

<b>Date of Meeting</b>	16 <sup>th</sup> October 2014
<b>Application Number</b>	14/07557/FUL
<b>Site Address</b>	10 Ventry Close, Salisbury, SP1 3ES
<b>Proposal</b>	Erect 3 Bedroom Dwelling
<b>Applicant</b>	Mr. P. Hughes
<b>Town/Parish Council</b>	Salisbury City Council
<b>Ward</b>	St Marks and Bishopdown
<b>Grid Ref</b>	414995 130790
<b>Type of application</b>	Full Planning
<b>Case Officer</b>	Becky Jones

### Reason for the application being considered by Committee

Cllr. Moss has called the application to committee for Members to consider the scale of the development, visual impact on the surrounding area, relationship to adjoining properties, design and car parking.

#### 1. Purpose of Report

To consider the above application and the recommendation of the Area Development Manager that planning permission should be **APPROVED subject to conditions**.

#### 2. Report Summary

The main issues which are considered to be material in the determination of this application are listed below:

- Principle of the development and the fallback position (permitted development rights for development in the garden)
- Siting, materials, scale, design and impact on the character of the area
- The impact that the proposal would have on residential amenity
- Archaeology and Trees
- Slope stability and subsidence
- Affordable Housing and Public Open Space
- Highway Safety

### **3. Site Description**

The site is located on the west side of St Mark's Avenue in the garden of 10 Ventry Close. The site is currently part of the applicant's garden and is positioned to the north east of the house behind a retaining wall to Ventry Close. The existing dwelling (No 10) is two storey and has garden areas to the front, rear and side, enclosed to the south and east by a retaining wall.

A number of large, mature trees lie on the north boundary of the site. Some have been recently removed. A belt of protected trees (TPO 124) lies to the north and beyond the boundary is Tower Mews. Nos 1-3 Ventry Close lie to the south and Grange Gardens lie to the east. The rear gardens for 8,9 and 10 Ventry Close lie to the west.

The existing dwelling lies within the Housing Policy Boundary for Salisbury in an Area of Special Archaeological Significance.

### **4. Planning History**

S/1995/1271            Form new access to St mark's Road and La Retraite School and erect 10 new dwellings (resite plots 1-5)  
Approved    25/10/1995

### **5. The Proposal**

- The applicant is seeking to erect a three bedroom dwelling on the site, with access from Ventry Close. Parking for two vehicles would be provided off street, beneath the dwelling and the accommodation would be sited on the ground floor and within the roof.
- A timber retaining wall (about 1-1.5m in height) would be provided on the north boundary, with a number of replacement trees.
- A timber retaining wall (about 0.6-0.9m in height) would be provided on the west boundary, with a raised flower bed.
- A patio would be provided to the south, with a further retaining wall (0.9-1.4m in height).
- Steps up the dwelling would be provided from Ventry Close and a balcony would provide access to the front door.
- The dwelling would be oak timber clad above a brick plinth wall. Roof tiles would be clay.
- One east facing dormer window is proposed to serve the master bedroom. Easy and west facing rooflights would be above head height.

### **6. Planning Policy**

#### **National Planning Policy Framework (NPPF) 2012 and National Planning Practice Guidance**

This Framework sets out the Government's planning policies for England. It encourages housing in sustainable locations, subject to any significant harm caused by development.

The following policies are relevant to the determination of this application and are considered to align with the principles, aims, objectives and intentions of the NPPF. These policies are therefore considered to carry significant weight.

**Salisbury District Local Plan (which are 'saved' policies of the adopted South Wiltshire Core Strategy):**

G2: General criteria for development, G5 Drainage  
G9 Section 106 Agreements and planning obligations  
D2 Design of infill development  
H16 Housing Policy Boundary  
TR11: The provision of off street car parking spaces  
R2 Public Open Space

**South Wiltshire Core Strategy:**

Core Policy 3 Affordable Housing

***Emerging Wiltshire Core Strategy***

**7. Consultations**

Highways – no objection subject to conditions  
Trees – no objection subject to conditions  
Archaeology – no objection  
Drainage – no objection subject to conditions

**8. Publicity**

This application was advertised via site notice and letters of consultation. The case officer has visited 2 Tower Mews by invitation. 24 letters of objection/comment (from all neighbouring properties) have been received, including a letter from local agent representing views of residents with diagrams. The accuracy of the diagrams has been challenged by the applicant.

