

PLANNING APPLICATION OFFICERS REPORT



Application Number	21/00529/FUL	Item	01
Date Valid	22.03.2021	Ward	PLYMSTOCK DUNSTONE
Site Address	7 First Avenue Billacombe Plymouth PL9 8AP		
Proposal	Single storey rear extension and rear raised stepped access		
Applicant	Mr Jordan Collins		
Application Type	Full Application		
Target Date	17.05.2021	Committee Date	22.07.2021
Extended Target Date	30.07.2021		
Decision Category	Councillor Referral		
Case Officer	Mr Sam Lewis		
Recommendation	Grant Conditionally		



This application has been referred to Planning Committee by Cllr. Churchill.

1. Description of Site

7 First Avenue is a detached bungalow set in quite a long garden. The property sits to the north of the site, with the garden extending to the rear southwards. The property has been extended to the rear previously, with a historic kitchen extension present on the bungalow's rear elevation. The site falls within the Plymstock Dunstone ward of the city.

2. Proposal Description

The proposal is for a rear extension, with a raised stepped access at the rear. The existing kitchen extension is proposed to be at least partially demolished to make way for the proposal, although it is possible that some of the extension's original side wall may be retained. All of the quoted length measurements are therefore taken from the property's original rear wall. The extension is proposed to extend from the property's rear elevation by 4.75m and be 8.56m wide. Due to the slope of the

property's rear garden, which slopes downwards away from the property, the height of the extension would differ depending on where the measurement was taken from. When measured at the point where it would meet the property's rear elevation, it would measure 3.02m high; while measuring 3.24m high from its southern end. Officers note that two rooflights are proposed which would raise certain portions of the roof up by a further 25cm.

For context, the existing extension is 2.1m long, 3.37m wide and 3.47m high when measured from its rear elevation. The proposal is therefore proposed to be 2.65m longer than the existing extension; and 21cm shorter.

Also proposed is a rear stepped access to the extension, with a decked area at ground floor level. This is proposed to be 70cm high; with the decked area being 3.97m wide and 1.57m deep - which gives the deck a proposed surface area of 6.23sqm. The width of the entire access, including the steps, however is proposed to be 4.71m.

The above measurements are taken from a second set of amended drawings, which include changes negotiated with the applicant. The proposal was originally proposed to be longer and higher than what is currently under consideration. The first set of amended drawings reduced the overall height of the proposal, while the second set reduced the overall length while maintaining the height decrease. This has also meant that the height of the deck/access has been reduced. The application was originally advertised for 21 days between 30th March 2021 and 20th April 2021; and has had two further 14 day consultation periods between both 25th May 2021 and 8th June 2021, and 22nd June 2021 and 6th July 2021.

3. Pre-application Enquiry

None.

4. Relevant Planning History

There is no relevant planning history concerning the site itself, but there are some other relevant local schemes to note:

8 First Avenue

83/01670/FUL - Extension to dwelling house and erection of garage (Refused).

83/03588/FUL - Alterations and extension to dwelling house and erection of new garage (Granted Conditionally).

5. Consultation Responses

None requested.

6. Representations

At the time of writing, four letters of representation have been received by Officers, all of which object to the application. These objections have been reiterated despite the alterations made to the proposal. The material considerations raised include:

- The proposal is out of character with other extensions in the area.
- The scale of the proposal means that it is not subordinate to the property.
- The proposal would lead to a loss of outlook from neighbouring properties.
- The mass of the structure would lead to the creation of overbearing feelings for neighbouring properties.
- The proposal would lead to a loss of light for neighbouring properties (including a breach of the 45 degree rule)
- The proposal would lead to a loss of privacy for neighbouring properties.

The above concerns will be discussed in Section 8 of this report.

Additionally, the following non-material considerations have also been raised:

- References to 'Right to Light' legislation.
- The proposed internal layout of the property.
- The proximity of the proposal to an existing septic tank.

The above concerns raised are non-material in the context of the planning process, and therefore have no bearing on this recommendation. Officers will consider the light impacts of the proposal in Section 8 in a planning context, but 'Right to Light' legislation falls outside of the planning process and anything relating to it specifically is considered a civil matter.

Any further letters of representation received following the publication of this report will be addressed in an addendum report.

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).

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:

- The Plymouth and South West Devon Supplementary Planning Document (SPD) (2020).

8. Key Issues/Material Considerations

8.1 The relevant policies are: DEV1 (Protecting health and amenity) and DEV20 (Place shaping and the quality of the built environment).

8.2 Principle of Development

Joint Local Plan policies indicate that the proposal is acceptable in principle.

