

ITEM 1

TWO STOREY SIDE AND SINGLE STOREY REAR EXTENSION AT 1 STANIER COURT, HASLAND, CHESTERFIELD FOR MR D OWEN

Local Plan: Unallocated

Ward: Hasland

Committee Date: 8th January 2024

1.0 CONSULTATION RESPONSES

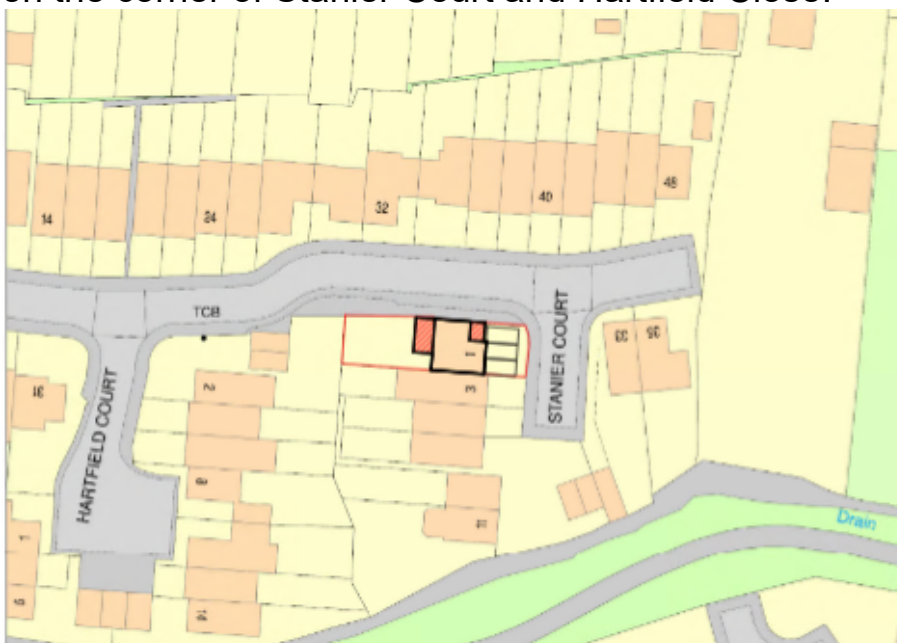
Ward Members: No comments received.

Local Highway Authority: The proposed front extension and alterations will remove the garage space; however, there will remain three parking spaces to the front of the dwelling all of a suitable size to accommodate a vehicle without overhanging the footway. No highway objections.

Representations: Received from twelve local residents – see report.

2.0 THE SITE

2.1 This application relates to a 3 bed, 2 ½ storey end of terrace house with dormer to the front elevation and a single storey attached garage, located on the corner of Stanier Court and Hartfield Close.





