

REPORT OUTLINE FOR AREA PLANNING COMMITTEES**Report No.**

Date of Meeting	12 July 2017
Application Number	17/04080/FUL
Site Address	Land East of 19 Crown Close Chippenham SN15 3UQ
Proposal	Proposed new dwelling with associated access and landscaping
Applicant	Mr Geoff Broom
Town/Parish Council	CHIPPENHAM
Electoral Division	CHIPPENHAM HARDENS AND ENGLAND – Councillor Cape
Grid Ref	393216 172237
Type of application	Full Planning
Case Officer	Eleanor Slack

Reason for the application being considered by Committee

The application was called into Committee by Councillor Cape to consider its visual impact on the surrounding area, its relationship with adjoining properties and its impact on car parking and highways.

1. Purpose of Report

The purpose of the report is to assess the merits of the proposal against the policies of the development plan and other material considerations and to consider the recommendation that the application be approved.

2. Report Summary

The key issues in considering the application are as follows:

- Principle of the development.
- Impact on character and appearance of the area.
- Impact on highways
- Impact on trees
- Impact on drainage

As a result of the consultation exercise, 5 letters of objection were received. The Town Council also objected to the application. The Arboricultural Officer, the Drainage Engineer and the Highways Officer raised no objection to the application subject to conditions.

3. Site Description

The application concerns land east of 19 Crown Close, Chippenham. The site is located within the defined and established residential area of Chippenham. It is located in an area which is identified as being susceptible to ground water flooding, but is not subject to any other constraints. At present and following determination of a recent certificate of lawfulness application (17/01373/CLE), the site forms a part of the residential curtilage of 19 Crown Close. The host dwelling is a bungalow and the site is currently enclosed by a low picket fence. The site is bounded by the highway to the south, with the host dwelling to the west in addition to a car park and residential gardens to the north. There are also residential dwellings immediately to the north east and the south east, with a footpath also running in this direction.

The built form surrounding the application site is diverse in form, design and appearance; comprising of a variety of detached, semi-detached and terraced dwellings. There is a varied material palette in the area, there is no uniform plot size or building line and the built form is dense with few sections of open space.

4. Planning History

N/03/01309/FUL Conservatory - approved

17/01373/CLE Certificate of lawfulness for use of land as private residential garden - approved

5. The Proposal

The application seeks permission for the construction of a new dwelling with associated access and landscaping. The dwelling would be a bungalow and would comprise two bathrooms, a kitchen, lounge and garage. It would be constructed of brick and would sit under a tile roof to match the existing dwelling, number 19 Crown Close.

6. Local Planning Policy

NPPF: Core Planning Principles and Sections 4,7 & 8, paragraphs 7, 14 and 17

Wiltshire Core Strategy:

CP1 The Settlement Strategy

CP2 The Delivery Strategy

CP10 Chippenham Community Area

CP57 Ensuring High Quality Design and Place Shaping

CP60 Sustainable Transport

CP61 Transport and Development

CP64 Demand Management

Wiltshire Local Transport Plan (3) Car Parking Strategy

7. Summary of consultation responses

Drainage Engineer – no objection subject to conditions

Arboricultural Officer – no objection subject to conditions

Highways – no objection subject to conditions

Chippenham Town Council - Recommend refusal. With respect to a previous planning application for this site (17/01373/CLE) the Town Council had “no objection subject to the land remaining as open space and not subject to future development and the current low level enclosure (fencing) being retained”. It is contrary to Core Policies 52 and 57. It is detrimental to the visual impact on the amenity and character of the area and will result in the loss of open space and on street car parking. The Town Council would also point out that it has been informed by residents that planning notices on nearby lamp posts refer to a previous planning application and not the current application.

Five letters of objection were received during the public consultation. The main points raised were as follows:

Highways safety

- There are existing issues with parking in this area and the proposal would exacerbate these issues and would increase the risk of accidents.
- The proposal and the creation of the driveway would remove space which is currently used for on-street parking.
- Concern that the garage will not be used for parking
- It is unclear how access to Hancock Close could be guaranteed during construction. The ability of emergency services to access the area is of particular concern. Concern was also raised regarding the disruption caused by contractors' vehicles during construction.
- The proposed driveway would cross the pavement which is at the end of a footpath which is heavily used, particularly by school children accessing Abbeyfield School.
- The refuse truck has difficulty accessing this location.

Impact on the character and appearance of the area

- Building a property on this open space would harm the open character of the area
- Section 7 paragraphs 56 and 58 of the NPPF were highlighted. Concern was raised that the proposal would not satisfy these paragraphs and would not contribute positively to making places better for people; not function well or add to the overall quality of the area.

