

Date of Meeting	09 th June 2016
Application Number	16/02778/FUL
Site Address	22 Cholderton, Salisbury, SP4 0DL
Proposal	Single storey rear extension
Applicant	Mr & Mrs A Minting
Town/Parish Council	Cholderton
Ward	Bulford Allington and Figheldean
Grid Ref	422619 142223
Type of application	Full Planning
Case Officer	Matthew Legge

Reason for the application being considered by Committee:

This is a private application made by a planning officer and objections have been received raising material planning considerations (Scheme of Delegation Specific to Planning, paragraph 1.2, (a)).

Additionally the application has been 'called-in' to the Area Planning Committee by the Local Division Member, Cllr John Smale for the following reason:

Scale of development, relationship to neighbours and design, scale and height

Additional Note: This application follows an earlier application for an identical development which was refused planning permission on 19 March 2015 and dismissed at appeal on 15 October 2015. Section 70A of the Town and Country Planning Act allows local planning authority's to 'decline to determine' a planning application where an identical application has been refused or dismissed within the preceding two years. The 'test' for declining is – 'no significant change in the relevant considerations'. Relevant considerations include 'any other material considerations'. In this case there has been a significant change to a material consideration – namely additional information in a Sun Study and British Research Establishment (BRE) compliance comments presented with the application. It is in view of these changes that the local planning authority is not entitled to decline to determine the application under Section 70A.

Purpose of Report

To consider the above application and the recommendation of the Area Development Manager (South) that planning permission be **Granted** subject to conditions.

1. Report Summary

The proposed single storey rear kitchen extension and link would not result in any demonstrable harm to the character or setting of the existing house which is a grade II listed building, nor would it have a harmful impact on the appearance of the wider Cholderton Conservation Area.

The application is accompanied by a Sun Study and BRE compliance statement which demonstrates that the proposed extension would not cause loss of light to the neighbouring property. The Sun Study has been independently scrutinised by another expert in this field and found to be sound.

2. Site Description

The application site supports a Grade II Listed end of terrace dwelling and is within the Cholderton Conservation Area. In terms of the Wiltshire Core Strategy 'Settlement Strategy' the site lies within the countryside.

The pair of dwellings have a cottage character and appearance. There is an existing small extension to the rear of the application house, and around this a small courtyard garden with an outhouse beyond. The common boundary with the attached neighbour is defined by a 1.8m high panel fence with a 1.8m trimmed hedge (on the side of Staddlestone Cottage) and 3m high established trimmed leylandii hedge. This boundary angles slightly away to the rear of the house.

3. Planning History

14/11591/FUL & 14/11599/LBC: Single storey rear extension. Refused and the appeal against 14/11591/FUL dismissed.

S/2008/1451/LBC: Internal alterations, addition of first floor window to rear (east) elevation, repairs to garden shed. Approved.

S/2007/1262: Residential extension and alterations. Withdrawn

S/2007/1724/LBC: Proposed internal alterations & extension to form 3 bedroom house with detached single garage. Approved.

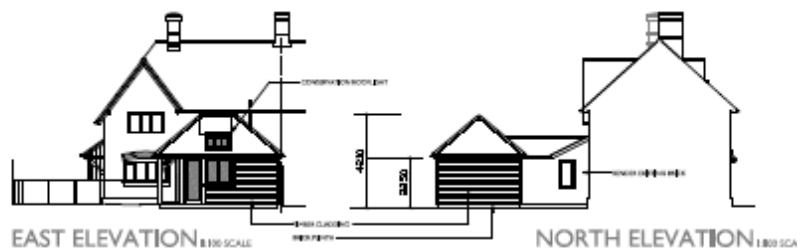
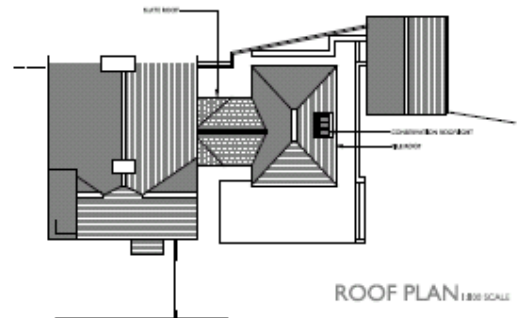
S/2007/1723/FUL: Proposed extension and single garage. Approved.