8.3 Negotiations Undertaken

8.3.1 The original plans (and indeed their first revisions) submitted were considered unacceptable. This is because the overall length and height of both the extension and the rear deck was considered too great, and would have had a harmful impact on neighbouring properties. Revised plans were submitted to reduce the proposal's height, but Officers still had concerns relating to the overall proposed length. Further revised plans were submitted to also reduce the length, and this recommendation has been based on this second set of revisions.

8.4 Visual Impact

8.4.1 Officers have considered the visual impact of the development against the guidance in the SPD and consider it acceptable.

- 8.4.2 Following the amendments made to the proposal, Officers consider that the overall appearance of the extension is now acceptable. Officers originally had concerns relating to the size of the extension, although this was more from an amenity perspective rather than a design perspective, but it is considered that the changes made have improved the overall look of the proposal. This is because the shorter extension appears more subservient to the main dwelling overall. The original proposal showed the extension as being higher than the property's eaves, with the amendments reducing its height to a more typical level relative to the eaves.
- 8.4.3 Concerns were raised relating to the extension's flat roof, in the context of SPD guidance that states that flat roofs will be discouraged (paragraph 13.12). Officers however consider that the proposed flat roof is acceptable as it is to be situated at the rear of the property - which means that the overall streetscene will be unaffected by its presence. Officers note that there are a number of flat roof extensions in the street, some of which are quite large, which leads Officers to consider that they are part of the overall character of the street. Officers also note that a number of flat-roofed detached garages are present too.
- 8.4.4 Taking the above into account, and the fact that the proposed materials (painted render) will match the main dwelling, Officers consider that the proposal is acceptable from a visual impact perspective and that it accords with DEV20 of the JLP.

8.5 Amenity

- 8.5.1 Officers have considered the impact on neighbouring amenity against the guidance in the SPD and consider it acceptable. A number of amenity concerns have been raised in the letters of representation received, so these will be discussed here.
- 8.5.2 Officers will first consider the impact of the proposal on the outlook of neighbouring properties - which also includes any massing impacts. It should be noted however that private views are not protected under the planning system, but outlook more generally still needs to be considered. 8 First Avenue, to the west of the site, has its own rear extension - as well as a raised patio area. Both the extension and the patio overlook the application site. Officers consider that the extension will have impacts on outlook from both the neighbouring property and the patio - but that these impacts will not be significantly harmful enough to warrant a refusal of planning permission. It is worth noting at this point that a similar extension that is 4m long could be erected under permitted development. The proposed extension is 75cm longer than this, and Officers must consider all impacts in the context of the property's permitted development fall back options.
- 8.5.3 Views and outlook to the east of number 8 will be reduced as a result of the extension, but the difference between the loss of outlook and massing when comparing the proposal to the permitted development fall back position is considered minor. Officers visited number 8 as part of the application process, and noted that outlook from the property is generally good - with views out over number 7's garden and down its own long garden. The outlook down number 8's garden would not change due to the proposal; and it is considered that outlook down a garden is typical within residential properties. Outlook from number 8 is somewhat atypical due to a combination of low boundary treatments and its raised patio area. Views from the property are greater than is usual as a result - with much more overlooking of other properties.
- 8.5.4 Paragraphs 13.27 - 13.29 of the SPD provide guidance relating to the optimum distances between windows and blank walls. This distance is generally set to 12m. Officers acknowledge that the distance between number 8's side window and the proposed extension

would be less than this, at 8.68m. This guidance, however, is designed with rear windows in mind, and it is quite typical for side windows to be closer to neighbouring blank walls. The 8.68m quoted would be the same in the context of the permitted development extension too, so the differences between the scheme and any permitted development alternative is again considered to be minimal. Officers note that number 8's rear extension is a dual-aspect one too, with a south-facing window looking down the garden in addition to the east-facing affected window.

