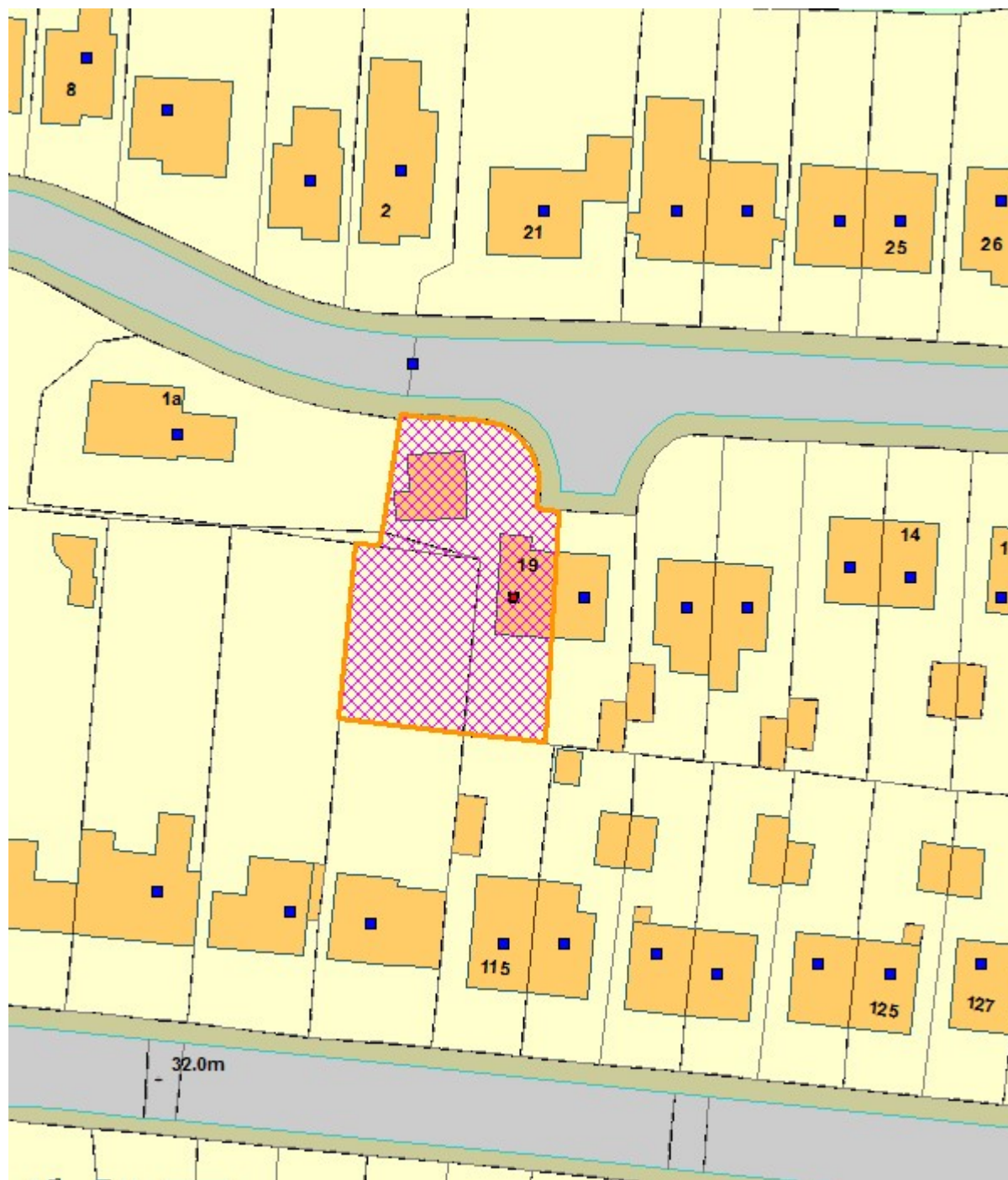


PLANNING APPLICATION OFFICERS REPORT



Application Number	20/00579/FUL	Item	02
Date Valid	24.04.2020	Ward	PLYMPTON ST MARY
Site Address	19 Tithe Road Plymouth PL7 4QQ		
Proposal	Retrospective application for First floor front extension		
Applicant	Mr A Moore		
Application Type	Full Application		
Target Date	19.06.2020	Committee Date	18.06.2020
Extended Target Date	N/A		
Decision Category	Service Director of SPI		
Case Officer	Mr Macauley Potter		
Recommendation	Grant Conditionally		



This planning application has been referred to the Planning Committee by the Service Director for Strategic Planning and Infrastructure for public interest reasons due to the unusual personal circumstances that have led to the applicant submitting the retrospective planning application.