- The proposal would not respond to local character and history.
- It was highlighted that a proposal to erect a short section of fencing was rejected on the basis that it would damage the open nature of the area. It was felt that building a house on open land would damage the open nature much more drastically than any fence.

Impact on neighbour amenity

- The proposal would obstruct the view of those houses currently situated opposite the application site. The living room window of number 21 would be affected; through the loss of a view and light due to the close proximity of the proposal.
- Questions were raised whether there would be a guarantee that should the proposal be approved, a six foot high fence or hedge would not be allowed around the garden which would have a further impact on the surrounding properties.

Publicity of the application

- Concern was raised regarding the publicity of the application. One objector who lives adjacent to the site stated that they had not been formally notified of the application.
- Concern was also raised about the location of the site notice.

Other matters

- It was felt that the land to which the application relates was “common land” cared for by the occupants in number 19. One objector stated that this continued to be their belief when Application 17/01373 (to use land as a private residential garden) was submitted. If they had known of the real purpose of the application, we would have objected then.
- Questioned if the land was considered not suitable to build on originally, why should it be considered suitable now.
- In the early hours of the morning hedgehogs can occasionally be spotted entering or leaving the present garden area attached to no.19 Crown Close.

8. Publicity

Concern was raised regarding the publicity of the application. One objector who lives adjacent to the site stated that they had not been formally notified of the application and concern was also raised about the location of the site notice. The Town Council also stated that they had been informed by residents that planning notices on nearby lamp posts refer to a previous planning application and not the current application.

Letters were sent to all of the adjoining neighbours to inform them of the application. However, as these are sent by post, the Council cannot guarantee their delivery. A site notice was also attached to a lamppost in close proximity to the site.

9. Planning Considerations

Section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004 require that the determination of planning applications must be made in accordance with the Development Plan, unless material considerations indicate otherwise.

Principle of development

The site is located within the framework boundary for Chippenham which is defined within the settlement strategy (Core Policy 1) as a Principle Settlement. In accordance with Core Policy 1 and the Chippenham Community Area Spatial Strategy (Core Policy 10), residential development in this location is acceptable in principle, provided it meets the requirements of other policies within the Wiltshire Core Strategy.

The Town Council highlighted that they had raised no objection to a previous application (17/01373/CLE) subject to the land remaining as open space and not being subject to future development. This was echoed in the public consultation responses which suggested that had it been known that this application would subsequently be submitted, objections would have been raised. The previous application was not an application for full planning permission; it was an application for a Certificate of Lawfulness Existing Use or Development (Certificate of Lawfulness). This is an application process provided for under national legislation that allows applicants to establish the lawfulness of a development that has already taken place. The assessment of such applications turns on the evidence available to demonstrate that the use or development has been in place/taken place for the requisite period defined under the planning acts – it is not an assessment of the impact of a development proposals as would normally have taken place in the context of a full planning application. In this instance the use of the land as garden was found to be lawful by the previous application and it is not possible to revisit the issues raised by that application as part of this application. The principle of the proposal is therefore acceptable.

Impact on character and appearance of the area

During the public consultation a number of concerns were raised regarding the impact of the proposal on the open character of the area. One letter highlighted that a proposal for the erection of a short section of fencing was refused on the basis that it would damage the open character of the area and it was considered that the proposal would harm the open nature of the area more drastically than a fence. One letter highlighted section 7, paragraphs 56 and 58 of the NPPF and questioned whether the proposal would contribute positively to making places better for people or add to the overall quality of the area. These concerns were echoed by Chippenham Town Council who felt that the proposal was contrary to CP 52 and 57 of the Wiltshire Core Strategy, being detrimental to the amenity and character of the area and resulting in a loss of open space.

The built form surrounding the application site is not uniform in design or appearance and it has a varied material palette. The area is characterised by its diversity, and there is no uniform plot size or building line in this location. Whilst the host dwelling is a bungalow, the surrounding properties tend to be two storeys which are varied in form comprising detached, semi-detached and terraced dwellings. This area is densely populated with few sections of

open space. The private amenity space associated with dwellings in this area tends to be located to the rear and varies in form and size.

The proposed construction of a dwelling in this location is considered to be acceptable within this wider context. Although the proposal would result in the removal of a section of land which at present is open garden, the area is not characterised by its openness, and the removal of this land is considered to be acceptable. Given that the land concerned is lawfully a residential garden, CP 52 is not applicable. The proposed dwelling would be relatively modest in mass and scale. Its design would be similar to the host dwelling and is considered to be acceptable. The resultant layout of the site is considered to be consistent with the surrounding development in terms of density and form. As such, it is considered that the proposal complies with section 7 of the NPPF.

