

# PLANNING APPLICATION OFFICERS REPORT



<b>Application Number</b>	19/00699/FUL	<b>Item</b>	<b>04</b>
<b>Date Valid</b>	08.05.2019	<b>Ward</b>	HAM
<b>Site Address</b>	55 Church Way Plymouth PL5 IAH		
<b>Proposal</b>	Lower ground and ground floor rear extension, two storey side extension, front porch, loft conversion with rear dormer, double garage (single storey) and front and rear garden alterations.		
<b>Applicant</b>	Mr & Mrs E Nelson		
<b>Application Type</b>	Full Application		
<b>Target Date</b>	<b>03.07.2019</b>	<b>Committee Date</b>	<b>15.08.2019</b>
<b>Extended Target Date</b>	<b>19.08.2019</b>		
<b>Decision Category</b>	Councillor Referral		
<b>Case Officer</b>	Mr Macauley Potter		
<b>Recommendation</b>	Grant Conditionally		



This application has been referred to the Planning Committee by Councillor Derrick.

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

55 Churchway is a two-storey semi-detached dwellinghouse located in the Ham Ward of Plymouth. Churchway is characterised as a curved road which loops onto Bridwell Road. Properties along Churchway are regularly spaced and of a largely similar design and finish. Churchway is situated on a steep hillside which slopes down from north to south.

### **2. Proposal Description**

#### Original description

Lower ground and ground floor rear extension, two storey side extension, front porch, loft conversion comprising of hip-to gable and rear dormer, double garage with first floor store and front and rear garden alterations.

### Revised description

Lower ground and ground floor rear extension, two storey side extension, front porch, loft conversion with rear dormer, double garage (single storey) and front and rear garden alterations.

### Original dimensions

-lower ground floor extension, depth = 5 metres, width = 6.2 metres and height = 2.6 metres.

-Ground floor extension, depth = 3 metres, width = 6.2 metres, total height = 4.5 metres and eaves height = 3.5 metres.

-Side extension, length = 6.5 metres, width = 1.5 metres, total height = 8 metres and eaves height = 4.8 metres.

-Front porch, depth = 2.1 metres, width = 3 metres, total height = 3.2 metres and eaves height = 2.3 metres.

-Dormer, depth = 3.4 metres, width = 6.7 metres and height = 2.6 metres.

-Double garage, depth = 5.4 metres, width = 6.1 metres and height = 4.8 metres.

### Revised dimensions

-lower ground floor extension, depth = 5 metres, width = 6.2 metres and height = 2.6 metres.

-Ground floor extension, depth = 3 metres, width = 6.2 metres, total height = 4.5 metres and eaves height = 3.5 metres.

-Side extension, length = 6.5 metres, width = 1.5 metres, total height = 8 metres and eaves height = 4.8 metres.

-Front porch, depth = 1.6 metres, width = 3 metres, total height = 3.2 metres and eaves height = 2.3 metres.

-Dormer, depth = 3.4 metres, width = 4.3 metres and height = 2.6 metres.

-Double garage, depth = 5.4 metres, width = 6.1 metres, total height = 3.3 metres and eaves height 2.1 metres.

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

One pre application enquiry associated with this application. There were no plans submitted at this stage therefore the Case Officer advised that the scheme was acceptable in principle subject to advised changes on some aspects of the original scheme.

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

No planning history at this address

### **5. Consultation Responses**

Nuclear Inspectorate - The proposed development does not present a significant external hazard to the safety of the nuclear site therefore, ONR does not advise against this development.

South West Water – standard consultation response on asset protection (see informative)

## **6. Representations**

12 Letters of objection were received under the original consultation, the material planning considerations raised were:

- not in-keeping with other properties
- overdevelopment
- concern that development is for apartments/flats/let to multiple tenants (HMO)
- impact on properties either side of site/overbearing
- loss of light
- loss of privacy
- no existing precedent
- privacy concern relating to Juliet balcony
- colour and shape of roofing materials should relate to the original dwelling
- could be a self-contained basement
- garage not in-keeping/could be converted to dwelling
- impact of kitchen balcony on privacy
- disruption during construction phase, noise, dust, vehicle obstruction, parking etc.