1. Description of Site

19 Tithe Road is a two storey semi-detached dwellinghouse located in the Plympton St Mary Ward of Plymouth. No. 19 is sited at the end of an established property line of near identical properties. Red brick and pebble dash render are the dominant materials along Tithe Road.

2. Proposal Description

Retrospective application for First floor front extension.

3. Pre-application Enquiry

No pre application enquiry associated with this application.

4. Relevant Planning History

16/00772/OPR - Alleged unauthorised gabion wall (case closed)

14/01916/FUL – Retention of first floor front extension with new flat roof – refused

14/01906/FUL – Retention of pitched roof above existing garage and construction of retaining wall on adjacent land at the rear of 113 Woodford Avenue, with the re-profiling of this land – granted conditionally

13/00121/FUL – Retrospective application for first floor front extension and pitched roof to double garage – refused

12/02038/OPR – First-floor front extension (ongoing)

09/00797/FUL – First-floor front extension (above existing porch) – refused – appeal dismissed

08/01039/FUL – Extension to enlarge private motor garage – granted conditionally

06/01923/FUL – Rear conservatory on existing raised patio area – refused

80/02105/FUL – erection of private motor garage – granted conditionally

5. Consultation Responses

Plympton St Mary Neighbourhood Forum – no comments received.

6. Representations

None received.

7. Relevant Policy Framework

Section 70 of the 1990 Town and Country Planning Act requires that regard be had to the development plan, any local finance and any other material considerations. Section 38(6) of the 2004 Planning and Compensation Act requires that applications are to be determined in accordance with the development plan unless material considerations indicate otherwise. For the purposes of decision making, as of March 26th 2019, the Plymouth & South West Devon Joint Local Plan 2014 - 2034 is now part of the development plan for Plymouth City Council, South Hams District Council and West Devon Borough Council (other than parts South Hams and West Devon within Dartmoor National Park).

On 26 March 2019 of the Plymouth & South West Devon Joint Local Plan was adopted by all three of the component authorities. Following adoption, the three authorities jointly notified the Ministry of Housing, Communities and Local Government of their choice to monitor at the whole plan level. This is for the purposes of the Housing Delivery Test and the 5 Year Housing Land Supply assessment. A letter from MHCLG to the Authorities was received on 13 May 2019. This confirmed the Plymouth, South Hams and West Devon's revised joint Housing Delivery Test Measurement as 163% and that the consequences are "None". It confirmed that the revised HDT measurement will take effect upon receipt of the letter, as will any consequences that will apply as a result of the measurement. It also confirmed that that the letter supersedes the HDT measurements for each of the 3 local authority areas (Plymouth City, South Hams District and West Devon Borough) which Government published on 19 February 2019.

Therefore a 5% buffer is applied for the purposes of calculating a 5 year land supply at a whole plan level. When applying the 5% buffer, the combined authorities can demonstrate a 5-year land supply

of 6.4 years at end March 2019 (the 2019 Monitoring Point). This is set out in the Plymouth, South Hams & West Devon Local Planning Authorities' Housing Position Statement 2019 (published 26 July 2019). The methodology and five year land supply calculations in the Housing Position Statement are based on the relevant changes in the revised National Planning Policy Framework published 19 February 2019 and updates to National Planning Practice Guidance published by the Government in September 2018, subsequently amended by NPPG Housing Supply and Delivery published 22 July 2019.

Following a successful referendum, the Plympton St Mary Neighbourhood Plan was adopted at Cabinet on 11 June 2019. It now forms part of the Development Plan for Plymouth City Council and will be used in deciding planning applications within the Plympton St Mary Neighbourhood Plan Area.

The Plymouth and South West Devon Supplementary Planning Document (SPD) has been prepared by Plymouth City Council (PCC), South Hams District Council (SHDC) and West Devon Borough Council (WDBC) to amplify and give guidance on the implementation of the policies of the Plymouth and South West Devon Joint Local Plan (JLP). Public consultation on the SPD ended on 6 January 2020 and it is currently anticipated that the plan will be formally adopted in July 2020. Full weight appropriate to an SPD cannot be given until its formal adoption, although given that the SPD is at an advanced stage it may be appropriate to give its provisions limited weight until then, especially where they have not been subject to objections.