2.2 The site is within the built-up area boundary of the Local Plan and Flood Zone 1.

3.0 RELEVANT SITE HISTORY

3.1 None.

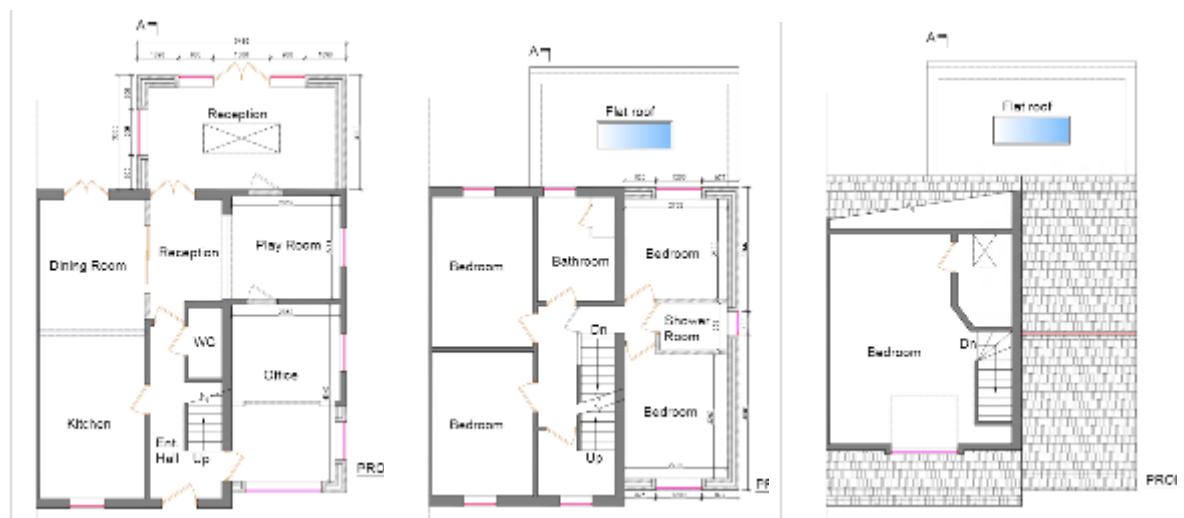
4.0 THE PROPOSAL

4.1 Planning approval is sought to extend the property with a two-storey extension to the side and a single storey flat roof extension with roof lantern to the rear. This would result in the loss of the garage, with an office and playroom to the ground floor with two bedrooms and shower room to the first floor. Three windows are proposed to the ground floor side elevation with a first-floor window to the shower room. The single storey extension would be used as a reception room. It would project 3.0m to the rear and be 2.7m in from the common boundary with No.3 Stanier Court.

Proposed Elevations



Proposed Floor Plans



5.0 PLANNING POLICY

5.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990 require that, 'applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise'. The relevant Development Plan for the area comprises of the Chesterfield Borough Local Plan 2018 – 2035.

5.2 Chesterfield Borough Local Plan 2018 – 2035

- CLP2 Principles for Location of Development (Strategic Policy)
- CLP14 A Healthy Environment
- CLP16 Biodiversity, Geodiversity and the Ecological Network
- CLP20 Design

5.3 National Planning Policy Framework

- Section 12. Achieving well-designed places

5.4 Supplementary Planning Documents

- Successful Places Residential Design Guide

6.0 CONSIDERATION

6.1 Principle of Development

6.1.1 The application site is within a residential area where works to a domestic property are considered to be generally acceptable subject to policies CLP1, CLP2 and CLP20 of the Local Plan, as well as the wider objectives of the NPPF.

6.1.2 The property is currently used to provide care for vulnerable children (one child at a time at present plus the couple that reside there). Carers and other staff do attend the property but the current level of use is not considered to constitute a material change of use from a dwellinghouse within the C3 class of the Use Classes Order. In many ways this is akin to fostering a child. Dwellinghouses are defined in Class C3 of the Use Classes Order:

Class C3. Dwellinghouses

Use as a dwellinghouse (whether or not as a sole or main residence) by—

(a) a single person or by people to be regarded as forming a single household;

(b) not more than six residents living together as a single household where care is provided for residents;

or

(c) not more than six residents living together as a single household where no care is provided to residents (other than a use within Class C4).

Class C3 (a) would include families, couples or individuals in a household. Classes C3 (b) concerns small care homes for adults.

Under Class C3(b) the dwelling house can include up to 6 residents living together as a household where care is provided.

This would cover supported living accommodation for people with learning disabilities or mental health conditions.

The one difficult area is whether it is in fact a single household with care being provided. This will depend on the individual circumstances of the use. Care homes where staff are either residents or will attend the premises would generally be included.

If there is no care provided such as for example in a hostel for the homeless this would not count as class C3. If the property is not used as one household, for example a Bail hostel or more secure accommodation, then that would not be C3. The individual arrangements can have a bearing on whether it is a C3 use class.

Care homes for children don't fall under this definition though. Class C3 (c) concerns other types of households and covers the use of dwelling by no more than six residents living together as a single household with no care. This might include a house occupied by a small religious community for example. The owners occupy the house with other members of the church who are not the relatives. They share amenities and do some cooking together and this type of arrangement would fall under class C3.

It could also cover homeowners living with lodgers where the lodger shares the house. The total number of residents must not exceed 6 so there can be several lodgers in one property

Small Care Homes for Children

Class C3 (b) only covers small care homes for up to 6 adults.

Care homes for children, of any number fall instead under Class C2:

Class C2. Residential institutions

Use for the provision of residential accommodation and care to people in need of care (other than a use within class C3 (dwelling houses)).