4. The Proposal

This application is a resubmission of refused application 14/11591/FUL. The application differs in that it is accompanied by an updated Planning Statement which incorporates a Sun Study. The purpose of the Sun Study is to demonstrate that the proposal will not have a harmful impact on the neighbouring property through loss of light.

The proposal is for a single storey rear extension, to largely replace the existing small addition. It would be effectively 'T'-shaped with a narrow link (formed from part

of the existing addition) leading to a wider kitchen/dining room element beyond. Both elements would be finished with pitched roofs, the link being approximately 3.2m high at the ridgeline and the kitchen/dining room 4.2m high at the ridgeline. Overall rear projection would be 6.865m. The courtyard would be remodelled to create a patio; the outhouse would not be affected. At its closest point the extension would be 0.85m from the common boundary with the attached neighbour.



5. Planning Policy

Adopted policies: C6 as saved within Appendix D of the adopted Wiltshire Core Strategy.

Wiltshire Core Strategy: CP1 (Settlement Boundary), CP2 (Delivery Strategy), CP51 (Landscape), CP57 (Design), CP58 (Conservation)

National Planning Policy Framework (NPPF)

Planning Practice Guidance (PPG)

6. Summary of consultation responses

Parish Meeting – None received

WC Conservation – No objection

7. Publicity

Four letters raising objections (2 households and CPRE):

- “..It is clear that the proposed development will have (as it did when it was rejected by the Planning Inspector) a negative impact on the adjacent buildings...”
- “...The appellants have included an architects report showing the shadow impact of the proposed building on my house and in particular the kitchen window at breakfast time when the sun shines in. The drawing clearly shows that at breakfast time during the winter months, from September 21st through to March 21st, when light is at a premium, the new building will block out the morning sun. However, what the drawing fails to show is the loss of ambient light and the impact that this will have on my property....”
- “....although the Planning Inspector gave the loss of light as the principle reason for rejecting the appeal, she also stated that “Given the findings I have made it is not necessary for me to go on to consider other matters raised in third party correspondence.” It is clear that the proposed development will have a negative impact on the adjacent property that is just unacceptable....”.

8. Planning Considerations

The main issues to consider are:

- Impact on character of listed building and character of the Conservation Area
- Neighbour amenity
- Previous application and appeal decisions

9. Assessment

Previous application and appeal

Application 14/11591/FUL was refused by the Southern Area Planning Committee and later the application was dismissed at appeal (the Appeal dismissal is contained in **Appendix A**)

The Planning Committee refusal reasons were twofold:

- 1 The proposed extension by reason of it's size and height in relation to the attached and adjoining listed buildings would constitute an overly large and tall addition to the rear of the property detracting from the special characteristics of the listed building contrary to core policy 57 and 58 of the Wiltshire Core strategy.
- 2 The proposed single storey extension by reason of it's height and proximity to the boundary with No 23/24 Cholderton (Staddlestone Cottage) would have an adverse impact on the amenities of No 23/24 Cholderton in particular overshadowing and loss of light contrary to core policy 57 (vii) of the Wiltshire Core strategy.

The Inspector's conclusions in relation to the appeal are considered below. This resubmitted application does not change the design or siting of the proposed rear extension but it does have an updated Planning Statement which includes an assessment of the proposal's compliance with the BRE guidelines and a Sun Study undertaken using Archicad 19 Sun Study software.

In considering the Sun Study and BRE compliance statement officers commissioned an independent assessment by Herrington Consultation Limited (HCL) (contained in **Appendix B**), who are well-experienced in undertaking daylight and sunlight assessments and in analysing assessments produced by others.

HCL have provided the following best practice guidance on assessing light:

In the absence of official national planning guidance / legislation on daylight and sunlight, the most recognised guidance document is published by the Building Research Establishment and entitled 'Site Layout Planning for Daylight and Sunlight – A Guide to Good Practice', Second Edition, 2011; herein referred to as the 'BRE Guidelines'.

The BRE Guidelines are not mandatory and themselves state that they should not be used as an instrument of planning policy, however in practice they are heavily relied upon as they provide a good guide to approach, methodology and evaluation of daylight and sunlight impacts.

