

Item 2

Case Officer: Chris Wright

File No: CHE/22/00067/FUL

**PROPOSAL: TWO STOREY SIDE AND SINGLE STOREY REAR
EXTENSION. (REVISED DRAWINGS RECEIVED AND
DESCRIPTION AMENDED 09/03/22)**

LOCATION: 11 MOOR PARK AVENUE, WALTON, CHESTERFIELD

1.0 **CONSULTATIONS**

Ward Members: No comments received.

Local Highway Authority: No objections

Representations: 8 objections received from the residents of 7 dwellings, with 1 resident commenting twice. 7 of the comments were provided prior to the amendments to the scheme.

2.0 **THE SITE**

2.1 The application site is an existing detached two storey dwelling on the eastern side of the corner of Moor Park Avenue and Fulford Close. It is in a residential area and is surrounded by housing on all sides. The character of the area is for detached dwellings, with a mix of bungalows and two storey dwellings.

2.2 The existing dwelling has an attached single garage to the side and a utility room to the rear of this, as well as a porch which connects to the roof of the garage. It has parking to the front of the site for 1 vehicle and for 1 small car in the garage, as well as pedestrian access to the side of the garage. It has a fenced off rear garden and an open plan soft landscaped area to the side and front. The side garden area has an incline down towards the road and is not part of the existing private amenity space of the dwelling. The officer did not observe any frontages with walls or fences to the frontages of their dwellings.

2.3 There are several two storey side and rear extensions/sections in the surrounding area, although it is unclear how many of these

were original as they are of a very comparable design that includes large step backs. The dwellings on Moor Park Avenue are sited on an east-to-west basis.

3.0 **RELEVANT SITE HISTORY**

3.1 No relevant applications for the site.

4.0 **THE PROPOSAL**

4.1 It is proposed to demolish the existing garage and garden room and build a two storey side extension and single storey rear extension. The side garden element is no longer part of this planning application as a result of amendments proposed. The residents also propose to add additional parking to the front of the site.

4.2 The existing garage to the side has a projection of 2.6m and projects forwards of the main front elevation of the house by 0.8m, including the porch. The proposed side extension projects to the side by 3.38m, which is a 0.8m further projection than the existing building; it does retain the same forwards projection than the existing dwelling. At the 1st floor the front and rear elevations are stepped in by 0.1m. The ridge and eaves of the extension match the existing dwelling's roof. The side gable and first floor elevations of the front and rear would use matching brick. The front section would use render, although to specifications have been provided on this matter. The roof tiles on the two storey extension and front section have not been specified either, other than "concrete". The side extension would also have a triple paned window to the front and a two paned window to the rear at first floor and 2 separate slim windows at ground floor to the front.

4.3 The single storey rear extension would have a 2.9m projection along the whole of the new rear elevation, it would have a height of 3m to the top of the flat roof and use render as finish; again, no details of the render colour. It would have 2 sets of 3 paned bi-folding doors to the rear.

4.4 The ground floor would be used a study, utility room and kitchen diner space. The first floor would be used as a 4th bedroom and en-suite bathroom.

- 4.5 It is also proposed to insert a window into the side elevation of the kitchen and to hard surface the frontage of the dwelling to include parking spaces for 3 vehicles.
- 4.6 The scheme has been amended during the application, as the original proposal included some information about the plans to add a boundary fence to the entirety of the grassed area to the side of the dwelling (in line with the front corner of the dwelling) to the rear of the red line area owned by the applicant. The precise details of the height of the fence and changes to land levels were not clear at the beginning of the process, and the officer sought clarification. Initially there was detail presented showing a 2.1m plus high fence and concrete plinth which also highlighted the plans to raise the land levels. The fence was then completely removed from the scheme. The agent and applicant has been informed that any significant changes to land levels to the side and permanent enclosing of this space with plus 1m high boundary treatment such as a fence/wall/artificial hedge would require planning permission.

5.0 **CONSIDERATION**

- 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**

CLP1	Spatial Strategy (Strategic Policy)
CLP2	Principles for Location of Development (Strategic Policy)
CLP13	Managing the Water Cycle
CLP14	A Healthy Environment
CLP16	Biodiversity, Geodiversity and the Ecological Network
CLP20	Design
CLP22	Influencing the Demand for Travel

5.3 **National Planning Policy Framework (2019)**

- Part 2. Achieving sustainable development

- Part 4. Decision-making
- Part 8. Promoting healthy and safe communities
- Part 9. Promoting sustainable transport
- Part 12. Achieving well-designed places
- Part 15. Conserving and enhancing the natural environment

5.4 **Supplementary Planning Documents**

Successful Places' Residential Design Guide (2013)

5.5 **Principle of Development**

- 5.5.1 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.

