

## REPORT FOR WESTERN AREA PLANNING COMMITTEE

<b>Date of Meeting</b>	23 October 2019
<b>Application Number</b>	19/07875/FUL
<b>Site Address</b>	8 Fulmar Close Bowerhill SN12 6XU
<b>Proposal</b>	Retrospective application for garage roof works (material variation to approved application 16/02681/FUL)
<b>Applicant</b>	Mr Omar Abdulshakour
<b>Town/Parish Council</b>	MELKSHAM WITHOUT
<b>Electoral Division</b>	MELKSHAM WITHOUT SOUTH
<b>Grid Ref</b>	391735 162252
<b>Type of application</b>	Full Planning
<b>Case Officer</b>	Selina Parker-Miles

### **Reason for the application being considered by Committee:**

Cllr Phil Alford requested that should officers be minded to approve this application, it should be brought before the elected members of the area planning committee to determine. Cllr Alford identifies the following for the elected members to consider:

The scale of the development and the disconnect with the permission granted by the planning inspector

### **1. Purpose of Report**

Melksham Without Town Council –comments were received on 10/09/2019

Neighbourhood responses – In total, 6 letters of representation (3 supportive letters and 3 letters of objection were received) which are summarised within section 8.

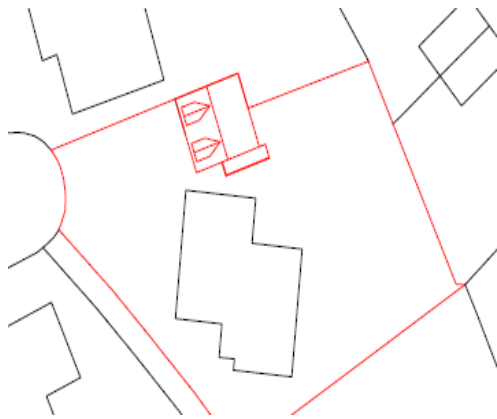
### **2. Report Summary**

The main issues to consider with this application are:

- The impact on the character and appearance of the host dwelling and wider area.
- The impact on neighbour amenity

### **3. Site Description**

The application site relates to a residential property located at the south eastern end of the Fulmar Close cul-de-sac in Bowerhill. The property comprises a two-storey detached dwelling constructed of red brickwork under a concrete profile tiled roof. The detached single storey detached garage with ancillary accommodation, which is the subject building for this application, is located to the north of the dwelling house and is illustrated in the block plan and site photograph on the following page. An area of hardstanding is located to the property frontage with the garden to the rear.



#### 4. Planning History

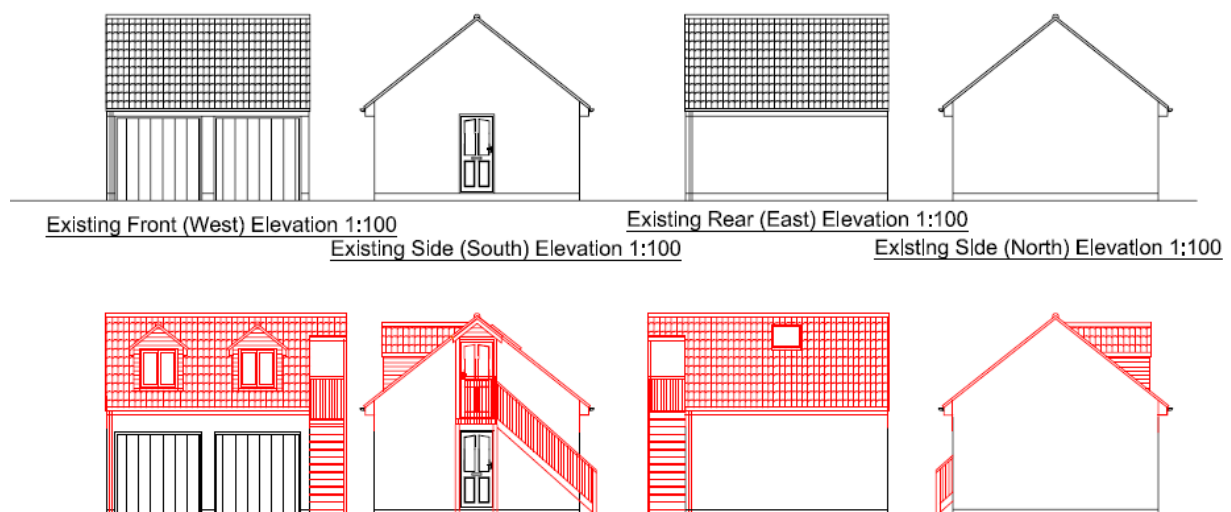
W/93/00156/FUL – Bedroom and Lounge Extension – **Approved 18 March 1993**