Use as a hospital or nursing home.

Use as a residential school, college or training centre.

- 6.1.3 The authority on whether small children's care homes are C3 or C2 comes from the High Court ruling in North Devon DC v FSS [2003] EWHC 157 (Admin). The judge concluded that children living in the property with no adult residing permanently was not a "household" for the purposes of Class C3. Also the definition of "care" used in the regulations does not apply to children under Class C3.
- 6.1.4 Changing the use of a house to a small care home for children is moving from Class C3 to C2. However, this only requires planning permission if there has been a "material change of use." In this case it is considered the use of the property does not currently constitute a material change of use.

6.2 Design and Appearance of the Proposal

- 6.2.1 Local Plan policy CLP20 states in part; all development should identify and respond positively to the character of the site and surroundings and respect the local distinctiveness of its context respect the character, form and setting of the site and surrounding area by virtue of its function, appearance and architectural style, landscaping, scale, massing, detailing, height and materials.
- 6.2.2 The proposed scheme would be built in matching materials. It is attached to taller three storey houses, which are typical of the streetscene. The two-storey side extension would be set back from the main front wall with a lower ridge so would appear as subservient to the original house. The flat roof single storey extension is typical of many such extensions and would not be out of keeping with the house or area in general. It is set in from the common boundary so the side window would not impact upon the neighbouring property to an unacceptable degree. As such the proposed extension is considered to be appropriate to the existing building and its surroundings and would not cause significant adverse impacts on the visual amenity and character of the area. The proposal therefore accords with the provisions of Local Plan policy CLP20.

6.3 Residential Amenity

- 6.3.1 Local Plan policy CLP14 states that development will be expected to have an acceptable impact on the amenity of users and neighbours. The Council's SPD 'Successful Places' provides further guidance in respect of privacy, day light and sunlight, overshadowing and external amenity space.
- 6.3.2 The objections received are in the main related to the provision of care which takes place at the property, together with the disturbance which arises from staff changeovers and on-street parking from other visitors to the house. A number of the objections also relate to a lack of privacy from the extension, in particular from proposed window positions. The rear bedroom window to the extension would look over a pair of garages to the rear and be at an oblique angle to the houses on the north side of Hartfield Close, so this is considered to be an acceptable situation which would not result in an unacceptable degree of overlooking which would merit refusal of the application. The ground floor side windows proposed would face the road and with the nearest houses being on the opposite side of the road again would not have such an impact as to merit refusal.
- 6.3.3 As an extension to a residential house proposal is considered acceptable and to comply with Local Plan policy CLP14.

6.4 Highway Impacts

- 6.4.1 The proposal would result in the loss of the garage, but there would be 3 parking spaces still available and on this basis the Highways Authority does not raise any objections. This is a suitable level of parking provision for what would become a 5 bedroom house.
- 6.4.2 This is an area of concern for local residents, where due to the nature of the housing development, many properties do not have sufficient off street parking spaces for their cars and this leads to cars parking up on the footpath and on street, which is demonstrated in the following photographs submitted by some of the objectors. These photographs also show the number of visitor/staff cars which on occasion visit this property.



6.4.3 Whilst not ideal, this level of visitor parking already taking place and on an occasional basis with the absence of a highway objection, is not considered to be sufficient to justify refusal of the current application to extend the property.

6.5 Biodiversity

6.5.1 Local Plan policy CLP16 states that all development will “protect, enhance, and contribute to the management of the borough’s ecological network of habitats, protected and priority species ... and avoid or minimise adverse impacts on biodiversity and geodiversity and provide a net measurable gain in biodiversity.” The NPPF in paragraph 170 requires decisions to protect

and enhance sites of biodiversity and paragraph 174 also requires plans to “pursue opportunities for securing measurable net gains for biodiversity”.

6.5.2 The proposal is considered to be a minor development and does not result in the loss of an existing species rich habitat area. Some level of biodiversity net gain is considered to be necessary to accord with policy CLP16 of the Local Plan and the NPPF, therefore a planning condition will be attached to the decision issued to ensure the application provides biodiversity net gain measures, as a result of the proposed development.