5.6 **Residential Impact**

- 5.6.1 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.

- 5.6.2 The comments from local objectors include the following issues:
- Reducing daylight and sunlight to neighbouring houses.
 - Overbearing to neighbouring residents.
 - Outlook/view
 - Overlooking from the new window at the side of the kitchen.

5.6.3 **Overlooking**

The comments raised are in regards the potential for overlooking to occur from the new side window in the kitchen towards no.2 Fulford Close. The side gable overlooking no.2 is raised up above the height of the road and there is a 20m (approx.) gap between the side of no.11 and no.2. This window would be a secondary window for the room, as it would have bi-folding doors along the rear ground floor elevation. No.2 has a lounge window and bedroom window to the front of the house. In this case it is not considered that the overlooking caused by this window would be a significant issue. There is also the addition of windows to the front of the study room and this will also have a 20m separation with

dwelling across from this site on Moor Park Avenue. This is considered to be acceptable as the minimum separation distance between the frontages of dwellings is 12m as recommended in the Council's Design SPD.

5.6.4 Daylight/sunlight

One of the neighbour comments has raised the issue of the reduction in sunlight and daylight to the rear of no.9 Moor Park Avenue caused by the proposed development. The dwelling is sited on a hill and is sited at a lower level to the neighbouring dwelling to the east. Due to the existing relationship between the two houses and the fact that the two storey element will be nearly in line with existing rear elevation and the single storey rear extension being sited lower than the rear of no.9, this ensures that the impact of the proposal will not lead to a significant impact in terms of loss of sunlight/daylight or overshadowing.

5.6.5 Outlook/view/overbearing impact

A comment received from a local resident has commented that the proposal could lead to the rear of no.9 being surrounded by built form, with their own side garage wall to the east, the gable of no.1 Fulford Close to the south and the side wall of the gable and single storey rear extension. The side wall will introduce further built form within a close distance to the side of the conservatory at no.9, but the cumulative impact that the development will add to is not considered to be significant in this regard, partly because the garage is owned by the neighbour themselves.

5.6.6

Private amenity space – the existing house has 90 sqm of rear garden space. The proposal would lower this to approximately 60 sqm, if using the existing neighbouring boundaries. It has been proposed during this application to move the boundary to take in the entirety of the side garden area, but this part of the scheme has been removed from the proposal, after further details and clarifications were sought, that could have led to the raising of land levels and a 2.1m + high fence being sited to the edge of the site. This was not supported by the officer and the side garden is not considered part of the existing private amenity space of the residents. The scheme will reduce the rear garden area in size, but as the majority of rear extension would be permitted development if presented separately, and to the rear elevation of the original dwelling, this issue is not considered to be reasonable to pursue in this regard.

5.6.7 On the basis of the above, the proposed development would be acceptable with the requirements of Policies CLP14 and CLP20 of the Local Plan and the advice contained within the 2021 NPPF (paragraph 127) which states that planning decisions should ensure that developments have a “high standard of amenity for all existing and future users” and chapter 3.11 (Amenity) of the Council’s SPD ‘Successful Places’.

5.7 **Design and Visual Impact**

5.7.1 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.

5.7.2 As viewed from the streetscene the main considerations of this application are the first floor raising of the side section of the building and the rear extension, as viewed from Fulford Close.

5.7.3 The boundary treatment has been removed from this application notwithstanding the fact that the impact of the change to move the garden boundary to be adjacent to pavement has been brought up in several comments from local residents. They considered that the works would not be in-keeping with the character of the area, as the area is dominated by open frontages. As the property is on a corner it has an impact on two roads, but the officer considers that the front and side of the site were both intended to be open in character, without boundaries or other permanent features. There are permitted development rights open to the applicants, in regards siting a 1m high fence on the edge of the site, but the officer considers that any such works to the side of the site would be unneighbourly and out of keeping for the local area. This area is not considered to be part of the private amenity space of the residence, as the original and existing side fence clearly demarks the separation from the private garden area.

5.7.4 The proposed rear extension would be rendered and have a flat roof; this would be visible from Fulford Close. These works (as seen from Fulford Close) are in line with permitted development rights, as they’re below 4m in projection and less than 3m in

height, so although this aspect of the scheme could be better designed to be more in-keeping with the dwelling and area, it is considered to be unreasonable to pursue changes to this part of the scheme. A toned down render colour (not bright white) could help to soften this aspect of the scheme.