W/02/00610/FUL – Extension – **Approved 8 June 2002**

16/02681/FUL – Proposed new roof to detached garage with ancillary accommodation – **Refused contrary to officer recommendation at WAPC on 29 June 2016** for the following reason:

*“The proposal by virtue of its proportion, form and scale would result in an overbearing and dominant form of development, which would result in the loss of daylight and be overshadowing to the detriment of the neighbour’s amenity at 7 Fulmar Close. This would be contrary to Policy CP57 of the adopted Wiltshire Core Strategy”.*

**The above refusal decision was successfully appealed (by APP/Y3940/D/16/3156898) on 6 December 2016. A copy of the pre-existing 2016 building and the development proposals are shown in elevation form below:**

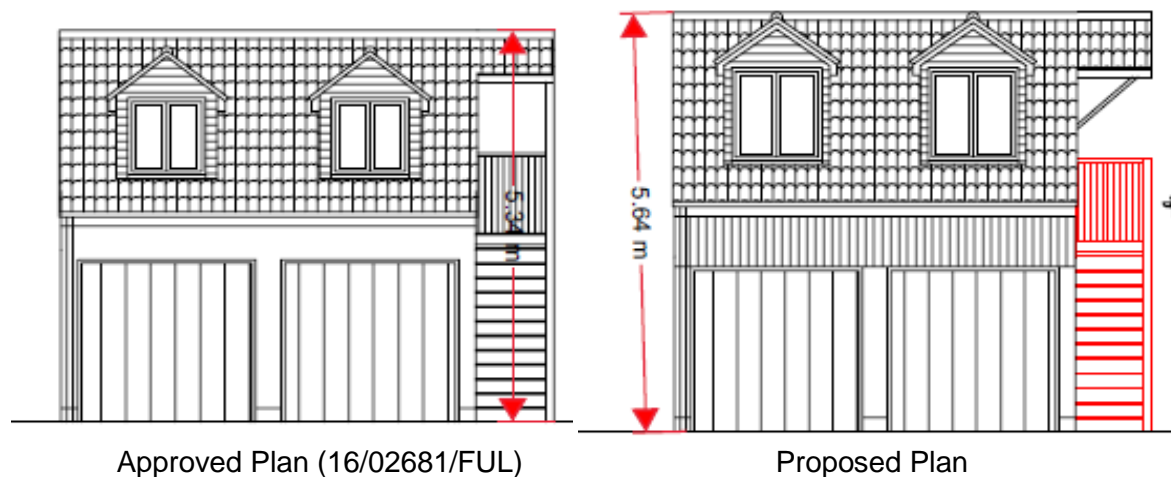


**Copies of the 2016 committee report and appeal decision are appended to this report for reference purposes.**

#### 4. The Proposal

This application seeks retrospective permission to regularise a material variation to the detached garage which has been constructed 30cm higher than what was allowed on appeal in

2016 (i.e. 5.64m compared to 5.34m). The difference in roof height between what was allowed on appeal and what has been built as illustrated below. The 16/02681/FUL approved elevation is shown below left and the proposed plan requiring member determination is shown below right along with the notation showing the additional 30cm height and the enlarged dormers. It should be noted that at the time of the officer site visit, the external staircase (which is outlined in red below for illustrative purposes) had still not been constructed.