6.5.3. On this basis the proposal is considered to accord with the provisions of policy CLP16 of the Local Plan.

7.0 REPRESENTATIONS

7.1 Twelve representations have been received from local residents. The points made are summarised as follows:

- Contrary to Local Plan Policy CLP20 (g) provide adequate and safe vehicle access and parking.
- Proposal involves loss of 2 parking spaces, the garage and one on the drive due to extending forwards. The property frequently has 4 vehicles parked on the driveway, one permanent vehicle and the addition of 2-3 carers vehicles who are employed at the property, which operates as a care home. On-street parking is already at dangerous and inconvenient levels, often blocking access for emergency and large vehicles. Would be an over development to include 5 bedrooms which will increase the number of residents and carers and their subsequent vehicles.
- Contrary to Local Plan Policy CLP 20 (k) have an unacceptable impact on the amenity of users and neighbours.
- Cul-de sac is often used by playing children, the increased development and vehicles will render this street even more unsafe. Current use has a detrimental impact on neighbours from distressing noise, witnessing the young occupants being restrained on the street. Increase in residents will increase the frequency of this occurring. Running of staff meetings also has a significant impact, affecting parking and safety due to the number of people at the property and their associated vehicles.
- The size of the development and the addition of full-size windows to the side elevation will result in additional noise coming into the street if open.
- Noise from staff change over times early in the mornings.

- The property has already removed all its green space to the frontage to accommodate parking, which resulted in an increase in tarmac areas, which this proposed development would further add to.
- Concerns that the height of the side extension may overshadow and reduce natural light to nearby house, plus office windows to side of the two-storey extension would have an impact upon privacy.

Officer response

It is correct that the garage would be lost and the front area of lawn has already been changed to a hardstanding area to be used for car parking. Even with the extension projecting forward of the current garage, the drive would remain of sufficient length to park a car. The Highway Authority has no objections as it would still be possible to park 3 cars on site. See para 6.4 above.

The current use does not constitute a material change of use requiring planning permission. It is clear that under planning law up to 6 unrelated people including carers can live at a dwelling without the need for a planning application. The extension may allow more children to be cared for at the property which depending on the level of activity and number of staff could result in planning permission for a change of use to a care home being required.

The extension is to a house on the corner of the cul-de-sac so the side windows would face the road. There are garages to the rear and the house adjoins the road so there would not be an unacceptable degree of overshadowing or overlooking from the proposed extension.

8.0 HUMAN RIGHTS ACT 1998

- 8.1 Under the Human Rights Act 1998, which came into force on 2nd October 2000, an Authority must be in a position to show:
- Its action is in accordance with clearly established law
 - The objective is sufficiently important to justify the action taken
 - The decisions taken are objective and not irrational or arbitrary
 - The methods used are no more than are necessary to accomplish the legitimate objective
 - The interference impairs as little as possible the right or freedom
- 8.2 The action in considering the application is in accordance with clearly established Planning law and the Council's Delegation scheme. It is considered that the recommendation accords with the above requirements in all respects.

9.0 STATEMENT OF POSITIVE AND PROACTIVE WORKING WITH APPLICANT

9.1 In accordance with the requirements of the Town and Country Planning (Development Management Procedure) (England) (Amendment No. 2) Order 2015 and paragraph 38 of 2023 National Planning Policy Framework (NPPF) as the proposed development does not conflict with the NPPF or with 'up-to-date' policies of the Local Plan, it is considered to be 'sustainable development' to which the presumption in favour of the development applies.

10.0 CONCLUSION

10.1 The proposed development is considered to sufficiently reflect the architectural characteristics and form of the existing dwelling and surrounding development. Furthermore, it is considered that the development would not result in significant harm to the amenity of nearby residential properties. As such, this application is considered to comply with the requirements of the above-mentioned local plan policies and Section 12 of the National Planning Policy Framework, 2023.