- 5.7.5 The two storey side extension will include a widening of the existing side footprint by 0.8m, but will match the existing forwards projection of the garage and porch and include a 0.1m step back to the first floor elevation. The officer requested an increased step back and/or a step down of the roof however this was declined by the agent. The 0.1m step back is considered to be a token inclusion in the design, as it will not be noticeable to the majority of people and will not serve any purpose in relation to the common purpose of stepped back/down side extensions. As the road is on a hill the existing house is already stepped down from the neighbouring dwelling to the east and on this basis this issue was not considered to be refusable on this ground alone in this case.
- 5.7.6 The inclusion of a rendered frontage to the study/porch area at ground floor is not considered to be in-keeping with the house or area, but the addition of some variation to the non-descript brick-finish is considered to be an improvement to the visual amenity of the dwelling.
- 5.7.7 Accordingly the proposed scheme would be an acceptable addition to the street scene, and acceptable to visual amenity, which is acceptable in relation to the Council's Supplementary Planning Document 'Successful Places' (section 3.16 Building Design), Policy CLP20 of the Chesterfield Borough Local Plan and the revised National Planning Policy Framework.

5.8 **Highways Issues**

- 5.8.1 Local Plan policies CLP20 and CLP22 require consideration of parking provision and highway safety. The LPA has consulted the Highways Authority for the scheme, they had no objection to the scheme.
- 5.8.2 The proposal includes space for 3 vehicles to park to the front of the site. These parking spaces are considered to be of an acceptable size in comparison to the Council's Design SPD (2013), as they are at least 4.8m in length and 2.4m in width.

5.8.3 In regards the comments from local objectors about the negative impact on highway and pedestrian safety, the side fence is no longer part of the scheme such that this cannot be considered in any further detail. The general concept of that aspect of the proposal was that it would have had a negative impact on the street, reducing visibility for pedestrians and vehicles, but it is still likely to have been acceptable in regards highways standards.

5.8.4 The proposal therefore is acceptable with the requirements of Policy CLP20 of the Local Plan which seeks the provision of adequate and safe vehicle access and parking (criteria g) and a safe, convenient and attractive environment for pedestrians and cyclists (criteria h), as well as CLP22.

5.9 **Biodiversity**

5.9.1 Local Plan policy CLP16 states that all development will “protect, enhance, and contribute to the management of the boroughs 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”.

5.9.2 During the application the agent was asked to provide additional information in relation to biodiversity measures on site. The agent has supplied a response, stating that they’ll include 1 bird box on site. Any additional work would be completed after construction finishes on site.

5.9.3 The proposed development 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 any decision issued to ensure the application provides the agreed biodiversity net gain measures, as a result of the proposed development. On this basis the proposal is considered to accord with the provisions of policy CLP16 of the Local Plan.

6.0 REPRESENTATIONS

6.1 The application has been advertised via letters sent to surrounding local residents; 8 comments were received from the residents of 7 dwellings, with 1 resident commenting twice. 7 comments were provided prior to the amendments. All comments received are objections, on the grounds of:

- Overlooking from a side window towards no.2
- Highway safety issues from proposed new fence
- Pedestrian safety issues from new fence
- Proposal potentially not acceptable in relation to deeds.
- Fence could impact a lamp post to side of site
- The rear extension goes beyond the rear building line
- The development will lead to the reduction in sunlight and daylight to a conservatory and lounge window to the rear
- The scheme would leave the resident of no.9 'hemmed in' from development on all sides.
- The scheme will prevent any maintenance work to be completed on the side gable.
- The details of the boundary treatment are unclear
- The fencing off of this side garden area would be out of keeping for the character of the local area
- The amended details of the revised scheme are unclear.

6.3 ***Officer comment – Most of the above issues have been dealt with in the above report. The ability for a neighbouring resident to maintain a gable wall is a civil matter and not a material planning consideration. The lamppost to the side of the site is in the pavement area, which is not part of the red line area, and therefore not a consideration. Any issues related to the deeds (not conditions on original or amended planning permissions for the site) are not planning matters.***

7.0 HUMAN RIGHTS ACT 1998

7.1 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

7.2 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.

8.0 **STATEMENT OF POSITIVE AND PROACTIVE WORKING WITH APPLICANT**

8.1 In accordance with the requirements of the Town and Country Planning (Development Management Procedure) (England) (Amendment No. 2) Order 2012 and the 2021 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.

8.2 The Local Planning Authority has during and prior to the consideration of this application engaged in a positive and proactive dialogue with the applicant in order to achieve a positive outcome for the application.

