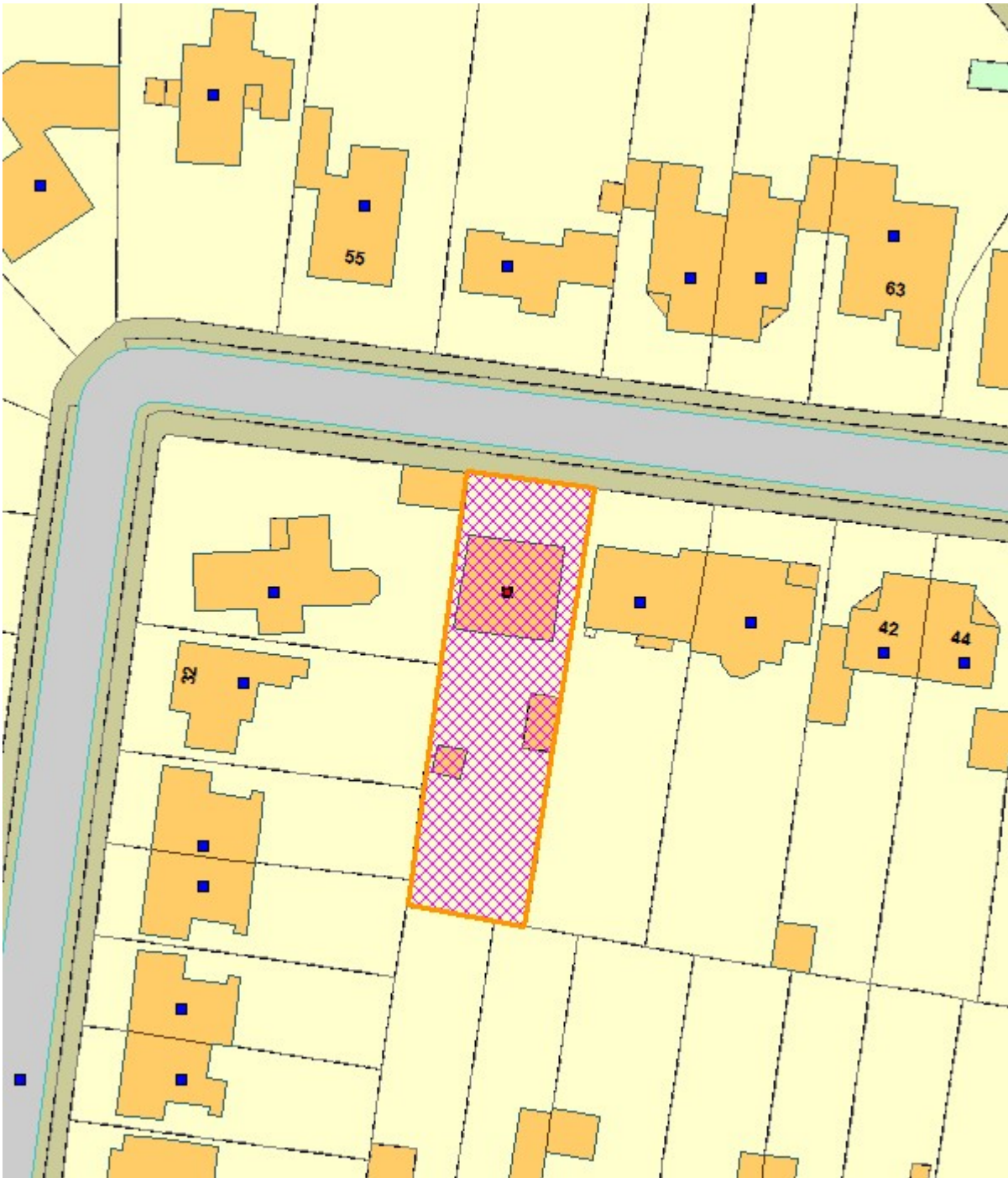


# PLANNING APPLICATION OFFICERS REPORT



<b>Application Number</b>	20/00362/S73	<b>Item</b>	01
<b>Date Valid</b>	18.03.2020	<b>Ward</b>	PLYMPTON ST MARY
<b>Site Address</b>	36 Trelawny Road Plympton Plymouth PL7 4LJ		
<b>Proposal</b>	Variation of Condition I (Approved Plans) of application 17/00862/FUL		
<b>Applicant</b>	Mr & Mrs Willcocks		
<b>Application Type</b>	Removal or variation of a condition		
<b>Target Date</b>	13.05.2020	<b>Committee Date</b>	23.07.2020
<b>Extended Target Date</b>	24.07.2020		
<b>Decision Category</b>	Councillor Referral		
<b>Case Officer</b>	Miss Josephine Maddick		
<b>Recommendation</b>	Grant Conditionally		



This planning application was referred to Planning Committee by Cllr Nicholson

### **1. Description of Site**

36 Trelawny Road is a detached two-storey property in the Plympton area of Plymouth. The property was previously a chalet style bungalow and has been enlarged, with a large two-storey rear extension. Trelawny Road has mixture of styles and sizes of houses and bungalows, estimated to date from around 1930-1950s.