Although it was highlighted during the public consultation that previous proposals had been refused in this area on the basis that they harmed the open character of the area, each application must be assessed on its own merits and it does not follow that this application should be refused. A condition will be placed on permission given removing permitted development rights in respect of fences, extensions and outbuildings, to ensure that views through the site are maintained.

Impact on residential amenity

Concern was raised during the public consultation regarding the impact of the proposal on the amenity enjoyed by neighbouring properties. It was felt that the proposal would obstruct the view enjoyed by the surrounding dwellings. One letter stated that the construction of the proposal would darken the living room of number 21 as the side elevation of the proposed dwelling would be located in close proximity.

Loss of a view is not a material planning consideration and cannot be taken into account in the determination of the application.

It is considered that the proposal would not cause any significant harm to the amenity enjoyed by the neighbouring properties in terms of loss of light, privacy or overbearing impact. At its closest point, the proposed dwelling would be located approximately 7 metres away from the dwellings to the rear of the application site, and apart from number 19 Crown Close, 10 metres to the closest dwelling in Crown/Hanock Close. The proposed dwelling would be relatively modest in mass and scale, measuring approximately 4.5 metres in height to ridge. Given its size and distance from the surrounding properties, it is considered that no significant overshadowing or overbearing impact would arise. Whilst windows would be inserted into the front, side and rear elevations, these would be of a low level and would therefore not give rise to any significant loss of privacy. The window on the side (west) elevation which is likely to cause the most overlooking serves a non-habitable room and a condition is suggested to ensure that this window remains obscure glazed in perpetuity. Moreover, given the positioning of the dwelling and proposed fenestration in relation to the layout and positioning of neighbouring properties, it is considered that no overlooking would occur.

As existing, the site is enclosed by a low picket fence and it is proposed to retain the majority of this fence. The plans also indicate that a two metre high brick wall is proposed to the rear, which within the context of the existing boundary walls on the site is considered to be acceptable. As outlined above, a condition would be placed on permission given removing the property's permitted development rights in respect of fences, outbuildings and extensions. This would ensure that no fence, extension or outbuilding could be constructed on site without permission from the local planning authority; which would further protect the amenity of surrounding properties. This condition is considered to be reasonable and necessary in accordance with the six tests contained within planning policy guidance.

Highways

A number of objections were received regarding the impact of the proposal on highways safety. The existing parking and access issues in the area were highlighted and it was felt that the proposal would exacerbate these problems. It was felt that the creation of a driveway in this location would reduce space for on-street parking whilst also creating additional demand for parking. It was highlighted that the nearby footpath is heavily used, particularly by school children accessing Abbeyfield School. This was also reiterated by Chippenham Town Council who raised concern regarding the loss of on street car parking.

The Highways Officer raised no objection to the application subject to conditions. They were satisfied that the proposal complied with the current Wiltshire Parking Standards for a two bedroom dwelling. They noted that an appropriate vehicle to pedestrian inter-visibility splay had been demonstrated on the submitted plan and its retention could be ensured by condition. With regard to highways safety, they noted that there had been no reported accidents during the last 5 years in the area and due to the nature of the road, vehicular speeds in this location are likely to be low. Moreover, they stated that the removal of on-street parking spaces is not considered to have a detrimental impact upon highway safety. A condition is suggested to ensure that the garage cannot be converted into habitable accommodation, thereby retaining the parking provision on the site and this condition is considered to be reasonable and necessary in accordance with the six tests contained within planning policy guidance.

Given the limited scale of development proposed and the form and layout of development in this locality; it is considered that the construction of the dwelling would not give rise to significant disruption in terms of access such that controls are required in this respect. The construction industry has produced best practice guidance for neighbourly development and an informative is proposed referencing construction in accordance with this guidance.

Drainage

The Drainage Engineer raised no objection to the application subject to conditions. They noted that the site is located in flood zone one and it is not in an area that is at risk from surface water flooding for the 1 in 30 or 300 events.

The Drainage Engineer noted that the application form indicates that the foul drainage will be disposed of via the main sewer. They advised that this would need a separate application to the sewerage undertaker, but they noted that they were not aware of any issues within the

undertaker's system in the area and therefore it is likely that such an application would be problematic. Although this matter is dealt with by separate legislation, and would not prevent the grant of planning permission, the Applicant is reminded of their duty in this regard by way of an informative.