9.0 **CONCLUSION**

9.1 The proposed development is considered to sufficiently reflect the architectural characteristics and form of the existing dwelling and surrounding development. Furthermore, it is not considered that the development would result in significant injury to the amenity of nearby residential properties or lead to a negative impact upon highway safety. As such, this application is considered to comply with the requirements of policies CLP14, CLP20 and CLP22 of the Chesterfield Borough Local Plan 2018-2035 and Chapter 12 of the revised National Planning Policy Framework.

10.0 **RECOMMENDATION**

10.1 It is therefore recommended that the application be APPROVED subject to the following:

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: Site Location Plan, Existing Floor plans and Elevations, Proposed Elevations and Floor plans and biodiversity statement (01/02/22): with the exception of any approved non-material amendment.

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. Construction work shall only be carried out between the hours of 8:00 am to 6:00 pm Monday to Friday and 9:00 am to 5:00 pm on a Saturday. Construction work shall not be carried out on Sundays or Public Holidays. The term 'construction work' shall include mobile and fixed plant/machinery, (e.g. generators) radios and the delivery of construction materials.

Reason - In the interests of residential amenities.

4. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or in any Statutory Instrument revoking or re-enacting that Order with or without modification) there shall be no new gates or other barriers on the existing or new access.

Reason - In the interests of highway safety in accordance with policy CLP22 of the Adopted Local Plan

5. Within 2 months of the completion of the development hereby approved, the proposed biodiversity measures (1 bird box) shall be implemented on site. These measures shall be retained and maintained thereafter in accordance with the scheme so approved.

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 170 the National Planning Policy Framework.

6. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and/or re-enacting that Order) the car parking spaces hereby permitted shall be installed prior to occupation of the side extension and retained as such and shall not be used for any purpose other than the parking or private motor vehicles associated with the residential occupation of the properties without the grant of further specific planning permission from the Local Planning Authority.

Reason – In the interests of highway safety and residential amenity, in relation to policies CLP16 and CLP20.

7. Before construction works commence or ordering of external materials takes place, precise specifications or samples of the walling and roofing materials to be used shall be submitted to the Local Planning Authority for consideration. Only those materials approved in writing by the Local Planning Authority shall be used as part of the development.

Reason - The condition is imposed in order to ensure that the proposed materials of construction are appropriate for use on the particular development and in the particular locality.

8. Notwithstanding the provision of the Town and Country Planning (General Permitted) Development Order 1995 (as amended) there shall be no additional windows erected or installed at or in the dwelling hereby approved without the prior written agreement of the Local Planning Authority.

Reason - In the interests of the amenities of occupants of adjoining dwellings and future residents of this dwelling, in relation to policy CLP16.

9. The development shall include a scheme for the provision of surface water run-off on site, either via the use of a SUDs channel or permeable block paving. If this is not possible the

applicant is required to contact the Local Planning Authority to discuss alternative options; and then not complete works until an alternative solution has been agreed in writing by the LPA. The scheme shall incorporate sustainable drainage principles and shall be implemented in full.

Reason – To prevent the increased risk of flooding, in relation to policy CLP13.

Informatives

1. Pursuant to Section 184 of the Highways Act 1980 and Section 86(4) of the New Roads and Street Works Act 1990 before any works are commenced to construct a dropped crossover of a footway or verge a licence will be required from Derbyshire County Council. Details can be obtained from the Council's website or Highways Hub (highways.hub@derbyshire.gov.uk) and the applicant is advised to allow at least 6 weeks in any programme of works to obtain the necessary permission to undertake the works.
2. Pursuant to Sections 149 and 151 of the Highways Act 1980 it is an offence to allow mud or other extraneous material to be carried from a development site and deposited on the highway. Measures shall be put in place to ensure that this does not occur or if it does that appropriate measures are taken to cleanse the highway. The Highway Authority reserves the right to undertake street cleansing where the developer fails to do so and to recover the costs from them.
3. Planning permission does not give you approval to work on the public highway. To carry works associated with this planning permission, separate approval must first be obtained from Derbyshire County Council as Highway Authority - this will take the form of a section 184 licence (Highways Act 1980). It is strongly recommended that you make contact with the County Council at the earliest opportunity to allow time for the process to be completed. Information and relevant application forms, regarding the undertaking of access works within highway limits, are available via the County Council's website www.derbyshire.gov.uk, email

highways.hub@derbyshire.gov.uk or telephone 01629 533190.

4. 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.

5. In accordance with condition 5, 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

6. 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