### **2. Proposal Description**

Variation of condition 1 (Approved Plans) 17/00862/FUL to allow amended design.

This application seeks retrospective consent for an extension which is greater in height than what was approved. The difference in dimensions are as laid out below.

Original approved dimensions

Two storey rear extension and associated works (resubmission of 16/02228/FUL) 17/00862/FUL

The height of the flat roof is approximately 5.90 metres from the patio/ground level.

New dimensions under 20/00362/S73

The height of the flat roof is approximately 6.3 metres from the patio/ground level

The increase in height is approximately 40cms

All other details remain the same as per the 17/00862/FUL planning consent.

### **3. Pre-application Enquiry**

None

### **4. Relevant Planning History**

16/02228/FUL - Two storey rear extension, storage shed and creation of raised patio WDN - Application Withdrawn

17/00862/FUL - Two storey rear extension and associated works (resubmission of 16/02228/FUL) - PER - Grant Conditionally

20/00029/ENF - Enforcement Case – Not built in accordance with plans

### **5. Consultation Responses**

None requested

### **6. Representations**

5 representations in support. In summary the issues raised were:

- Contemporary feel
- Good quality
- Not visible from the front of the house
- Trelawney Road is a different mix of height/styles

5 representations objecting, though some objectors sent in further comments. In summary the issues raised were:

- Use of balcony will impact peaceful enjoyment of neighbouring garden
- Breach of planning control
- Poor visual impact
- Loss of light
- Unnecessarily tall height

The application was validated on 18th March 2020 and the public consultation period ran until the 21st April 2020. The application was re-advertised on 15th June was a further public consultation period ran until 29th June 2020, so that those who had made representations were aware of the proposed amended changes. Due to Covid-19 additional site notices were posted through doors of nearby properties for those resident may have been shielding.

## **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.

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)(now superseded by the Plymouth and South West Devon Supplementary Planning Document)
- Plymouth and South West Devon Supplementary Planning Document (SPD).

## **8. Analysis**

1. This application turns upon the adopted Joint Local Plan and its policies DEV1 (Protecting health and amenity) and DEV20 (Place shaping and the quality of the built environment), the Framework and other material policy documents as set out in Section 7.

2. This application seeks retrospective consent by way of a variation of condition for an extension, which is greater in height than what was approved. The difference in height is approximately 40cms. The original consent was issued on 1st June 2017 for the erection of a two storey rear extension. The development started on site and the Local Planning Authority received a report that the development was not being built in accordance with the plans. As a result, a planning enforcement officer conducted a site visit on the 20th January 2020 and made contact with the owner regarding the breach of planning control. Officers invited a section 73 application so that the material changes could be formally considered, as well as provide an opportunity for public consultation. During the

application process, the applicant has proposed further changes to what is currently on site. The proposed change is to reduce the height of the roof by 30cms, from 6.6 metres to 6.3 metres.

3. The design and materials used in the development, which is on site, match what was approved under the original planning consent. Officers note the only change to this development is the height of the extension. It is understood the height was increased due to insulation requirements so that it would comply with building control regulations. The height of the first floor level has not changed and therefore the height of the balcony sits in its correct position as per the original consent.

4. The main change to consider here is the height. The previous officer report stated:

Is the scale subservient and/or appropriate?

Yes. Whilst the rear extension is relatively large, the roof is well set down from the existing ridge, and the street comprises a mixture of sizes and styles of houses, with no strong building line. The scale of the proposal is considered acceptable in this context.

The roof of the extension is set down below existing ridge line making the extension appear subservient to the existing house. The proposed changes bring the roof of the extension closer to the ridge line, though officers consider it would be appropriate in context to the original house. As officers previously noted, the street comprises of a mixture of size and styles with no strong building line. Consequently, officers do not deem this new proposal to be out of context to the existing street.

As Trelawney Road is an assortment of building styles, officers are open to diverse and modern design styles. Paragraphs 13.7 of the new SPD (2020) states:

Occasionally, extensions which differ or even contrast with the original property can be acceptable. However, even where materials or designs contrast there should still be a harmonious relationship with the main body of the property being extended.

Paragraphs 2.2.12 of the previous SPD (2013) states:

Occasionally, extensions which differ or even contrast with the original property can be acceptable. It is not the aim of the Council to stifle imaginative schemes. However, even where materials or designs contrast there should still be a harmonious relationship with the main body of the property being extended.

Officers deem the increase in height and style of the proposal to be acceptable in terms of design and its relationship to the existing property. The new height of the extension balances the property and is set down enough from the ridge in that you can still understand that the original ridge is the main and dominate feature of the house.