Other material considerations include the policies of the National Planning Policy Framework (NPPF), Planning Practice Guidance (PPG) and National Design Guidance. Additionally, the following planning documents are also material considerations in the determination of the application:

- Development Guidelines: Supplementary Planning Document (First Review 2013)
- Plymouth & South West Devon Joint Local Plan 2014-2034: Supplementary Planning Document (Consultation Draft – November, 2019)

8. Analysis

1 This application has been considered in the context of the development plan, policies DEV1 (Protecting health and amenity) and DEV20 (Place shaping and quality of the built environment) of the adopted Joint Local Plan, PSM1 (Other housing developments) of the adopted Plympton St Mary Neighbourhood Plan, the Framework and other material policy documents as set out in Section 7. The material planning considerations for this application are:

- context and site history
- design
- residential amenity
- implications of refusal

Context and Site History

2 The development has undergone numerous applications since 2009. Under application 09/00797/FUL the two storey front extension was refused as it was considered detrimental to the streetscene; following this application 09/00797/FUL went to appeal and was subsequently dismissed. A retrospective application for the front extension was submitted in 2013 under 13/00121/FUL and was once again refused on design grounds with specific reference to the prominent appearance of the extension along with its pitched roof feature. A further application was submitted in 2014 under 14/01916/FUL for the retention of the extension with an amendment to a flat roof design which was refused on design grounds. The 2014 refusal reason noted that despite its roof being modified as proposed, it would continue to be an unduly prominent addition to the streetscene. The proposed modified extension

would continue to extend unreasonably beyond the main front elevation of the property, and the building line of neighbouring properties in the street.

3. There is currently a live enforcement case regarding the first floor front extension and a formal enforcement notice has been served on the owner. Further legal action relating to this enforcement notice will be subject to the decision on this current planning application.

Design

4. The application seeks retrospective consent for a two storey front extension with a dual pitched roof and is the first application to be considered following the adoption of the Joint Local Plan (2019). The extension has a depth of 1.3 metres, a width of 3.1 metres and a total height of 6.7 metres. The extension terminates 0.4 metres below the total height of the main dwelling. As confirmed from previous applications and following a site visit on the 18th May, 2020 the materials comprise of red brickwork and render to match existing.
5. Paragraph 2.2.41 of the Development Guidelines SPD (on front extensions) states: “Extensions that project forward of the existing house will generally be resisted. Where a street has a clear established building line, the only development that might be acceptable at the front is likely to be a small, sympathetically designed porch. In certain circumstances an exception may be allowed where there is no obvious building line, where the property is set back from other houses, or where front extensions are a feature of houses in the street.” (note: the draft SPD is near identical in terms of its wording).
6. Officers recognise the validity of the previous refusal reason in which the same interpretation of paragraph 2.2.41 could be applied once again to this application. Reiterating the 2014 Officer’s report, two storey front extensions are not a feature found in the surrounding area. Officers note that the application property is set back due to a vehicle turning circle and is sited at the end of Tithe Road. In contrast to properties along Cundy Close (which feature front dormers and additional detailing) no. 19 benefits from a minimal design finish and a uniform material palette commonly found in the Woodford area. As highlighted in the supporting statement the construction of a garage immediately to the north west of the application property (Planning ref: 08/01039/FUL) and the more recent development of a garage at 1a Cundy Close (Planning ref: 14/00058/FUL) infilled the gap between Tithe Road and Cundy Close. A pitched roof garage was permitted at 1a Cundy Close and the officer report noted that it was not considered to be unduly prominent, therefore setting a precedent for an amendment (from flat roof to pitched roof) to the existing garage at 19 Tithe Road (Planning ref: 14/01906/FUL). Officers therefore consider that a case can be made that the pitched roof front extension considered under this application acts as a natural bookend for the Tithe Road building line. Note that no letters of representation have been received.
7. It is the Officer’s view that providing the materials match the existing dwelling the precedent resulting from this development would not be harmful if it were replicated along this particular property line. It is therefore considered to comply with paragraph 2.2.13 (Materials) and with seven years of weathering the finish is now seamless with the original dwelling. Applying Policy DEV20(2)(3) the case officer considers that the design is visible in the streetscape but not dominating nor significant in its massing, height, scale and goes some way to provide additional detailing to an otherwise plain frontage and does not contravene any one specific regard listed in the Policy.
8. The case officer concludes that having factored in the decision-making on historical applications for no. 19, the front extension is on balance acceptable from a design standpoint.

Amenity

- 9 Officers consider there to be no significant change or intensification of use resulting from the proposed scheme. Officers have assessed the amenity issues in terms of overlooking and consider there to be no adverse impacts resulting from the front extension. From the first floor front extension window there is a 28 metre window-to-window separation to the property immediately opposite (21 Tithe Road).
- 10 Officers have considered the scheme in terms of light levels to neighbouring properties (with specific regard to no. 18 Tithe Road) and consider it to have no adverse impacts to sunlight (note the scheme was assessed against the 45 degree rule and is in compliance). The property is also north facing and therefore the principal elevation is already in shade for much of the day.
- 11 Officers therefore consider that the front extension is compliant on both accounts of sunlight and privacy with specific regard for DEVI(1) and amenity considerations as outlined in the Development Guidelines SPD with specific reference to paragraphs: 2.2.20-2.2.39.