- 8.5.5 Despite the extension, Officers consider that the outlook from number 8 would still be good, with views down over its garden (and even a portion of number 7's garden). This is considered to be the same whether the proposed extension is as shown on the submitted plans or a smaller version to accord with permitted development. Officers therefore consider that, while reduced, the impact on outlook is not significant enough to warrant a refusal of planning permission.
- 8.5.6 Officers will now turn to the issue of light; which again needs to be considered in the context of any potential permitted development fall back option. Figure 25 in the SPD details guidance relating to the 45 degree rule in relation to the impact. The submitted plans demonstrate that the proposed extension will breach the 45 degree rule in relation to number 8. Officers consider, however, that a 4m permitted development extension would also breach the 45 degree rule - which means that light impacts would occur if an extension was built under permitted development. Officers consider, therefore, that there would be some light impacts as a result of the proposed extension, particularly in the morning - with number 8's closest rear window and patio area likely to see some shading that they are not currently affected by. Officers consider, however, that the differences in overshadowing between the proposal and a permitted development extension would be minimal - with the additional 75cm of length not likely to significantly increase the impacts caused.
- 8.5.7 Officers also note paragraph 13.34 of the SPD which considers situations for relaxations of the 45 degree rule - with reasons such as the site's orientation and the ground level given, depending on the specific context for each case. Due to the fact that gardens of the properties are south facing, with a sloping ground level to give an open southward aspect, Officers consider that the properties' access to light will currently be very high. This is likely to largely remain, despite the aforementioned impacts discussed in the previous paragraph.
- 8.5.8 Officers must also consider the impact of the proposal on the privacy of neighbours. Officers do not consider that the extension itself will lead to any alterations to existing privacy arrangements, but concerns have been raised in relation to the rear stepped deck/access. Officers originally had concerns relating to the decked area, but it has since been reduced in height. The original deck would have likely led to views over neighbouring gardens being possible, but as the decked area is now proposed to be only 70cm from ground level these views have been significantly reduced. Additionally the decked area, when measured from the bottom of the steps, is proposed to be 5.73m from the western boundary. Officers note that raised decks/patios/balconies are quite a common feature in the area - which is typical when garden ground levels slope downwards away from properties. Some of these existing decks are quite large, and likely overlook neighbouring properties quite significantly. Following its reduction in size, the proposed small deck area is considered to be acceptable by Officers. Views back towards the decks and windows of neighbouring properties will be blocked by the extension itself; and its relatively small surface area will reduce how it can be used. As such, the views from it are not considered to be significantly harmful enough for Officers to consider making a recommendation to refuse planning permission. A condition however has been added to ensure that no future side windows are installed in the proposed extension.

8.5.9 For context, as detailed in Section 2, Officers are considering amended plans which have reduced both the height and length of the extension. Officers had concerns relating to the amenity impacts of the original scheme - and the proposal was reduced in size in an attempt to overcome those concerns. Officers also considered the original proposal in the context of the property's permitted development fall back options, but it was considered that the difference between the two extensions was too great to justify a recommendation of approval. It was considered that the amenity impacts of the original proposal would have been noticeably more harmful than a permitted development alternative. As outlined above, Officers no longer consider this to be case - and consider that the amenity impacts of the proposal to be similar to those that would be caused by a permitted development extension. This is despite elements of SPD guidance not being accorded with - as is typical when considering anything to do with permitted development.

8.5.10 Taking the above into account, Officers consider that the proposal accords with DEVI of the JLP and is, on balance, acceptable on amenity grounds.

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

None.

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

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

The proposed extension and rear deck/access is considered to be appropriate for planning approval, having regard to all national and local planning policies and all other relevant material considerations. It is considered that policies DEVI and DEV20 will be accorded with and therefore conditional approval is recommended.

14. Recommendation

In respect of the application dated 22.03.2021 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

Site Location Plan I53_001 Rev 1 - received 22/03/21
Site Layout Plan I53_002 Rev 1 - received 22/03/21
GF GA Plan (Existing) I53_003 Rev 1 - received 22/03/21
Roof Plan (Existing) I53_004 Rev 1 - received 22/03/21
Elevations (Existing) I53_005 Rev 1 - received 22/03/21
Building Section I53_006 Rev 1 - received 22/03/21
Building Section (Proposed) I53_011 Rev 3 - received 14/06/21
Site Layout Plan (Proposed) I53_007 Rev 3 - received 14/06/21
GF GA Plan (Proposed) I53_008 Rev 4 - received 14/06/21
Roof Plan (Proposed) I53_009 Rev 3 - received 14/06/21
Elevations (Proposed) I53_010 Rev 4 - received 14/06/21

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: COMMENCE WITHIN 3 YEARS

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

Reason:

To comply with Section 51 of the Planning & Compulsory Purchase Act 2004.

3 CONDITION: RESTRICTIONS ON PERMITTED DEVELOPMENT FOR ADDITION OF WINDOWS

Notwithstanding the provisions of Article 3 and Class A of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no windows shall be inserted into the east and west-facing side elevations of the extension hereby approved.

Reason:

In order to prevent loss of privacy to neighbouring dwellings in accordance with JLP Policy DEVI and the NPPF 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.

3 INFORMATIVE: PROPERTY RIGHTS

Applicants are advised that this grant of planning permission does not over-ride private property rights or their obligations under the Party Wall etc. Act 1996.

4 INFORMATIVE: COUNCIL CODE OF PRACTICE

The applicant is directed to the Council's Code of Practice by the Public Protection Service (Control of Pollution and Noise from Demolition and Construction Sites):
<https://www.plymouth.gov.uk/sites/default/files/ConstructionCodeOfPractice.pdf>