In conjunction with the BRE Guidelines further guidance is given within the British Standard (BS) 8206-2:2008: 'Lighting for buildings - Part 2: Code of practice for daylighting'.

In this assessment the BRE Guidelines have been used to establish the extent to which the Proposed Development meets current best practice guidelines. In cases where the Development is likely to reduce light to key windows the study has compared results against the BRE criteria.

Whilst the BRE Guidelines provide numerical guidance for daylight, sunlight and overshadowing, these criteria should not be seen as absolute targets since, as the document states, the intention of the guide is to help rather than constrain the designer. The Guide is not an instrument of planning policy, therefore whilst the methods given are technically robust, it is acknowledged that some level of flexibility should be applied where appropriate.

Further comments from the HCL report will be discussed in the below sections:

Impact on listed building and the Conservation Area

Refusal reason No.1 for application 14/11591/FUL was as follows:

- 1 The proposed extension by reason of it's size and height in relation to the attached and adjoining listed buildings would constitute an overly large and tall addition to the rear of the property detracting from the special characteristics of the listed building contrary to core policy 57 and 58 of the Wiltshire Core strategy.

In considering the application the WC Conservation Officer has provided much comment, concluding as follows:

"In summary, the proposals will cause less than substantial harm to the significance of the property itself and have a neutral impact on its surroundings. Overall, the proposals should lead to an improvement in the accommodation and a positive benefit from the replacement of the existing poor quality and unattractive 1970s

garden room with a new structure in more appropriate traditional materials and form. The heritage assets will therefore be preserved as required by local and national policy and legislation and, on this basis, a positive outcome is recommended, subject to the usual controls over the detail of materials, joinery etc.”

The Planning Inspector did not support refusal reason 1. The following comment from the Planning Inspector confirms:

8. In relation to this first issue I therefore conclude that the special architectural interest and setting of the listed buildings would be preserved as would the significance and character and appearance of the Cholderton Conservation Area. There would be no conflict with core policy 57 with the exception of (vii) or with core policy 58 of the Wiltshire Core Strategy (adopted 2015) 'CS'.

Given that refusal reason 1 was not upheld at appeal, officers consider that it would be unreasonable to refuse the current application for this reason, or a similar conservation related reason, now.

Impact on neighbour amenity - windows

Refusal reason No.2 for application 14/11591/FUL was as follows:

- 2 The proposed single storey extension by reason of it's height and proximity to the boundary with No 23/24 Cholderton (Staddlestone Cottage) would have an adverse impact on the amenities of No 23/24 Cholderton in particular overshadowing and loss of light contrary to core policy 57 (vii) of the Wiltshire Core strategy.

As stated already, this application does not propose any changes to the scheme which was previously refused by the Committee and later dismissed at appeal. Further justification has nevertheless been submitted with the following statement setting the scene:

Whilst rights to light are covered under separate legislation, the Building Research Establishment document 'Site Layout Planning for Daylight and Sunlight: a guide to good practice' (2011) provides a test which determines whether or not, for extensions perpendicular to a window, further detailed daylight and sunlight tests are required. Providing that one of the 45 degree planes (i.e. elevation or plan) is unobstructed, daylight and sunlight levels are unlikely to be adversely affected because light will continue to be received either over the roof or beyond the end of the extension.

To apply this principle the application includes the Sun Study which models both the existing (or 'before') rear daylight/shadow situation and the 'after' daylight/shadow situation resulting from the creation of the proposed extension. The applicant states that the BRE guidelines on light levels in the above mentioned BRE 2011 document are met by this application, and the evidence in the Sun Study in the form of shadow diagrams confirms this – specifically, that the extension will not result in unacceptable loss of light and so will not have an adverse impact on residential amenity.

The independent HCL report gives further reassurance by scrutinising the applicant's submissions. It states:

Daylight Impacts

There is a hierarchy of assessment methodologies used in quantifying the impact of development on neighbouring buildings set out within the BRE Guidelines. In this situation the applicant has used the '45 degree approach' as described in Paragraph 2.2.15 of the BRE Guidelines.

The rule that is applied in this instance is that if the centre of a main window of the next door property lies on the extension side of both of these 45 degree lines, i.e. the one drawn in plan and the one drawn in elevation, then the extension may well cause a significant reduction in the skylight received by the window. Reference to the figure provided by the applicant shows that the 45 degree test in elevation is passed and therefore it can be concluded that the development is unlikely to result in a significant or noticeable reduction in the daylight received by this window.