Although the application states that storm water will be disposed of through a sustainable drainage system, the Drainage Engineer noted that no further information regarding the proposed system had been provided. As such, they recommended that a condition be placed on any permission given requiring a scheme for the discharge of surface water be supplied to the Local Planning Authority prior to the commencement of development. Given the nature of the proposal and its location in a densely populated area, this condition is considered to be reasonable and necessary in accordance with the six tests contained within planning policy guidance.

Trees

As there is a large tree in close proximity to the site, the Arboricultural Officer was consulted as part of this application. They recommended that in order to protect trees on adjacent land during the construction of the proposed dwelling, the method of construction should be detailed in an Arboricultural Method Statement. They requested that a condition be placed on any permission given requiring this information prior to the commencement of development. Given that nature of the tree concerned and its proximity to the development site this condition is considered to be reasonable and necessary in accordance with the six tests contained in planning policy guidance.

Low Carbon Economy:

Policy CP41 requires all new dwellings to be built to Code Level 4 for sustainable homes. Therefore this shall be added as a condition. It is acknowledged that the Code for Sustainable Homes is no longer a government requirement, however it is still a policy of the Core Strategy and its application is therefore considered to be appropriate.

CIL:

The Council's CIL charging scheme was adopted on 18 May 2015 and it is understood that the proposal may be CIL liable. An informative is added in this respect.

Other matters

One letter of objection received highlighted that in the early hours of the morning hedgehogs can occasionally be spotted entering or leaving the existing garden area attached to the host dwelling. The site is not located in an area which is identified as being of particular ecological importance and the Ecologist confirmed that an Ecology survey would not be required. They considered that following the construction of the dwelling there would be sufficient garden space left for hedgehogs and that they would not be likely to be affected by the actual works as they are predominantly nocturnal. They noted that whilst the garden may support a range of wildlife, the habitats within the garden are likely to be man-made and not naturally occurring.

10. Conclusion (The Planning Balance)

The site is located within the framework boundary of Chippenham where residential development is considered to be acceptable in principle in accordance with CP 1 and 10. The proposal is considered to be acceptable on its planning merits as it is compatible with the scale and character of the existing dwelling and would not be significantly detrimental to any residential amenities in accordance with CP 57 and having regard to all other matters raised, it is recommended that planning permission is granted subject to the conditions below.

RECOMMENDATION

Grant subject to the following 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 The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those listed on the application form received by the Local Planning Authority on 26th April 2017.

REASON: In the interests of visual amenity and the character and appearance of the area.

- 3 The development hereby permitted shall be carried out in accordance with the following approved plan received by the Local Planning Authority on 30th May 2017:

AH2016/103 - proposed new dwelling

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

- 4 No demolition, site clearance or development shall commence on site until an Arboricultural Method Statement (AMS) prepared by an qualified arboricultural consultant providing comprehensive details of construction works in relation to trees has been submitted to, and approved in writing by, the Local Planning Authority. All works shall subsequently be carried out in strict accordance with the approved details. In particular, the method statement must provide the following:-

A specification for protective fencing to trees during both demolition and construction phases which complies with BS5837:2012 and a plan indicating the alignment of the protective fencing;

A specification for scaffolding and ground protection within tree protection zones in accordance with British Standard 5837: 2012;

A schedule of tree works conforming to British Standard 3998: 2010;

Details of general arboricultural matters such as the area for storage of materials, concrete mixing and use of fires;

Plans and particulars showing the siting of the service and piping infrastructure;

A full specification for the construction of any arboriculturally sensitive structures and sections through them, the method of construction of the proposed extension including details of the no-dig specification and extent of the areas of the proposed extension to be constructed using a no-dig specification;

Details of the works requiring arboricultural supervision to be carried out by the developer; s arboricultural consultant, including details of the frequency of supervisory visits and procedure for notifying the Local Planning Authority of the findings of the supervisory visits; and

Details of all other activities, which have implications for trees on or adjacent to the site.

REASON: The matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, in order that the Local Planning Authority may be satisfied that the trees to be retained on and adjacent to the site will not be damaged during the construction works and to ensure that as far as possible the work is carried out in accordance with current best practice and section 197 of Town & Country Planning Act 1990.

- 5 No development shall commence on site until a scheme for the discharge of surface water from the site (including surface water from the access/driveway), incorporating sustainable drainage details together with permeability test results to BRE365, has been submitted to and approved in writing by the Local Planning Authority.

REASON: To ensure that the development can be adequately drained

- 6 The development shall not be first occupied until surface water drainage has been constructed in accordance with the approved scheme.

REASON: To ensure that the development can be adequately drained

- 7 The development hereby permitted shall not be first brought into use until the first five metres of the access, measured from the edge of the carriageway, has been consolidated and surfaced (not loose stone or gravel). The access shall be maintained as such thereafter.