The non-planning considerations raised were:

- loss of view
- impact on property value
- adverse impact to fire safety
- foundation work could impact surrounding buildings
- strain on drainage network

The application was re-advertised for 14 days (note this will run until the 6th August 2019), 13 further letters of objection were received reiterating the above listed concerns.

## **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).

Following adoption of the Plymouth & South West Devon Joint Local Plan by all three of the component authorities, monitoring will be undertaken at a whole plan level. At the whole plan level, the combined authorities have a Housing Delivery Test percentage of 166%. This requires a 5% buffer to be 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 6.5 years at the point of adoption. This is set out in the Housing Position Statement conclusions in paragraphs 8.6 and 8.7. The three authorities have jointly notified the Ministry of Housing, Communities and Local Government of their choice to monitor at the whole plan level, and are currently awaiting a response from MHCLG regarding the Housing Delivery Test Measurement and its implications.

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

- Development Guidelines Supplementary Planning Document First Review (2013)

## **8. Analysis**

1. This application turns upon the adopted Joint Local Plan and its policies DEVI (Protecting health and amenity), DEV10 (Delivering high quality housing) 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. Design**

This householder application seeks permission for a number of alterations. The key considerations are: design, impact on street scene, impact on neighbour amenity. For the interests of clarity the analysis will be divided up into the different elements of the proposal.

### ***3. Lower ground and ground floor rear extension***

The officer has assessed this part of the scheme against paragraph 2.2.51 of the Development Guidelines SPD (for rear extensions) and consider it compliant with this paragraph. The rear extensions as a collective will be visible from Bridwell Lane North however in officers' view it will not detract from the street scene and property due to the sub-ordinate size of the extensions and the materials used (painted render and concrete tiles to match existing). The width and height of the ground floor extension exceeds permitted development levels by 0.8 and 0.5 metres respectively. The depth of the ground floor extension complies with permitted development.

4. The rear extension is proposed to accommodate a kitchen which can be accessed internally and via garden stairs which lead to a ground floor level balcony. The lower ground floor level is proposed to accommodate an ancillary bedroom, kitchen/dining room area and wet room accessible via an internal lift as well as via the garden. Several letters of representation raised concerns that the basement could be severed and operate as a separate dwelling. This would require a separate application of which the applicant has not applied for. The plans were revised to demonstrate ancillary use of this area and will be secured by a pre-occupation condition. The officer considers (subject to the compliance of this condition) that the scheme would therefore be in accordance with paragraph 4 of DEV 10:

“Residential annexes will be supported where they are within the same curtilage and ownership as the principal dwelling. Annexes should be clearly ancillary to the principal dwelling via a functional link, with no separate demarcation or boundary.”

5. Furthermore the annexe would, in turn be in accordance with paragraph 2.2.85-2.2.87 of the Development Guidelines SPD:

“Residential extensions such as ‘annexes’ can provide accommodation which enables families to care for elderly or disabled or other dependent relatives.

6. Problems can arise, however, where this type of development constitutes a self-contained unit either severed from the main house or which could, with little or no adaptation, potentially be severed from the main dwelling to form a separate unit. This can result in the creation of sub-standard accommodation with inadequate privacy, access provision, parking and amenity space. When considering whether an extension is capable of being occupied independently of the main house, the Council will have regard to its general arrangement, in particular the extent to which facilities such as bathrooms, kitchens and toilets are shared. In order to be acceptable, these types of extensions should be designed to form an integral part of the main dwelling with access to the accommodation via the main dwelling and not by means of an independent access.”

7. It is the officer's view that this part of the scheme is acceptable overall (subject to condition).

### 8. *Side extension*

The officer has assessed this part of the scheme against paragraphs 2.2.42-2.2.48 of the Development Guidelines SPD (for side extensions) and consider it, on balance to be compliant with these paragraphs. Under the original scheme the side extension was incorporated into hip-to-gable finish (which the latter by itself can be completed under permitted development). The officer considered that the combined alterations would be overbearing on the adjacent neighbour at no. 53 and would upset the balance of symmetry of the property itself. The officer negotiated for the hip-to-gable to be removed from the scheme (along with the cladding) with the hip roof being extended by 1.5 metres. The side extension is set back from the principal elevation by 1 metre and it is considered that this side extension will not lead to the unwanted effect of 'terracing'. The side extension width is sub-ordinate and there are no properties immediately adjacent to the east where terracing would then become an issue (note that no. 53 is angled further away in the property line). It is the officer's view that this part of the scheme is on balance acceptable.