In summary, the grounds of objection relate to the following:

- Ventry Close is subject to a restrictive covenant (Officer note – this is not a material planning consideration, but a private, legal matter.)
- Site and surroundings liable to ground subsidence following soil removal, potential for structural damage.
- Overlooking, disturbance, overshadowing, loss of light, loss of privacy, too dominant and prominent. Intrusive. Impact on adjacent balconies.
- Does not respect or enhance the character of the area due to design, materials and layout. Out of keeping with other dwellings. Too close to boundary. Cramped site, small plot. Tandem development.
- No front drive or parking, not set back and not 4/5 bedroom dwelling so out of character with other dwellings. Plot too small and conservatory for No 10 not shown.
- Difficult elderly/disabled access via stairs.

- Visual impact on entrance to Ventry Close – imposing and loss of open character at entrance to Close.
- Detrimental to highway and pedestrian safety - blind bends and no sightlines and opens directly onto pavement. Insufficient visitor parking. Busy with 2 schools nearby. No room for refuse bins. Impact due to contractors' vehicles during construction. No layby. Cars forced to park on pavement. Gradient of garage access will require speed, difficult access in snow. Garage will clash with driveway opposite.
- Loss of protected trees, impact on existing trees and roots and pressure to prune/remove. Plants will not grow on the north boundary.
- Question validity of sunlight calculations.

## 9. Planning Considerations

### 9.1 Principle of the development and the fallback position (permitted development rights for development in the garden)

The National Planning Policy Framework supports a presumption in favour of sustainable development, but specifically excludes gardens from the definition of previously developed land and such development can be resisted by Local Planning Authorities where it could harm an area.

Policy G2 sets out the General Criteria for Development. Development should avoid unduly disturbing, interfering, conflicting with or overlooking adjoining dwellings, to the detriment of existing occupiers.

Policy H16 sets out the policy criteria for development *within* housing policy boundaries. Infilling, small scale development and redevelopment will be permitted within the Housing Policy Boundaries. The policy will be subject to the following criteria:

- (i) the proposal will not constitute tandem or inappropriate backland development;
- (ii) the proposal will not result in the loss of an open area which makes a positive contribution towards the character of the settlement; and
- (iii) the proposal will not conflict with the Design Policies of the Plan.

Gardens are excluded from the definition of previously developed land. However, new residential development within the housing policy boundary (including gardens) is acceptable in principle, subject to the other detailed considerations in the housing and design policies set out above.

Householder permitted development rights are set out in Town and Country Planning (General Permitted Development) Order 1995 and amended by the by the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008 and the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2013. Part 1 of Schedule 2 to the 1995 Order sets out the permitted development rules concerning development a householder may undertake to their house and the area around it without the need for an application for planning permission.

The permitted development rights for Ventry Close were not removed under the 1995 approval. Therefore, without the need for *planning permission*, No 10 could cover up to half its garden area with outbuildings (so long as they do not come beyond the *front* of the house) up to 4 metres in height for pitched roofs provided they are at least 2 metres from the boundary. This provides a fallback position for considering the impacts of the proposal and the principle of developing in the garden.