5. The main point for officers to consider is amenity and whether the increased height will affect nearby properties; officers consider that privacy is not affected by the new proposal, as there are no new openings on either elevation nor any change to the balcony element. Notwithstanding this point, the applicant has sought to improve privacy and provide a screen on the side elevations of the balcony. Details of this can be found in drawing V06 'Proposed cladding detail'.

6. The east and west elevation of the extension already presents a significant change in terms of outlook for nearby residents, as the extension is part finished and in situ. This allows observers and nearby residents to understand the potential impact of the proposed final height of the extension. The Local Planning Authority (LPA) has received several letters of representation regarding objection to the height of the proposal. As a result, the LPA has sought to negotiate with the applicant and has secured a reduction in height of 30cms, bringing it much closer to what was originally approved. Officers consider this amendment will soften the impact of the extension and

mean the additional height is less significant, only measuring an additional 40cms from what was approved.

7. The applicant has submitted photographs of shadowing and a sun and shadow study. Both documents illustrate that the increase in height has minimal effect on sunlight reaching adjacent neighbours. The approved consent would already impede the morning sun from reaching parts of 34, though once the sun moves around into a southerly position towards late morning and midday, the extension would not affect sunlight. During the early morning sunlight time, the sun has a lower solar altitude and therefore sunlight would not reach 34 Trelawney Road even with the original height. Therefore, officers do not consider the new proposed height to affect light for 34 Trelawney Road because of the orientation of the properties.

8. 38 Trelawney Road sits on the other side of application site and is similarly affected like number 34, whereby the increased height of the extension will have minimal effect on the property. The orientation of the dwelling means that when the sun moves around into a longitudinal position, it is already at a lower point in the sky. Therefore, the increase in height to the extension is nominal in terms of its effect on sun light, and both adjacent properties to the site are south facing and separated from 36 Trelawney by an adequate distance. Both of the detached dwellings have generous amenity space with large mature gardens and are not unduly effected by the development.

9. Officers have considered the impact on nearby properties including 30 and 32 Trelawney, as both these properties sit to the west of the application site and share a boundary with the application site. Impact on privacy has been improved due to the addition of screening on the west elevation of the balcony. The original bungalow at 36 Trelawney Road already had side elevation windows at first floor on east and west elevation according to google street view images dated 2009, the existing windows provide a clear uninterrupted view of adjacent properties.

10. Officers note representations have been made regarding the overall impact and scale of the extension. This current application is assessing the additional height of 40cms only, officers consider that the original application which was approved already, considered the cumulative overall effect of the extension. The additional height of 40cms is a material change; however, officers consider it not to be harmful.

11. 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.

12. 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 reality, given the difficulties in interpreting these points, it is considered that little or no weight can be given to this aspect, unless the Council has clearly indicated to the applicant that unauthorised development is being carried out, and that works have then continued beyond that point, or where there is some other compelling evidence that such work has intentionally been carried out.

13. Neither of these factors appear to apply in this case, and so it is considered that no weight should be afforded to this particular point in the determination of 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**

Not required

### **11. Planning Obligations**

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

### **12. Equalities and Diversities**

This planning application has 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 proposed Variation of Condition 1 (Approved Plans) accords with policy and national guidance in terms of design and neighbour amenity and is therefore recommended for approval.

### **14. Recommendation**

In respect of the application dated 18.03.2020 it is recommended to Grant Conditionally.

### **15. Conditions / Reasons**

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

#### **1      CONDITION: APPROVED PLANS**

Location Plan and Photos L01 - received 05/03/20

Existing and Proposed Plans with Sections and Elevations V04 - received 10/06/20

Cladding Detail V06 - received 10/06/20

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).

#### **2      CONDITION: IMPLEMENTATION AND COMPLETION**

Within twelve months of the date of this planning permission, the applicant shall submit evidence to the Local Planning Authority for written approval demonstrating that the works identified in plan number V04 have been implemented in entirety.

Reason:

To protect the amenity of the area and ensure that the details of the development are in keeping with the standards of the vicinity in accordance with Policy DEVI (Protecting Health and Amenity) of the Plymouth and West Devon Joint Local Plan (2014-2034) and the National Planning Policy Framework 2019.

### **3      CONDITION: PRIVACY**

Within six months of the date of this planning permission, the privacy screen fixed in between timber cladding (reference plan V06) shall be installed along the east and west elevation of balcony in accordance with the approved plans and shall thereafter be retained in perpetuity.

Reason:

To protect the amenity and privacy of neighbouring dwellings in accordance with Policies DEVI and DEV20 of the Plymouth and South West Devon Joint Local Plan 2014-2034 (2019) and the National Planning Policy Framework 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: CONDITIONAL APPROVAL (NEGOTIATION)**

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 with the Applicant and has negotiated amendments to the application to enable the grant of planning permission.