

PLANNING APPLICATION REPORT



ITEM: 02

Application Number: 12/01227/FUL

Applicant: Mrs Sandy Dobbie

Description of Application: Retrospective application for retention and completion of rear conservatory

Type of Application: Full Application

Site Address: 22 GANNA PARK ROAD PLYMOUTH

Ward: Peverell

Valid Date of Application: 15/08/2012

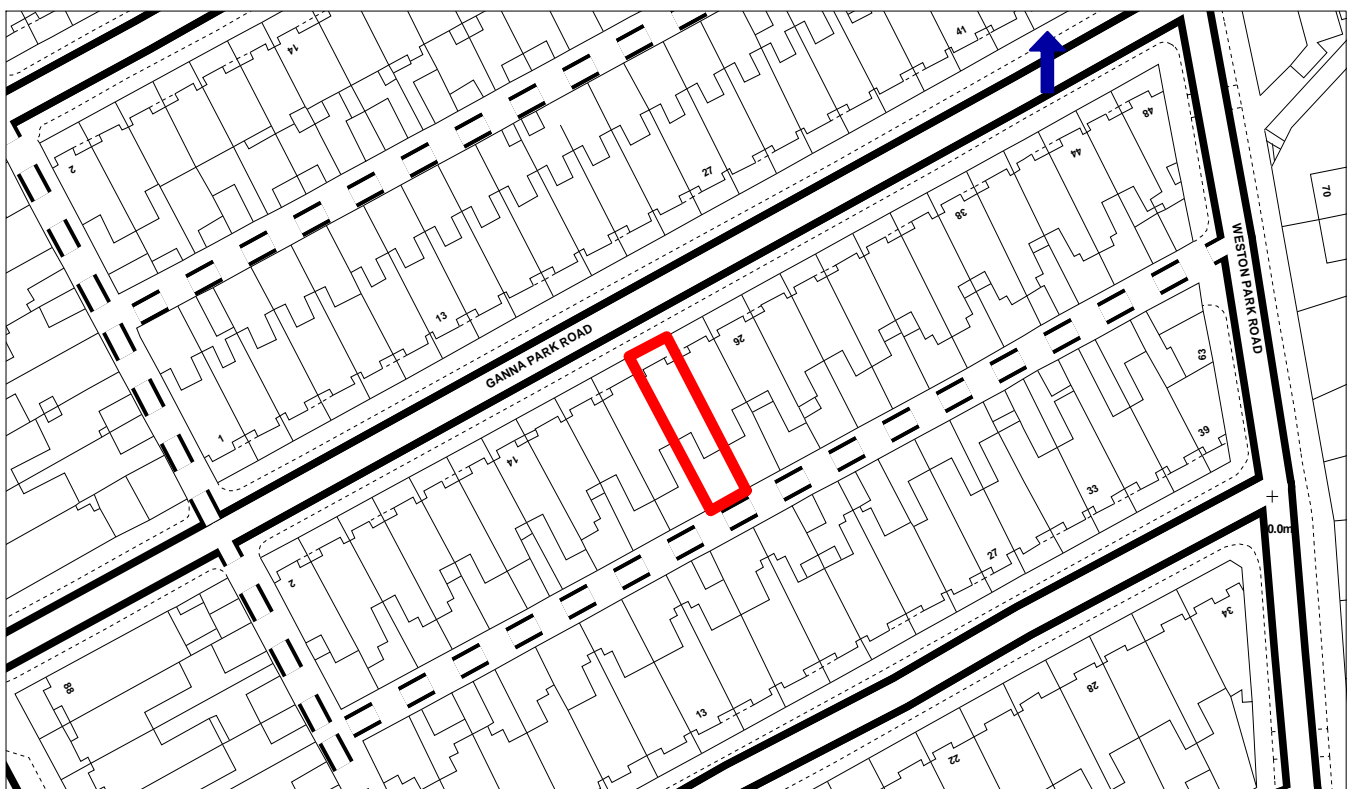
8/13 Week Date: 10/10/2012

Decision Category: Member/PCC Employee

Case Officer : Liz Wells

Recommendation: Grant Conditionally

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Committee Referral

This application is being presented to Planning Committee because the applicant is a Council employee.