## **9.2 Scale, design and the impact of the proposal on the character and appearance of the surrounding area**

The site is within the settlement boundary and is acceptable in principle under saved Policy H16. Policy D2 sets out the criteria for infill development, which must respect or enhance the character or appearance of an area in terms of the following criteria: *Proposals for infill development will be permitted where proposals respect or enhance the character of appearance of an area in terms of the following criteria:*

- i) The building line, scale, of the area, heights and massing of adjoining buildings, and the characteristic building plot widths;*
- ii) The architectural characteristics and the type, colour of the materials of adjoining buildings; and*
- iii) The complexity and richness of materials, form and detailing of existing buildings where the character of the area is enhanced by such buildings and the new development proposes to replicate such richness.*

The plans indicate a one and a half storey dwelling in height, with two floors, and a “basement” level garage underneath the accommodation. The dwelling would be sited to the north east of the existing property at 10 Ventry Close. Therefore, the plot is neither tandem nor backland, in accordance with Policy H16.

The resultant plot size for the new dwelling is small and cramped when compared to *some* plots in the vicinity. However, other plots in Ventry Close are also small (eg No 6 and No 7) and so it may be difficult to defend a refusal reason on the grounds that the site would be uncharacteristically small compared with *all* the plots in Ventry Close, as plot size appears to vary considerably.

Whilst the garden area drops in level in this part of the site, it is still located in a prominent position at the entrance to Ventry Close, well above pavement level. Officers have carefully considered objections relating to design and prominence, on the grounds that the proposed oak clad design is completely different to other dwellings in the Close. The style in Ventry Close is very mixed. Materials include brick, render, stone and Tudor style detailing, but in general, all the dwellings are large, detached two storey family homes. For this reason, officers considered that the approach taken to give the dwelling the appearance of a converted outbuilding in the garden of No 10 was appropriate, as it ensured that the new dwelling would not compete with the very different but distinct styles of Ventry Close. The development is likely to have the appearance instead of a converted outbuilding and not a competing 5 bed two storey property in a small plot. Several third parties have objected on the grounds of loss of an open area at the entrance to Ventry Close, and

the prominent position of the site. However, with regards the fallback position above, a refusal based on the loss of the open garden area may be difficult to justify.

Given the large size of buildings in Ventry Close, some are very close together (eg Nos 6,7 and 8, 9 and 10) with very narrow spaces separating them. Although the proposed dwelling is not set back from the road down a drive, it would have some space around it, particularly to the south, so the development is not considered harmful to the existing character of the area in this respect.

The applicant has provided a section drawing showing the height of the dwelling in relation to Tower Mews and Ventry Close (widened east elevation). It shows that the 7.6 metre tall dwelling would be set almost 0.5 metres lower than the boundary fence plinth and would not be taller than these properties. The scheme is considered acceptable in terms of height and massing.

For these reasons, the proposed dwelling is considered to have the appearance of a converted outbuilding, which would respect the existing character of the area and would comply with Policy H16 and D2.

### **9.3 The impact on residential amenity**

Policy G2 of the Local Plan seeks to ensure that development would avoid *unduly* disturbing, interfering, conflicting with or overlooking adjoining dwellings or uses to the detriment of the occupiers. Neighbours of properties adjacent to the site have objected on these grounds.

The applicant has submitted a series of sunlight/daylight diagrams, which are intended to demonstrate the impact of the proposed building on adjacent residential properties. This evidence is referred to in more detail below.

**Tower Mews:** These are three storey properties to the north of the site. They are set back from the boundary with 10 Ventry Close by approximately 12 metres (maximum garden length from wall to fence) and separated by their rear gardens. The proposed development would lie between 2.8 and 1.4 metres south from the boundary with Nos 2 and 3 Tower Mews respectively. The proposed building would be about 7.6 metres in height from the ground floor level to the roof apex and almost 0.5 metres lower than the boundary fence plinth level.

Previously, a belt of trees (see photos) formed the north boundary between the two sets of properties. These trees extended to approximately 8.8 metres in height. The removal of the trees has significantly improved the outlook from the windows of these properties south towards the city and also increased light levels reaching the properties. The occupiers have objected to the encroachment that they perceive from the proposed development. However, it is considered that as the north elevation of the property will present a 7.6m structure (6.6m when set 1 metre below ground level) with a fully pitched roof, light levels and outlook should be improved in comparison with the previous scenario created by the tree belt.