REASON: In the interests of highway safety

- 8 No part of the development hereby permitted shall be first brought into use until the access and parking spaces have been completed in accordance with the details shown on the approved plans. The areas shall be maintained for those purposes at all times thereafter.

REASON: To ensure that adequate provision is made for parking within the site in the

- interests of highway safety.
- 9 The development hereby permitted shall not be first brought into use until splays have been provided on both its sides of the access to the rear of the existing footway based on co-ordinates of 2.4m x 2.4m. The splays shall be kept free of obstruction above a height of 600mm at all times.
- REASON: In the interests of highway safety.
- 10 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), the garage hereby permitted shall not be converted to habitable accommodation.
- REASON: To secure the retention of adequate parking provision, in the interests of highway safety.
- 11 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting or amending those Orders with or without modification), no development within Part 1, Classes A, B and E shall take place on the dwellinghouse hereby permitted or within its curtilage.
- REASON: In the interests of the amenity of the area and to enable the Local Planning Authority to consider individually whether planning permission should be granted for additions, extensions or enlargements.
- 12 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 buildings or structures, or gate, wall, fence or other means of enclosure, other than those shown on the approved plans, shall be erected or placed anywhere on the site on the approved plans.
- REASON: To safeguard the character and appearance of the area.
- 13 The dwellings hereby approved shall achieve Level 4 of the Code for Sustainable Homes. No dwelling shall be occupied until a final Code Certificate for it has been issued and submitted to, and approved in writing by, the local planning authority certifying that Code Level 4 has been achieved.
- REASON: To ensure that the objectives of sustainable development set out Policy CP41 of the Wiltshire Core Strategy are achieved.
- 14 Before the development hereby permitted is first brought into use the window in the side (west) elevation shall be glazed with obscure glass only [to an obscurity level of no less than level 3] and the windows shall be maintained with obscure glazing in perpetuity.
- REASON: In the interests of residential amenity and privacy.
- 15 INFORMATIVE TO APPLICANT:

The proposal includes alteration to the public highway and the consent hereby granted shall not be construed as authority to carry out works on the highway. The applicant is advised that a license may be required from Wiltshire's Highway Authority before any works are carried out on any footway, footpath, carriageway, verge or other land forming part of the highway. Please contact the vehicle access team on telephone 01225 713352 or email vehicleaccess@wiltshire.gov.uk for further details.

16 INFORMATIVE TO APPLICANT:

The applicant is requested to note that this permission does not affect any private property rights and therefore does not authorise the carrying out of any work on land outside their control. If such works are required it will be necessary for the applicant to obtain the landowners consent before such works commence.

If you intend carrying out works in the vicinity of the site boundary, you are also advised that it may be expedient to seek your own advice with regard to the requirements of the Party Wall Act 1996.

17 INFORMATIVE TO APPLICANT:

Any alterations to the approved plans, brought about by compliance with Building Regulations or any other reason must first be agreed in writing with the Local Planning Authority before commencement of work.

18 INFORMATIVE TO APPLICANT:

The applicant should note that the grant of planning permission does not include any separate permission which may be needed to erect a structure in the vicinity of a public sewer. Such permission should be sought direct from Thames Water Utilities Ltd / Wessex Water Services Ltd. Buildings are not normally allowed within 3.0 metres of a Public Sewer although this may vary depending on the size, depth, strategic importance, available access and the ground conditions appertaining to the sewer in question.

19 INFORMATIVE TO APPLICANT:

The applicant is advised that the development hereby approved may represent chargeable development under the Community Infrastructure Levy Regulations 2010 (as amended) and Wiltshire Council's CIL Charging Schedule. If the development is determined to be liable for CIL, a Liability Notice will be issued notifying you of the amount of CIL payment due. If an Additional Information Form has not already been submitted, please submit it now so that we can determine the CIL liability. In addition, you may be able to claim exemption or relief, in which case, please submit the relevant form so that we can determine your eligibility. The CIL Commencement Notice and Assumption of Liability must be submitted to Wiltshire Council prior to commencement of development. Should development commence prior to the CIL Liability Notice being issued by the local planning authority, any CIL exemption or relief will not apply and full payment will be required in full and with immediate effect. Should you require further information or to download the CIL forms please refer to the Council's Website

www.wiltshire.gov.uk/planninganddevelopment/planningpolicy/communityinfrastructure
elevy

20 **INFORMATIVE TO APPLICANT:**

The Council recommends that the applicant notes and implements the recommendations of the UK Constructors Group Good Neighbour Site Guide during the construction of the development hereby approved.