Site Description

22 Ganna Park Road is a mid-terraced residential property in Peverell.

Proposal Description

Retrospective application for retention and completion of rear conservatory

Pre-Application Enquiry

Informal advice relating to permitted development allowances.

This application has been submitted following a planning compliance investigation.

Relevant Planning History

None

Consultation Responses

No consultation responses requested or received.

Representations

NB This application is still in its consultation period until 11 September.

Letters of representation have been received from the neighbouring property, objecting to the proposal on the basis of:

- Overall size of the proposed structure is just inappropriate and unreasonable, overbearing and oppressive: Original 2m high garden wall being reasonable for a domestic setting, the proposal would be 3.8m high spanning 3.75m in length which is almost half the length of the courtyard. The size of the proposed structure may appear normal from my neighbour's side but given the fact that the ground floor level of my property is significantly lower, I feel that the wall is completely oppressive, too overbearing, and almost dangerous looking from my side.
- Loss of outlook and light and loss of amenity: Should the proposal be approved there would be a significant and permanent loss of outlook from my dining room and kitchen windows, which I feel is unacceptable. The wall creates a shadow right across my dining room window (breaking the 45 degree rule) (see photo) and my rear courtyard through orientation of the sun throughout the morning. It would lower the natural lighting levels both internally and externally to my dwelling. I enjoy my external courtyard space, but the overshadowing combined with the oppressive impact of the wall ruins this. I strongly feel that the combination of the loss of outlook and the overshadowing creates a dull psychological mood and claustrophobic affect internally in the rear ground floor rooms (i.e. kitchen, dining room, and hallway).
- Reduction and provisions of permitted development: I understand that if the proposed length of the wall was only 3 metres then

the proposed structure would be classified as 'permitted development' and therefore could be built without planning permission. However, if the proposed structure was only 3 metres in length (i.e. permitted development) then it would at least be an improvement on my side. Furthermore, my neighbour, Mr Dobbie, has maintained throughout his correspondence (including his solicitors) that the structure is built within the limits of permitted development - is there a construction error? I believe that if the proposed structure is reduced in size, within the limits of permitted development, it may not be considered feasible to continue with the development due to the significant reduction in size, hence that I feel planning approval should not be given.

- Proposed structure has already been built without the necessary planning permission, and without my consent as it is a party wall, I would like to add to this that I will not allow my neighbour access to carry out any rendering or any other works from my side, unless of course he serves me a party wall notice and the work is agreed by a party wall surveyor I have already consulted a party wall surveyor

Analysis

Design and scale:

The application site is part of a Victorian terrace which due to the sloping topography (sloping down to the west), the houses in this terrace are generally built in pairs at the same level with two storey rear tenements (spanning approximately half the width of the house) and then a drop down to next pair to the west. Many properties in the street have a single storey rear tenements built onto the end of the two storey rear tenement and consequently have relatively small rear gardens/yards.

The proposal is to infill the gap to the rear of the two storey tenement, up to the boundary wall. The scale of the proposal is single storey and in keeping with the scale of the property and other rear extensions in the street. However, as the adjoining neighbour at no. 20 is at a lower ground level, the proposal will result in the boundary wall increasing from approximately 2 metres to around 3.5 metres high.

The proposal will leave a sufficient amenity for the applicant property with a relatively small reduction in the outside space.

Impact on neighbouring property:

The impact of the increase in the wall on the boundary undoubtedly has a negative impact on the neighbouring property. The high wall on the boundary is overbearing and dominant when viewed from ground floor windows and the rear garden/yard area. The proposal cuts the 45 degree guideline set out in the Supplementary Guidelines SPD. However, due to the orientation of the property which faces SSE and the existing boundary wall, with two storey tenement beyond, the proposal will only reduce the light to the ground floor windows during the mornings and is not considered to result in an unreasonable loss of light to the nearest ground floor windows.