Retrospective Applications

- 12 Since August 2015 national planning policy requires consideration to be given as to whether intentional unauthorised development has been carried out. The new policy applies to all relevant planning decisions made by Local Planning Authorities and Planning Inspectors. The policy has been introduced largely as a result of Government concerns about the harm caused by unauthorised developments in the Greenbelt, but applies equally elsewhere. The policy does not indicate exactly how much weight should be afforded to this in relation to the weight to be given to other material planning considerations. Neither does the policy clarify exactly what evidence is required to demonstrate the unauthorised development has been carried out intentionally.
- 13 It is clearly highly undesirable for any development to take place before planning permission has been properly sought, and obtained, in any circumstances. However, it should be noted that this new policy only applies where unauthorised development has taken place with the full knowledge of the person(s) undertaking the work that it lacks the necessary consent. In some cases difficulties in interpreting these points can be accepted however in this case the planning history clearly shows that the applicant would have had an understanding and therefore weight in the decision making process can be given to the notion that intentional unauthorised development has occurred.

Implications of Refusal

- 14 Officers consider it necessary in this instance to factor in the implications of refusing this application which, in line with the procedures under the Town & Country Planning Act (1990) may result in further enforcement proceedings and potential action pursuant under Section 178. Seven years has now passed whereby the structure has remained in situ. If a recommendation for refusal is made the resultant course of action by the LPA must be considered. The NPPF (2019) paragraph 58 states that LPA's should act proportionately in responding to suspected breaches of planning control. It is necessary to highlight that Plymouth's Planning Enforcement Policy states that planning enforcement action is a discretionary activity, and may not be pursued in some instances where after very careful consideration this is not considered to be expedient or in the public interest.

- 15 Whilst it is highly undesirable for development to occur without consent it is officers' view that this action by the Local Planning Authority (LPA) may be disproportionate to the scale of the development given that it has no adverse impacts to surrounding residential amenity (see paragraphs 9-11). Following ongoing enforcement case 12/02038/OPR there have been long and protracted discussions with the applicant over many years including new planning applications and the only reasonable option would be for the applicant to demolish the extension and therefore a final attempt is being made by the applicant to regularise the development as presented under this application.

9. Human Rights

Human Rights Act - The development has been assessed against the provisions of the Human Rights Act, and in particular Article 1 of the First Protocol and Article 8 of the Act itself. This Act gives further effect to the rights included in the European Convention on Human Rights. In arriving at this recommendation, due regard has been given to the applicant's reasonable development rights and expectations which have been balanced and weighed against the wider community interests, as expressed through third party interests / the Development Plan and Central Government Guidance.

10. Local Finance Considerations

N/A

11. Planning Obligations

The purpose of planning obligations is to mitigate or compensate for adverse impacts of a development, or to prescribe or secure something that is needed to make the development acceptable in planning terms. Planning obligations can only lawfully constitute a reason for granting planning permission where the three statutory tests of Regulation 122 of the CIL Regulations 2010 are met.

Planning obligations not required due to the nature and size of proposal.

12. Equalities and Diversities

Although not designed and constructed for the ease of vulnerable/disabled users/occupiers the development does not result in the hindrance of internal and external access in and around the property nor reduce functionality of the parking area. The application has therefore had due regard to Section 149 of the Equality Act with regard to the Public Sector Equality Duty and has concluded that the application does not cause discrimination on the grounds of gender, race and disability.

13. Conclusions and Reasons for Decision

Officers have taken account of the NPPF and S38(6) of the Planning and Compulsory Purchase Act 2004 and concluded that the retrospective front extension accords with policy and national guidance in terms of design and residential amenity and therefore is an on balance recommendation for approval.

14. Recommendation

In respect of the application dated 24.04.2020 it is recommended to Grant Conditionally.

15. Conditions / Reasons

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

I CONDITION: APPROVED PLANS

Location Plan 22042020 - received 22/04/20

Front Extension Retained PL7 4QQ-GR-003 - received 22/04/20

Reason:

For the avoidance of doubt and in the interests of good planning, in accordance with the Plymouth & South West Devon Joint Local Plan 2014–2034 (2019).

INFORMATIVES

1 INFORMATIVE: (NOT CIL LIABLE) DEVELOPMENT IS NOT LIABLE FOR A COMMUNITY INFRASTRUCTURE LEVY CONTRIBUTION

The Local Planning Authority has assessed that this development, due to its size or nature, is exempt from any liability under the Community Infrastructure Levy Regulations 2010 (as amended).

2 INFORMATIVE: UNCONDITIONAL APPROVAL (APART FROM APPROVED PLANS)

In accordance with the requirements of Article 31 of the Town and Country Planning (Development Management Procedure) (England) Order 2010 and the National Planning Policy Framework 2019, the Council has worked in a positive and pro-active way and has granted planning permission.