## 6. Local Planning Policy

Local Context: Wiltshire Core Strategy (the development plan) relevant policies – CP15 & CP57

National Context: The National Planning Policy Framework (NPPF) and Planning Practice Guidance (PPG)

## 7. Summary of Consultation Responses

Melksham Without Parish Council: Objects: The Parish Council has been mindful of the 2016 allowed appeal and the conditions imposed by the Planning Inspector; namely that the roof would be raised by 450mm, the equivalent of approximately 7 courses of brickwork, and that the development shall be carried out in accordance with plan AH2016/24 dated 22<sup>nd</sup> May 2016.

It is argued that the completed development has a detrimental effect on the amenity of the neighbours to the rear of No.8 Fulmar Close (and it is recorded that at the Parish Council meeting when this application was considered, the residents of 3 properties to rear of No. 8, Fulmar Close attended and voiced their objections).

This development has not been constructed in accordance with the approved plans or the accompanying planning conditions, and it is felt that approval of this retrospective plan would be detrimental to the integrity of the planning process.

## 8. Publicity

The public consultation exercise comprised individual letters being sent to neighbours and the display of a site notice. **In total, 3 letters of objection have been received which in summary raise the following issues:**

- The development is in direct breach of the Planning Inspectorate recommendation and is not in accordance with the approved plans
- Approval of this retrospective plan would be detrimental to the integrity of the planning process.
- The development that has been constructed has a detrimental effect/loss of light on the amenity of the neighbours to the rear of 8, Fulmar Close

- The existing garage adversely impacts upon the outlook from the properties to the rear, cause loss of light, overshadowing and loss of privacy.
- The approved window is incorrectly positioned
- Detrimental visual impact on the surrounding area.
- Potential of overlooking to the properties at the rear from the approved staircase
- The raised roof height is in breach of the Planning Inspectorate approved height and does not sit as a subservient addition to the host dwelling.

**3 letters of support have also been received which in summary raise the following comments:**

- The garage in its built form does not block the sunlight
- The garage is in keeping with the surrounding area
- The existing build does not impede on the property directly to the rear
- The build is of a good standard of design/ not offensive or intrusive
- The proposal is not considered to be excessive in height

## **9. Planning Considerations**

9.1 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.

9.2 The Principle of Development: The application site is located within the established limits of development where there is a presumption in favour of sustainable development.

9.3 Impact on the character and appearance of the host dwelling and surrounding area: The detached garage within the curtilage of No. 8 Fulmar Close has been increased in height by 30cm (when compared to the plan allowed at appeal in 2016) whilst retaining the same footprint. Officers are satisfied that this material deviation from what was previously allowed still represents as a modest subservient alteration that would neither detract from the host dwelling or wider area.

9.4 The modest increase to the two dormers is also considered a sympathetic revision, utilising a satisfactory design and matching materials to the existing dwelling. And as identified by the Planning Inspector (who visited the site on 29.11.2016) due to the set-back position of the roof extension there would be no harm to the wider character or appearance of the area.

9.5 The partially completed garage measures 5.64m (in height) x 5.35 (in width) x 5.4m (in length). As well as the material variation to the dormers and staircase (which has not yet been constructed). The applicant still proposes to have a roof light in the eastern rear elevation which raises no officer concerns.

9.6 Officers submit that this retrospective proposal has limited impact on the character of the host dwelling or cul-de-sac or does not cause harm or result in a policy conflict.

9.7 Impact on neighbour amenity: In 2016, the planning case officer and appointed planning inspector concluded that the previously proposed 45cm increased height to the garage would result in some impact to the occupiers of 7 Fulmar Close in terms of some limited loss of direct sunlight from part of the neighbouring garden and conservatory at No. 7 – however then effect would be “*relatively small*”. The development would not substantively block sunlight to No.7 (or any other neighbouring property, although it was observed that there may be some overshadowing for a limited period during late winter afternoons. The inspector’s balanced appraisal in allowing the 2016 appeal centred on appreciating there would be some impacts, but

the impacts would be modest to negligible and that the neighbouring residents would maintain a “*good standard of living conditions*” – which is how planning inspectors refer to all forms of residential amenity.

