate dwelling within an existing residential area within the defined development limits of Bradford on Avon. The 2019 permission allowed the 2 storey side extensions as an ancillary annexe with a condition imposed to ensure that the side extension annexe would remain ancillary to the host dwelling. If it were to be used in its entirety as an ancillary annexe this would be considered acceptable and would not constitute a material change of use for which planning permission by application would be required.

Nevertheless, the applicants have split the two storey side extension so that it currently provides a unit of self-contained living accommodation without permission. This application seeks to regularise this position. The use of the site and property as residential is already established and accepted as appropriate within CP1 and CP2 given it is within the development limits of Bradford on Avon as a Market Town. As such the principle of residential use on the site is acceptable in principle subject to the following considerations.

Neighbour Amenity:

Core Policy 57 of The WCS states that applications for new development must be accompanied by appropriate information to demonstrate how the proposal will make a positive contribution to the character of Wiltshire through having regard to the compatibility of adjoining buildings and uses, the impact on the amenities of existing occupants, and ensuring that appropriate levels of amenity are achievable within the development itself, including the consideration of privacy, overshadowing, vibration, and pollution (e.g. light intrusion, noise, smoke, fumes, effluent, waste or litter)

The development does not include any additional fenestration or built form and as such it is considered that the amenities of neighbouring occupiers in terms of overbearing, overshadowing, access to natural light and privacy is preserved.

It is noted that concerns regarding increased noise and nuisance would occur in the event that permission is granted to allow this lower ground floor unit to operate independently. It is considered that the addition of an extra person on this site is unlikely to give rise to such additional noise and nuisance such that it would warrant refusal. Moreover, there is separate legislation which covers this matter and recourse to any antisocial noise levels and nuisance can be sought through the Environmental Health legislation.

CP57 and the NPPF at paragraph 130 (f) require that adequate levels of residential amenity is achieved in developments for all users. The Government's National Technical Housing Space Standards (March 2015) (as amended) require the minimum gross internal floor area and storage for a 1 bedroom property for 1 person in a two storey dwelling with a bathroom to be 58sqm. These housing space standards are afforded significant weight as a material consideration.

The application is seeking retrospective permission as a self-contained unit and the floorspace now proposed is 84sqm. This is considered adequate internal amenity space for a single occupant over two floors meeting the requirements of CP57 (vii) of the WCS and would comply with paragraph 130 (f) of the NPPF.

Sufficient outdoor amenity space is indicated on the site plan to serve the proposal with sufficient outdoor amenity space retained to serve the existing dwelling. This is considered acceptable in terms of the residential amenity of existing and future occupiers. As such the proposal is considered acceptable in terms of CP57 of the WCS and para 130 f of the NPPF.

Design and Visual Impact:

Core Policy 57 requires ‘a high standard of design in all new developments. of particular relevance is paragraph (iii) which requires development to respond positively to the existing townscape and landscape features in terms of building layouts, built form, height, mass, scale, building line, plot size, elevational design, materials, streetscape and rooflines to effectively integrate the building into its setting’.

The NPPF states at paragraph 126 that The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.

Paragraph 130 states Planning ... decisions should ensure that developments:
a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);
d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;
e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and
f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

The proposed design and appearance of the property externally have not been and are not proposed to alter therefore in terms of visual appearance it is considered acceptable as the status quo is retained and has already received permission.

The increased density of the plot represents an efficient use of land and the development is considered acceptable in terms of CP57 of the WCS as well as paragraph 130 of the NPPF.

Highways Safety:
Paragraph 110 (b) of the NPPF requires that in assessing... specific applications for development, it should be ensured that...safe and suitable access to the site can be achieved for all users.

Paragraph 111 of the NPPF states 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’.

Paragraph 112 (c) of the NPPF also states that ...applications for development should create places that are safe, secure and attractive - which minimise the scope for conflicts between pedestrians, cyclists and vehicles.... and respond to local character and design standards.

CP57 (ix) of the WCS requires new development to ensure "that the public realm including new roads and other rights of way are designed to create places of character which are legible, safe and accessible..." and CP57 (xiv) requires development to meet "the requirements of CP61 (Transport and New Development)".

CP61(ii) of the Wiltshire Core Strategy requires new development to be “capable of being served by safe access to the highway network” and within the supporting text for CP61, the Council recognises that it is critically important for good planning and safe highway interests for new development to benefit from a suitable connection to the highway “that is safe for all road users”.

CP64 requires sufficient parking to be provided in new development in line with residential parking standards and requires a reduction in reliance on the use of the private car where possible.

The proposed development does not change the existing access and off street parking space as shown on the revised site plan to serve the dwelling is recommended to be secured by condition. The highways officer has been consulted and would have no objection to the application.

As such whilst the development would be contrary to the Wiltshire Council Minimum Residential Car Parking Standards set out in the Wiltshire Local Transport Plan 2011- 2026 Appendix 1 Car Parking Strategy and CP64 of the WCS, the NPPF directs a paragraph 111 that development should only be refused on highways ground if there would be an unacceptable impact on highway safety or the residual cumulative impacts on the road network would be severe. It is considered by the Highways Officer that this would not be the case arising from the lack of 1 parking space and as such refusal on this basis alone, is not recommended.

Drainage
Policy CP67 of the WCS requires that all new development will include measures to reduce the rate of rainwater runoff and improve rainwater infiltration to soil and ground (sustainable urban drainage).
Paragraph 159 of the NPPF states that Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future).
Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere.

The site lies within floodzone 1 and is an existing built form and would not introduce any additional built form on site and adequate soakways are already in place on site. As such the proposed development would not result in an increase of flood risk on site or elsewhere and the proposal, therefore, complies with policy CP67.

Recommendation: Approve with conditions.

Conditions: (3)

1 The development hereby permitted shall be carried out in accordance with the following approved plans and documents:
Location Plan ref: LPC 5264 EX 01 Rev A
Existing Plans ref: LPC 5264 EX 103
Proposed Plans ref: LPC 5264 PR 102 Rev A
Site Plan ref: LPC5264 EX 02 Rev A

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

2 The parking space shown on the approved plan ref: Site Plan dwg no. LPC5264 EX 02 Rev A shall be maintained and remain available for parking at all times thereafter.

REASON: To ensure that adequate provision is made for parking within the site in the interests of highway safety.

3 For the avoidance of doubt, the accommodation hereby permitted shall be used to provide permanent accommodation as a primary place of residence only, which shall not be occupied holiday accommodation. REASON: This site is in a position where the Local Planning Authority, having regard to the reasonable standards of residential amenity, access, and planning policies pertaining to the area, would require further separate assessment of any proposal to use the dwelling hereby approved for holiday accommodation.