When considering the application, case law and recent appeal decisions have confirmed that the fall-back situation of what could be built under permitted development rights is a material consideration. In this instance, under Class A of the Town & Country Planning (General Permitted Develop) (Amendment) (No. 2) (England) Order 2008, a 3 metre deep extension could be built with maximum eaves height of 3 metres and maximum height of 4 metres. Notwithstanding the difference in ground levels, the proposed extension is well within these height allowances but is 0.7 metres longer (or deeper) than would be permitted development. An extension under permitted development would also cut the 45 degree guideline.

Careful consideration has been given to the impact of this 'additional' 0.7 metre depth of the proposal, and on balance it is considered that this has little additional impact on the outlook or light reaching the neighbouring properties ground floor windows. Furthermore, it is noted that whilst the increase in boundary wall seems unreasonable and un-neighbourly, the applicants have designed the height to go just above the existing door (with fixed light above). A development built under permitted development rights would be 0.7m shallower but around 0.4m higher at the eaves. A higher wall on the boundary would be even more overbearing and dominant when viewed from no. 20.

The proposal has no significant impact on the other adjoining neighbour no. 24, as the small projection of the proposal beyond the existing tenement as set away from the boundary and will be screen by the existing boundary wall.

For the Planning Committee's information, the applicants have indicated that they commenced construction on the understanding that they were within their permitted development rights. In the case where the rear wall is staggered due to a tenement, advice was given that the limits on extension apply to 'any' of the rear walls. An extract of the Technical Guidance on permitted development rights will be displayed to clearly show the Government's interpretation of this guidance.

Work on the extension has not been progressed since the applicants were advised by the compliance officer that planning permission was required.

Other considerations:

The applicant has put forward several examples of other rear extensions in the area granted planning permission however these examples are materially different to the application proposal in terms of form, topography and fall-back situation and therefore are not considered to have demonstrated a precedent for this proposal.

The neighbour has stated in the letter of objection that they will not allow access for the completion of rendering. The completion of the extension with a light coloured paint or render would help reflect the light and be more aesthetically pleasing when viewed from the neighbour's side. However, the granting of planning permission does not over-ride private property rights and this comment is not considered to change the conclusion.

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.

Section 106 Obligations

Not applicable to this application.

Equalities & Diversities issues

None

Conclusions

The proposal will have a negative impact on the neighbouring property, being overbearing and dominant when viewed from the ground floor rear windows and the rear garden/yard of 20 Ganna Park Road and will result in a reduction in natural light reaching ground floor windows serving the kitchen and ground floor room (currently used as a bedroom). However, the fall-back situation of what could be built under permitted development rights (not requiring an application for planning permission) is a material planning consideration when assessing such a development. In this case, the decision is finely balanced but it is considered that the additional 0.7m depth of extension has little additional impact on the neighbouring property and therefore the proposal is recommended for approval with no conditions.

Recommendation

In respect of the application dated **15/08/2012** and the submitted drawings site location plan, drawing 1/14 to 14/14, it is recommended to: **Grant Conditionally**

Conditions

APPROVED PLANS

(1)The development hereby permitted shall be carried out in accordance with the following approved plans:site location plan, drawing 1/14 to 14/14.

Reason:

For the avoidance of doubt and in the interests of good planning, in accordance with policy CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007.

INFORMATIVE - PARTY WALL ACT

(1)The applicants are advised that this grant of planning permission does not override private property rights or their obligations under the Party Wall etc. Act 1996.

Statement of Reasons for Approval and Relevant Policies

Having regard to the main planning considerations, which in this case are considered to be: the impact on the neighbouring properties amenities and the impact on the streetscene at the rear when taking into account the fall-back situation of an extension built within permitted development allowances, the proposal is not considered to be demonstrably harmful. In the absence of any other overriding considerations, and with the imposition of the specified conditions, the proposed development is acceptable and complies with (a) policies of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007 and supporting Development Plan Documents and Supplementary Planning Documents (the status of these documents is set out within the City of Plymouth Local Development Scheme) and the Regional Spatial Strategy (until this is statutorily removed from the legislation) and (b) relevant Government Policy Statements and Government Circulars, as follows:

CS34 - Planning Application Consideration

SPDI - Development Guidelines

NPPF - National Planning Policy Framework March 2012