The applicant has submitted a standard sunlight report which examines the potential effects on daylight and sunlight due to the proposed development, in accordance with the guidelines in the BRE report "site layout planning for daylight and sunlight Edition 2011." The results show that any loss of daylight and sunlight to the existing buildings will be small and is classed as a negligible impact. The proposed development also appears to pass the overshadowing test, apparently exceeding the minimum required levels of sunlight to all the surrounding gardens at the equinox (March 21<sup>st</sup>, as recommended by the BRE guidelines). Conversely, the exercise was repeated with the inclusion of the evergreen trees that were subsequently removed, and the diagrams show that the previous trees had a detrimental impact on the sunlight and daylight to the ground floor rooms of 2 and 3 Tower Mews.

The outcome of the applicants report mirrors the conclusions of officers. Given the orientation of the building and plot to other adjacent dwellings and garden areas, and taking into consideration the differences in levels between the application site and adjacent gardens and buildings, It is considered by officers that any overshadowing caused as a result of the development is unlikely to be so significant or harmful to surrounding amenity as to warrant a refusal on the grounds of loss of sunlight or overshadowing to the properties or gardens of Tower Mews.

Several occupiers have raised the issue of overlooking and loss of privacy. However, there are no proposed windows on the north elevation of the proposed dwelling, and first floor rooflights on the proposed east and west elevations would be above head height, to prevent direct or oblique overlooking. The proposed dormer on the east elevation would enable a degree of oblique overlooking towards 1 Tower Mews. However conifer tree T3 is retained and provides a significant screen between the development and 1 Tower Mews. It is therefore unlikely that the occupiers of 1 Tower mews would be unduly overlooked.

Occupiers feel that the proposed dwelling is too close, and dominant in relation their rooms, (arranged over three floors) balconies and gardens. However, the dwelling extends to 7.6m in height, 8.8m in width and the eaves are approximately 3.4 metres above ground level. Given that the roof is fully hipped, the building is not considered to be overpowering or unduly dominant in relation to properties in Tower Mews. Furthermore, the proposed development would be set at a lower level than these properties (almost 0.5 metres measured at the boundary fence plinth), which would further reduce its visual impact.

Whilst occupiers of No 1 and No 4 Tower Mews would be aware of the development, the proposed dwelling is not sited directly in line with the garden boundaries for No1 or No 4. There would be an oblique relationship between the properties, and therefore, whilst there would be some impact on outlook, existing amenities would not be *unduly* disturbed.

**Ventry Close:** Nos 1, 2, 3 and 9 would be affected by the development. The front walls of Nos 1-3 would be separated from the south elevation of the proposed dwelling by approximately 16, 25 and 30 meters respectively. The proposed dwelling would be at a higher level than these dwellings and the south elevation windows would face towards the fronts of these properties. However, the proposed dwelling would be set back behind No 10 Ventry Close, which also has front and side

windows facing towards these properties. The relationship between the proposed unit and Nos 2 and 3 would be oblique, as these houses face more directly towards No 10, which is closer to them. However, No 1 would be more directly affected, given the proposed south elevation windows and dormer window. The dormer window would be at an extremely oblique angle in relation to No 1, and would not result in direct or undue overlooking. The south elevation windows would be at least 16 metres away from the front of No 1 and would not overlook private areas of the house. This relationship is considered to be acceptable on balance, given the physical separation between the two houses, including Ventry Close itself. The proposed dwelling would be at a higher level than No 1, but would be set back behind and lower than No 10. This would reduce the feeling of dominance.

No 9 Ventry Close would not be directly overlooked by the development and it is considered to be sufficiently distant, being separated by the remaining width of garden for No 10 which would be about 13 metres wide. The proposed rooflights would be above head height. The development would not affect light levels reaching this property given the separation.

Nos 1 and 12 Grange Gardens are considered to be sufficiently separated from the development by about 30 metres and by St Mark's Avenue for occupiers not to be unduly disturbed in terms of dominance or undue or direct overlooking.