Sunlight Impacts

In the case of sunlight, the BRE Guidelines set out a hierarchy of tests to determine whether the proposed development will have a significant impact. These are set out in order of complexity below:

Test 1 – Assess whether the windows to main living rooms and conservatories of the buildings surrounding the site are situated within 90° of due south. Obstruction to sunlight may become an issue if some part of the new development is situated within 90° of due south of a main window wall of an existing building.

Test 2 - Draw a section perpendicular from the centre of the window in any window walls identified by Test 1. If the angle subtended between the horizontal line drawn from the centre of the lowest window of the existing building and the proposed development is less than 25°, then the proposed development is unlikely to have a substantial effect on the direct sunlight enjoyed by the existing window.

Test 3 – If the window wall faces within 20° of due south and the reference point has a VSC of 27% or more, then the room is considered to receive sufficient sunlight.

Test 4 – If all of the above tests have been failed, then a more detailed analysis is required to determine the obstruction level to the existing building. In such cases, the BRE Guidance recommends the use of the Annual Probable Sunlight Hours (APSH) test to assess the impact on the availability of sunlight. To pass this test the centre point of the window will need to receive more than one quarter of APSH, including at least 5% APSH in the winter months between 21st September and the 21st March. The BRE Guidelines state that if 'post-development' the available sunlight hours are both less than the amount above and less than 0.8 times their 'pre-development' value, either over the whole year or just within the winter months, then the occupants of the existing building will notice the loss of sunlight. In addition, if the overall annual loss is greater than 4% of APSH, the room may appear colder and less pleasant.

The applicant has tried to demonstrate a negligible impact on the amount of direct sunlight received by the windows of the neighbouring building (Saddlestone Cottage) using 3D shadow simulations, however, this assessment methodology does not comply directly with any of the above tests. In this situation, a more simplistic approach could be taken in the application of Test 1. From the plan drawings it is evident that the rear elevation of Saddlestone Cottage faces within 90 degrees of due north and therefore based on the criteria of Test 1 it can be concluded that impacts will be negligible.

The BRE Guidelines do suggest that for main living rooms that have an additional window that faces within 90 degrees of due south, then the impact on the secondary window should be assessed. In this situation the window serves a kitchen, which is not deemed to be a main living room.

Notwithstanding this, when the overshadowing model outputs are reviewed, it can be seen that the obstruction caused by the proposed development only casts shadow on the neighbouring kitchen window for a brief period during the early morning. Assuming that the kitchen does have a window on the front elevation of the building, then if Test 4 were to be applied and the Annual Probable Sunlight Hours for the room are totalled, then it is our professional opinion that the assessment criteria for Test 4 would be met. Consequently, we would conclude that the impact of the development on the direct sunlight enjoyed by this room would be negligible.

As is evident, the independent assessment does not raise overriding concerns in relation to the outcomes of the applicant's Sun Study, and it further raises no overriding concerns in relation to the Committee's earlier objection based on loss of daylight or direct sunlight as a result of the proposed rear extension.

Officers also note that in considering the Appeal application the Planning Inspectorate provided the following comments:

about 2m. Staddlestone Cottage has a rear ground floor window close to the common boundary. I had access to the Cottage and its garden on my site visit. At its nearest point the proposal would be only about 0.8m away from the common boundary. At no.22, the proposed new link roof ridge would extend from just underneath the first floor window out to the proposed kitchen. The roof ridge of the rectangular structure would be about 4.2m high. Given that the proposal would be to the south of Staddlestone Cottage, I conclude that there would be an unacceptable loss of light to some of the windows and part of the garden to Staddlestone Cottage. The evidence before me does not convince me that the Building Research Establishment guidelines found in *Site Layout Planning for Daylight and Sunlight: a Guide to Good Practice (2011)* are met but even if they were my concerns in relation to part of the adjacent garden being unduly overshadowed would not be overcome. I am also mindful of the importance of seeking to maintain natural light levels (and any sunlight) to the often limited fenestration of listed cottages.

The Inspector's comments are material considerations which need to be considered as part of this assessment. Without any physical alteration to the proposed scheme

the Committee is left to determine if the additional information now submitted would have led the Inspector to a different conclusion.