### 9. *Front porch*

The officer has assessed this part of the scheme against paragraphs 2.2.40-2.2.41 of the Development Guidelines SPD (for front extensions) and considered the revised front porch design to be on balance acceptable. There is an existing precedent for large front porches along Churchway, the officer did note that the original depth exceeded those of other properties and therefore the depth was reduced from 2.1 metres to 1.6 metres. Due to the topography of the land the front porch would be set down from the main road therefore being less impactful on the street and the dwelling itself.

### 10. *Loft conversion and rear dormer*

The officer has assessed this part of the scheme against paragraphs 2.2.52-2.2.61 of the Development Guidelines SPD and consider it to be compliant with these paragraphs. It is important to note that both a loft conversion and rear dormer can be completed under permitted development. Notwithstanding this due to the removal of the hip-to-gable end the revised roof dormer and internal loft space was reduced in size (with the width of the dormer being reduced from 6.7 to 4.3 metres). The dormer features a Juliet balcony which itself falls under permitted development. The cladding materials for the dormer were removed and replaced with render to match the existing dwelling. It is case officers view that this part of the scheme is sub-ordinate to the main dwelling and therefore considered acceptable (notwithstanding permitted development).

### 11. *Double garage*

The officer has assessed this part of the scheme against paragraphs 2.2.68-2.2.69 of the Development Guidelines SPD (for garages) and consider the revised scheme to be acceptable. The original proposal was for a two storey double garage (accommodating a store room on the first floor level). On assessment of the scheme, the officer considered it to be contrary to paragraph 2.2.69 and was reduced to a single storey (with the total height being reduced from 4.8 to 3.3 metres). It is the officer's view that the pitched roof would raise the design quality of Bridwell Lane North and overall is now considered to be acceptable from a design perspective.

### 12. *Front Garden*

The officer considers the alterations here to be minor and therefore acceptable. The alterations comprise of the construction of a boundary wall to 1 metre in height (maximum permitted development level), a dividing boundary wall with a height of 2 metres which also falls under permitted development (not fronting the highway), a disabled access ramp and associated steps. These alterations are considered to be in-keeping with the main dwelling and would not detract from the street scene.

### **13. Rear garden**

The officer considers the alterations here to be minor and therefore acceptable. The alterations comprise of the construction of a dividing boundary wall, and ramps leading down to the proposed double garage. Due to the topography of the land, the officer noted that the proposed fence line was 2.9 metres in a number of locations. A revision was received reducing the maximum fence height down to 2 metres (maximum permitted development levels) flowing with the topography of the land.

### **14. Amenity**

The officer noted loss of light as a cause for concern in the letters of representation. The 45 degree sunlight rule as set out in paragraphs 2.2.35 to 2.2.39 of the Development Guidelines SPD has been considered in the design of the ground floor rear extension which angles away from the boundary line between no. 55 and 57 and is therefore considered compliant with this rule. The lower ground floor extension is sited lower than the nearest habitable room window in no. 57 and would therefore have no impact to sunlight here. Due to the orientation of the dwelling which is north facing the proposed revised side extension will not lead to a demonstrable loss of light for no. 53 particularly in the evenings where the sun will be blocked by existing dwellings along Churchway. It is the officer's view that the scheme will not lead to an overall adverse impact to sunlight levels for surrounding residents.