Indeed, in officers opinion, the new dwelling is likely to have the most significant impact on the existing dwelling and garden at 10 Ventry Close, and likely to result in some overshadowing and overlooking to the rear garden area, and lead to occupiers of No.10 having a reduced level of privacy.

In summary, no objection is raised under Policy G2, because whilst there would be some direct impact on the outlook of the occupiers of 2 and 3 Tower Mews and a degree of overlooking towards the front of No 1 Ventry Close, the proposal is not considered to be sufficiently harmful to amenities to warrant refusal. The fallback position for outbuildings on the site and the improvements likely to arise in outlook and light levels, given the removal of the boundary trees are considerations. Physical separation distances and orientation between properties are further mitigating factors. On balance, the development is not considered to unduly disturb existing amenities sufficiently to warrant refusal under Policy G2.

#### **9.4 Impact on highway and pedestrian safety**

Policy G2 (ii) seeks to ensure that development would avoid placing an undue burden on existing or proposed services and facilities, the existing or proposed local road network or other infrastructure.

The highways officer has commented as follows:

*I previously dealt with this proposal at pre-application stage which involved a site meeting and several revised drawings before achieving a scheme that I was generally satisfied with. Ventry Close serves a small number of dwellings and, due to the nature and alignment of the road, traffic speeds passing the site are low. A*



*suitable pedestrian / vehicle inter-visibility splay will be provided and in this location on-site turning is not required. The proposed access is positioned at the most appropriate location to maximise the sight line towards the junction. The proposed parking allocation is acceptable in line with the current parking standards and the garage is of sufficient size to allow an element of storage together with the parking for 2 vehicles. In view of the above, I wish to raise no highway objection subject to conditions being applied to any permission granted.*

The proposal is therefore in accordance with Policy G2.

## **9.5 Archaeology and Trees**

**Archaeology** - The archaeologist considers that on the available evidence, it is unlikely that significant archaeological remains would be disturbed by the proposed development.

**Trees** – Many of the trees on the north boundary of Ventry Close are protected by Tree Preservation Order 124. The trees were shown as clusters on the original layout plans for Ventry Close as approved under S/1995/1271. Some of the trees were permitted to be removed as part of the conditions for the permission, subject to their replacement. The tree officer was concerned about the potential impact of the development on nearby trees to the north. The need to protect these trees and their root zones would affect the size of the area available for development within the garden. Given the tree protection order, the arboricultural officer requested a tree survey for the proposal. He has considered the Tree Survey, Arboricultural Impact Assessment and Tree Protection Scheme for the proposed development. He is satisfied with the information provided, and has no objection to the proposal as long as it is carried out in accordance with the Arboricultural Report.

## **9.6 Drainage**

The drainage officer has raised no objection to the scheme, subject to a sustainable surface water disposal condition (SUDS).

## **9.7 Slope stability and subsidence**

This issue has been raised by third parties. Members will note from the drawings that retaining walls are proposed, which suggests that issues of stability have been considered by the applicant as part of this scheme. Officers have no contrary technical evidence before them to suggest that such retaining structures would not work or would not meet Building Regulations requirements. As a result, this is considered to be a civil and structural engineering and building control issue.

## **9.8 Public Open Space and Affordable Housing**

The developer would be required to contribute £1,726 towards public open space provision under Policy R2, via a Section 106 Agreement.

Core Policy 3 of the South Wiltshire Core Strategy currently sets out a requirement for affordable housing contributions on all sites with a net gain of 1-4 dwellings. However, a revised housing policy has been prepared for the Wiltshire Core Strategy which recommends that on sites of 1-4 dwellings there will be no affordable housing contribution required. This is the policy which will now be implemented on planning applications and pre-app enquiries submitted from 28<sup>th</sup> February 2014 onwards, and there will **no longer be a requirement for such a contribution to be made in respect of this application.**

Although this policy has not yet been adopted or been subjected to scrutiny through the Strategy process, it does define the Council's intended direction of travel on affordable housing based on up to date evidence. This will remain the Council's position unless the revised policy is latterly found by the Strategy Inspector to be unsound. In these circumstances the Council will review its position again.