11.0 RECOMMENDATION

11.1 It is therefore recommended that the application be **GRANTED** subject to the following conditions:

11.2 Conditions

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

Reason - The condition is imposed in accordance with section 51 of the Planning and Compulsory Purchase Act 2004

2. The development hereby approved shall only be carried out in full accordance with the approved plans (listed below) with the exception of any approved non-material amendment:

- 012 Site Location and Block Plans
- 002 Existing Ground Floor Plan
- 003 Existing First Floor Plan
- 004 Existing Loft Floor Plan
- 005 Existing Roof Plan

- 006 Existing Elevations
- 007 Proposed Ground Floor Plan
- 008 Proposed First Floor Plan
- 009 Proposed Loft Floor Plan
- 010 Proposed Roof Plan
- 0011 Proposed Elevations

Reason - In order to clarify the extent of the planning permission in the light of guidance set out in "Greater Flexibility for planning permissions" by CLG November 2009.

3. Within 2 months of the completion of the development hereby approved, biodiversity enhancement measures shall be implemented on site. These measures shall be retained and maintained thereafter in accordance with the scheme so approved. The acceptable measures can be one or more of the options labelled in informative note 2, as shown below.

Reason - In the interests of achieving a net measurable gain in biodiversity in accordance with policy CLP16 of the adopted Chesterfield Borough Local Plan and to accord with paragraph 175 of the National Planning Policy Framework.

11.3 Informative Notes

1. If work is carried out other than in complete accordance with the approved plans, the whole development may be rendered unauthorised, as it will not have the benefit of the original planning permission. Any proposed amendments to that which is approved will require the submission of a further application.
2. In accordance with condition 3, appropriate ecological/biodiversity enhancement measures shall include but shall not be limited to:
 - bird/owl/bat boxes

(Locating your nestbox:
Whether fixed to a tree or a wall, the height above ground is not critical to most species of bird as long as the box is clear of inquisitive humans and prowling cats. If there is no natural shelter, it is best to mount a box facing somewhere between south-east and north to avoid strong direct sunlight and the heaviest rain. The box should be tilted slightly forwards so that the roof may deflect the rain from the entrance.
You can use nails to attach the box directly to a tree trunk or branch; or you can use rope or wire wrapped right around the box and trunk (remembering to protect the trunk from the wire cutting into it by using a

piece of rubber underneath it). Both methods are satisfactory, but annual maintenance is easier if the box is wired and can be taken down easily for cleaning.

The number of nestboxes which can be placed in a garden depends on the species you wish to attract. Many species are fiercely territorial, such as blue tits, and will not tolerate another pair close by; about 2 to 3 pairs per acre is the normal density for blue tits. Other species, such as the tree sparrow, which is a colonial nester, will happily nest side-by-side.

Do not place your nestbox close to a birdtable or feeding area, as the regular comings and goings of other birds are likely to prevent breeding in the box.)

(Locating your bat box: Bat boxes should be positioned at least 3 metres above the ground (5 metres for noctules) in a position that receives some direct sun for part of the day, with a clear flight path to the box, but preferably also with some tree cover nearby as protection from the wind. In the roof eaves, on a wall or fixed to a tree are all suitable sites.)

- biodiversity enhancing planting and landscaping including trees, hedges and native species, wildflower planting and nectar rich planting for bees and night scented flowers for bats
- measures to enhance opportunities for invertebrates including bug hotels/log piles, stone walls including a programme of implementation and maintenance.
- Holes in fences and boundary treatment to allow species such as hedgehog to move across the site.
- Bee bricks.

3. The proposed development lies within an area that has been defined by The Coal Authority as containing potential hazards arising from coal mining. These hazards can include: mine entries (shafts and adits); shallow coal workings; geological fissures; mine gas and previous surface mining sites. Although such hazards are often not readily visible, they can often be present and problems can occur as a result of development taking place, or can occur at some time in the future.

It is recommended that information outlining how the former mining activities affect the proposed development, along with any mitigation measures required, be submitted alongside any subsequent application for Building Regulations approval.

Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires the prior written permission of The Coal Authority. Such activities could include site investigation boreholes, digging of foundations, piling activities, other

ground works and any subsequent treatment of coal mine workings and coal mine entries for ground stability purposes. Failure to obtain Coal Authority permission for such activities is trespass, with the potential for court action.

Property specific summary information on coal mining can be obtained from The Coal Authority's Property Search Service on 0845 762 6848 or at www.groundstability.com