The Inspector expressly mentioned the BRE guidelines on Layout Planning for Daylight and Sunlight stating that "... The evidence before me does not convince me that the Building Research Establishment guidelines are met ...". However, the HCL report now confirms that the proposed development is in accordance with the BRE guidelines. Given the independent professional opinion that the application complies with the BRE guidelines, Officers have no reason to offer an alternative opinion on this. Officers consider that the Planning Inspector effectively accepted that if the BRE guidelines were met then the concern in relation to impact on windows would be addressed.

This then leaves the impact on light and sun in the garden, which is discussed below.

Impact on garden

As set out in the quote above, the Inspector also expressed concerns over the impact of the proposed extension on light and sunshine levels in the garden of the neighbouring property.

The submitted Sun Study aims to address this, and the HCL report responds to this as follows:

Overshadowing Impacts to Amenity Areas

The BRE Guidelines recommend that for a garden or amenity area to appear adequately sunlit throughout the year, at least 50% of an amenity area should receive at least 2 hours of sunlight on 21st March. The BRE Guidelines also suggest that if, as a result of a new development, an existing garden or amenity area does not meet these guidelines, and the area which can receive some sun on the 21st March is less than 0.8 times its former value, then the loss of sunlight is likely to be noticeable.

The applicant has provided shadow plots for both the equinox and solstice dates, however in adopting the standard assessment techniques, only the equinox date is used. Inspection of the shadow plots produced for the 21st March show that between 10am and 12pm well over 50% of the rear garden of Saddlestone Cottage receives direct sun on the ground. Whilst a detailed review of the overshadowing analysis has not been undertaken as part of this assessment, from the images that have been produced, it is evident that at least 50% of the garden will receive at least 2 hours of sunlight on 21st March. Consequently, when applying these results to the assessment criteria set out within the BRE Guidelines it can be concluded that any loss of direct sunlight that may occur as a result of the proposed rear extension is unlikely to be noticeable.

The independent assessment of the Applicant's additional Sun Study provides a professional opinion that the proposed development will be unlikely to result in any noticeable loss of direct sunlight to the rear garden/amenity area of Staddlestone Cottage. The neighbours' concerns about light and the comments from the Planning Inspectorate about the rear amenity area remain material, but both are considered to be outweighed by the Sun Study and its independent review, and the conclusions that there would not be unacceptable loss of light.

Given the additional information now submitted it is considered that refusal reason 2 and the Planning Inspector's comments/reasoning are addressed, and that the harm to the outdoor amenity area at the neighbouring house no longer amounts to a sustainable reason for refusing planning permission.

10. Conclusion

The proposed single storey rear kitchen extension and link is not judged to result in any demonstrable harm to the character or setting of the listed building or the setting of the neighbouring listed buildings and so refusal reason 1 is considered to be overcome.

The HCL report concludes on the matter of impact on amenity:

Conclusions

In summary, it is our professional opinion that the applicant has provided sufficient evidence to demonstrate that the proposed rear extension to No. 22 Grateley Road will not have an adverse impact on the daylight received by the windows of its neighbour (Saddlestone Cottage). The applicant has also undertaken an assessment of the impact on the direct sunlight received by the windows and garden of this property. Our review and interpretation of this analysis has allowed us to conclude that again, the proposed rear extension will not adversely impact this amenity.

The proposed development and further submitted evidence is considered to provide material justification which provides enough mitigation to overcome the comments of concerns as expressed in the Planning Inspector Appeal Decision, to a degree where refusal reason 2 of application 14/11591/FUL could not be reasonably maintained.

Recommendation

Approve subject to conditions

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

REASON: To comply with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

2. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting or amending that Order with or without modification), no windows, door or other form of openings other than those shown on the approved plans, shall be inserted in the northern elevation (including roof) of the development hereby permitted.

REASON: In the interests of residential amenity and privacy

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

DRG No. 813-20-01A (Nov 2014)	24/03/2016
DRG No. 813-20-03A (Nov 2014)	24/03/2016
DRG No. 813-20-04A (Nov 2014)	24/03/2016

REASON: For the avoidance of doubt and in the interests of proper planning.

Appendix A – Appeal Decision

Appendix B – Independent Assessment by Herrington Consultation Limited