## **10. Conclusion**

The development would affect the existing character of Ventry Close, resulting in an elevated building, readily visible in the street scene, which would differ in its design to the other existing dwellings, which are of a modern yet similar visual appearance. The proposed development would have the appearance of a converted outbuilding, so as not to compete with the varied styles and materials found in Ventry Close. Whilst the building would be visually prominent, and utilise a large area of existing open garden area, the refusal of the scheme on this basis may be difficult to defend given the significant development of the garden area which could occur under current permitted development rights.

The potential impact on neighbouring amenities (including the potential for loss of light, dominance and overlooking) has been fully considered. Whilst the third party concerns have been noted and considered, given the difference in levels and positioning between garden areas and dwellings, in officers opinion, such impacts would be acceptable on balance and not sufficiently harmful to warrant refusal. Similarly, issues surrounding trees, drainage and highway safety have been fully considered and in officers opinion, would be acceptable, subject to conditions.

### **RECOMMENDATION: APPROVE 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. (WA1)

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 development hereby permitted shall be carried out in accordance with the following approved plans listed in schedule. (WM14)

Site Plan SITE/01 dated 23/7/14 received 5/8/13

Lower Ground Floor Layout LGF/01 dated 23/7/14 received 5/8/13

Ground Floor Layout GF/01 dated 23/7/14 received 5/8/13  
First Floor Layout FF/01 dated 23/7/14 received 5/8/13  
North Elevation ELEV/01 dated 23/7/14 received 5/8/13  
East Elevation ELEV/03 dated 23/7/14 received 5/8/13  
Widened East Elevation ELEV/05 dated 23/7/14 received 5/8/13  
South Elevation ELEV/02 dated 23/7/14 received 5/8/13  
West Elevation ELEV/04 dated 23/7/14 received 5/8/13  
Arboricultural Impact Assessment and tree Protection Scheme dated  
12<sup>th</sup> September 2014, received 13/9/14

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

3. No development shall commence on site until details and samples of the materials to be used for the external walls and roof of the development have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details. (WB1)

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

4. No construction or demolition work shall take place on Sundays or Public Holidays or outside the hours of 07:30 to 18:00 Monday to Friday and 08:00 to 13:00 on Saturdays. There shall be no burning of waste materials on site during construction or demolition

REASON: In the interests of residential amenity

5. The development hereby permitted shall not be occupied until the driveway between the edge of carriageway and the garage door 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.

6. No part of the development hereby permitted shall be occupied until the access and parking spaces/garage have been completed in accordance with the details shown on the approved plans (Ref: SITE/01). The areas shall be maintained for those purposes at all times thereafter.

REASON: In the interests of highway safety.

7. 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, has been submitted to and approved in writing by the Local Planning Authority. The development shall not be occupied until surface water drainage has been constructed in accordance with the approved scheme.

REASON: To ensure that the development can be adequately drained.

8. The development hereby approved shall be carried out in accordance with the Arboricultural Impact Assessment and Tree Protection Scheme to BS

5837:2002, by Tree Reports Ltd, dated 12<sup>th</sup> September 2014. The four replacement trees shall be planted in accordance with BS 8545:2014 before there is any occupation of the dwelling.

REASON: To prevent damage or inappropriate work being undertaken to protected trees and in the interests of visual amenity.

9. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended by the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008 (or any Order revoking or re-enacting or amending that Order with or without modification), there shall be no additions or extensions or external alterations (including insertion of any windows, dormer windows or rooflights) to any building forming part of the development hereby permitted.

10.

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 external alterations.

#### In formatives

**(WP23)** The applicant is advised of the need to submit plans, sections and specifications of the proposed retaining wall for the approval of the Highway Authority in accordance with Section 167 of the Highways Act 1980.

(For information, this relates to retaining walls which are wholly or partly within 4 yards (3.65metres) of a street and which is at any point of a greater height than 4'6"(1.40 metres) above the level of the ground at the boundary of the street nearest that point.)