9.8 Officers and the planning inspector also found that the living conditions of the adjacent occupiers in houses to the rear of No.8 along Belvedere Road would not be significantly affected. Mindful of the planning inspector’s assessment of the 2016 development (which for the record what have still been extant had the applicant not proceeded to undertake material variations), as the decision maker, members are advised that the additional 30cm and the minor fenestration alterations (along with the yet to be built external staircase) would not result in substantive harm to neighbouring amenities or their living standards.



9.9 Officers accept that the owner’s outlook from the side of the conservatory and patio area of the neighbouring property at No.7 would be altered by having a larger structure on its shared boundary with no. 8, but it is important to acknowledge that the outlook was previously impeded to a degree by the original garage building and in addition, the planning inspector concluded in December 2016 that a 45cm increase would not result in harm to warrant a refusal and officers submit that with respect to the completed additional 30cm uplift, the impacts would be nominal that would not warrant a refusal.

9.10 The increased dormer windows inserted into the western roof elevation do not result in harmful overlooking or loss of privacy to the immediate neighbours given the existing arrangement of windows and separation distances between the subject building and neighbouring properties - as illustrated in the site photographed block plan which is reproduced within section 3 of this report. Furthermore, given their height, scale and positioning on the front roof slope, there would be no significant loss of light and overshadowing to no. 7 Fulmar Close.

9.11 The proposed roof light to the rear roof slope of the building would be positioned 1.85m above the internal floor level therefore any overlooking concerns affecting neighbouring properties would be satisfactorily restricted.

9.12 The proposed upper floor accommodation would be accessed via an external staircase and door positioned on the garage’s southern elevation. The staircase would be positioned approximately 10m from the shared boundary with no. 34 and 36 Belvedere Road, with an additional 10-12m to the nearest habitable rooms. This separation is considered acceptable

and meets the standard expected 21m separation between development and neighbouring habitable rooms and on this basis, officers are satisfied that it would not cause unacceptable overlooking or loss of privacy.

9.13 This application seeks retrospective permission for garage roof works. The application footprint is identical to the previous scheme and all other considerations have been previously appraised and subsequently allowed at appeal. For the reasons set out above, it is considered that the proposal would cause no significant harm and whilst officers accept that the development would result in some impacts, they would not be substantial to warrant the refusal of planning permission.

## **10. Conclusion (The Planning Balance)**

Application reference 16/02681/FUL was allowed on appeal following the Council's decision to refuse permission, contrary to officer recommendation pursuant to extending the existing detached garage at No. 89 Fulmar Close by 45cm and to construct two dormer windows and insert a rooflight within the roof plane. The applicant has however extended the garage by a further 30cm beyond what was allowed on appeal. Instead of being 5.34m, it is 5.64m. Whilst officers share the parish council and local concerns expressed about the retrospective nature of this application, it must be subject to the same fair assessment of the material considerations.

For the reasons set out above, the proposal is considered to comply with CP57, the WCS and NPPF, having due regard to the visual impact on the host dwelling and wider area and the impact on the amenities / living standards of the occupiers of neighbouring properties; and as such, officers recommend that members approve the application subject to conditions.

### **RECOMMENDATION: Approve with conditions**

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

Existing and Proposed Plans - Drawing No AH2016/24 Sheet 1 of 1 dated 09.08.2019

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

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, doors or other form of openings other than those shown on the approved plans, shall be inserted in the development hereby permitted.

REASON: In the interests of residential amenity and privacy.

3. The development hereby permitted shall not be used at any time other than for purposes ancillary to the residential use of the main dwelling, known as No. 8 Fulmar Close and it shall remain within the same planning unit as the main dwelling.

REASON: The additional accommodation is sited in a position where the Local Planning Authority, having regard to the reasonable standards of residential amenity, access, and planning policies pertaining to the area, would not permit a wholly separate dwelling.