15. The officer noted loss of privacy as a cause for concern in the letters of representation. As mentioned in paragraph 6 the Juliet balcony falls under permitted development and coupled with the ground floor level balcony complies with both the 21 and 28 metre separation distance rule between habitable room windows as set out in paragraph 2.2.23 of the Development Guidelines SPD. Furthermore the ground floor level balcony is obscured by 1.8 metre privacy screens which would prevent overlooking in the habitable room windows of both no. 53 and no. 57, therefore it is the officer's view that these balconies are compliant with the guidelines on neighbour amenity. There are no proposed side windows on the north east facing elevation first floor level, therefore there are no overlooking concerns here. Overall the officer considers there to be no adverse impact to neighbour amenity in terms of overlooking resulting from these alterations.

## **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**

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. The Design and Access Statement submitted with the application states:

“The front area will be partially paved with steps and a wheelchair friendly ramp and some planting. The rear garden will be similar with hard and soft landscaping and a wheelchair friendly ramp to the lower ground floor.”

### **13. Conclusions and Reasons for Decision**

As outlined above the case officer has identified 3 areas of key consideration which are: design, impact on street scene and impact on neighbour amenity and following public consultation revisions have been sought to address the concerns raised to make the application policy compliant from a design and amenity perspective.

Therefore and having taken account of the NPPF and S38(6) of the Planning and Compulsory Purchase Act 2004 case officers have concluded that on balance, and as detailed in the analysis section of the report, that the proposed alterations accords with policy and national guidance and is therefore recommended for conditional approval.

### **14. Recommendation**

In respect of the application dated 08.05.2019 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****

Existing Drawing for Planning Presentation - Sheet 1 of 3 18078-SD13 - Received 05/08/19  
Proposed Drawing for Planning Presentation - Sheet 2 of 3 18078-SD14 - Received 05/08/19  
Proposed Drawing for Planning Presentation - Sheet 3 of 3 18078-SD15 - Received 05/08/19

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: RESIDENTIAL ANNEXE****

##### **PRE-OCCUPATION**

The lower ground floor annexe hereby permitted shall not be occupied until evidence has been submitted to the Local Planning Authority that the internal lift has been installed, following which, the



annexe shall not be occupied or used at any time other than for purposes ancillary to the residential use of the dwelling known as 55 Church Way, PL51AH.

Reason:

Due to the close relationship between the proposed annexe and the existing dwelling and shared access and amenity areas, the accommodation is considered unsuitable for independent occupation in accordance with Policies DEVI, DEV10 and DEV20 of the Plymouth and South West Devon Joint Local Plan 2014-2034 (2019) and the National Planning Policy Framework 2019.

#### **4      **CONDITION: DRIVEWAY****

##### **PRE-OCCUPATION**

The driveway area shown on the approved plans shall be constructed, drained and surfaced before the garage is brought into first use in accordance with the approved plans and thereafter that space shall not be used for any purpose other than providing clear access to the garage for the parking of vehicles.

Reason:

To enable vehicles used by occupiers or visitors to be parked off the public highway so as to avoid damage to amenity and interference with the free flow of traffic on the highway in accordance with Policies DEVI, DEV20 and DEV29 of the Plymouth and South West Devon Joint Local Plan 2014-2034 (2019) and Section 12 of the National Planning Policy Framework 2019.

#### **5      **CONDITION: MATCHING MATERIALS****

The materials to be used in the construction of the external surfaces of the extension hereby permitted shall match those used in the existing building.

Walls - painted render

Roof - concrete tiles

Reason:

To ensure that the materials used are in keeping with the appearance of the existing building and the character of the area in accordance with Policies DEVI and DEV20 of the Plymouth and South West Devon Joint Local Plan 2014-2034 (2019) and Section 12 of the National Planning Policy Framework 2019.

#### **6      **CONDITION: RESTRICTIONS ON PERMITTED DEVELOPMENT****

Notwithstanding the provisions of Article 3 and Classes A, B and C of Part 1 to Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no enlargements, improvements or other alterations, including to the roof, shall be constructed to the dwelling[s] hereby approved.

Reason:

In order to protect the design of the property and the character of the surrounding properties from any further development that could prejudice amenity in accordance with Policies DEVI and DEV20 of the Plymouth and South West Devon Joint Local Plan 2014-2034 (2019) and Section 12 of 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 WITH 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 including pre-application discussions and has negotiated amendments to the application to enable the grant of planning permission.

### **3 INFORMATIVE: 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>

### **4 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.