

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

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| Date of Meeting | 09 August 2017 |
| Application Number | 17/04235/FUL |
| Site Address | 3 Church Place Lydiard Millicent Swindon Wiltshire SN5 3NE |
| Proposal | Part-retrospective permission sought for Detached Annex to Rear, Front Porch and Storm Water Harvesting System to Main Property and Erection of Potting/Bike Shed to the Front of the Property |
| Applicant | Mr Mohammad Shafie |
| Town/Parish Council | LYDIARD MILLICENT |
| Electoral Division | WOOTTON BASSETT EAST – Councillor Groom |
| Grid Ref | 409474 186044 |
| 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 Groom to consider the scale of the development, the visual impact upon the surrounding area, the relationship with adjoining properties and the design of the proposal.

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 heritage assets
- Impact on drainage

As a result of the consultation exercise, 9 letters of objection were received. The Parish Council also raised a number of concerns regarding the application.

3. Site Description

The application concerns 3 Church Place, Lydiard Millicent. The host dwelling is detached and is bounded by residential dwellings to the north east and south west. The highway runs to the west and Bury Fields forms the eastern boundary.

The site is located in Lydiard Millicent, which is identified by the Wiltshire Core Strategy as a small village with no settlement boundary.

The site is not located within the Lydiard Millicent Conservation Area. However, it sits just outside of it, and falls within its setting. The Grade II* listed church of All Saints is located to the south west, approximately 115 metres from the site. The setting of the church includes the graveyard immediately surrounding it, and extends to the open countryside to the south of it. The application site does not fall within the setting of the church and no important or significant views of the church can be gained from the application site. The built form surrounding the application site is diverse in design and appearance. Whilst there is a diverse material palette in the wider area, render is a common feature of the immediate locality.

4. Planning History

N/12/03668/FUL Proposed Side and Rear Extensions - Approved

N/13/01251/FUL Single Storey Sunroom & Detached Annexe - Approved

14/06102/FUL Single Storey Sunroom & Detached Annexe (Revision to 13/01251/FUL)
- Approved

5. The Proposal

The application seeks part-retrospective permission for the construction of a detached annex, a potting/bike shed, a porch and a storm water harvesting system to the main property.

6. Local Planning Policy

NPPF: Core Planning Principles and Sections 4, 7 & 8, paragraphs 7, 14 and 17. Sections 7 and 12.

Wiltshire Core Strategy:

CP57 Ensuring High Quality Design and Place Shaping

CP58 Ensuring the Conservation of the Historic Environment

7. Summary of consultation responses

Lydiard Millicent Parish Council made the following comments:

- The Annex appears to be larger than stated on the original (14/06102/FUL) plans, we would not wish to see the building any higher than agreed in 2014; and especially there should be no windows above eaves height, to protect some of the neighbours privacy. Councillors were concerned as it was difficult to compare the scaled plans and the drawings supplied with the additional planning statement. The Council would appreciate a definitive height being stated.
- Previously, the applicant has used a private lane to the rear of this address to gain access. We have been informed by neighbours that there is no access at this point for that address, it is a private lane for use of owners of properties in Buryfields only. Access for this property being to the front only. We would ask that prior to planning permission being considered, applicant is asked to confirm intentions for entry /egress both whilst building and later, on completion if permission is granted.
- This is a large development for the edge of our Conservation Area and the addition of the Annex to the rear and the Potting Shed to the front of the property is not in keeping with the area. We would consider this to be an over development of this plot situated as it is very close to the Church. Whilst we appreciate the Annex has some permission and is situated to the rear of the property, the Potting Shed/Bike Shed will be in view of passers by.
- We understand the Unitary Councillor has already requested that this application be considered by a Planning Committee. When this application comes up for consideration it will be the Parish Councils intention to send a representative to address the committee on its behalf prior to their decision.

Nine letters of objection (two from the same individual) were received as a result of the public consultation period. The main points raised were as follows:

The Annex

Impact on the character and appearance of the area:

- It is out of keeping with the surrounding area and has an adverse impact upon it.
- It can be seen from the highway and dominates neighbouring properties.
- The site is already overdeveloped.

Impact on neighbour amenity:

- The structure is overbearing and can be seen from all adjacent properties, from the road and the surrounding public footpaths.
- The height of the structure is unnecessary as the same level of accommodation could be achieved with a shallower roof.
- The annex looks directly into the surrounding properties. The windows in the annex overlooking neighbouring properties should be obscurely glazed.
- The annex has had an adverse impact on the views and vistas enjoyed by surrounding properties.

- If permission is granted a limit should be placed on the hours of construction permitted.
- Concern was raised that a second floor would be inserted into the annex.

Drainage

- The application did not contain details of the foul sewage system. The existing septic tank sits within close proximity with the boundary and may not have sufficient capacity to accommodate the additional load.

Trees

- The application form incorrectly states that there are no trees or hedges adjacent to the development site. There is an existing mature beech and a leylandii hedge in close proximity to the annex. A tree survey should be conducted to understand the impact of the proposal on them.

Other matters

- The plans do not resemble what has been built.
- Concern that the proposal would set a precedent for future development.
- A section 106 agreement should be put in place to ensure that the annex cannot be rented or sold.
- It is unclear who will occupy the annex.
- The submitted block plan is inadequate as it does not show the existing trees, and surrounding outbuildings. There is insufficient information to enable the proposals to be appropriately considered or their impact on neighbouring properties to be fully understood.
- Concern was raised regarding the insertion of an access into the property from the public right of way Bury Fields. Planning permission should have been sought for this. The new steps serving this access do not fit in within a conservation area.

Potting/Bike Shed:

- There are no other examples of sheds in the front garden of properties in the area.
- Sheds are generally unattractive.
- Concern that the shed would be a footprint for future development

8. Publicity

The publicity for the application was by way of a site notice and neighbour notification letters.

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

Permission was granted for a single storey sunroom and detached annexe in 2013 and 2014 (N/13/01251/FUL and 14/06102/FUL). The annex approved under this application measured approximately 4.5 metres in height, 8 metres in width and 6 metres in depth. It had a 'bunker' style sedum roof and was positioned towards the rear of the garden of 3 Church Place.

The current proposal was submitted as the annex has not been constructed in accordance with the approved plans. The annex has been partially constructed, and at the time of the case officer's site visit the walls and roof structure were in place. The proposed annex would be of the same size as the permitted annex, being 4.5 metres in height, 8 metres in width and 6 metres in depth. It would also be located in the same position as the approved scheme. However, the proposed annex would have a slightly different roof form, being slightly curved rather than the 'bunker' style previously approved. It is also proposed to slightly alter the fenestration of the proposed annex, with a number of additional windows being inserted. Larch cladding is also proposed on the external surfaces of the annex. This information was not supplied as part of the previous application.

The principle of an annex was established by the previous applications on the site (N/13/01251/FUL and 14/06102/FUL). 14/06102/FUL remains extant and is therefore a material consideration of significant weight. Given this position the principle of development is established and the current application should be considered in so far as it differs from the previously approved schemes and how the alterations impact on interests of acknowledged importance, taking into account any changed material circumstances and considerations since the previous applications were determined. The proposal differs from the previously approved scheme in its roof form and shape, proposed materials and the proposed fenestration.

Retrospective permission is also sought for the erection of a potting/bike shed to the front of the property. Sheds are common features in residential areas and the principle of the erection of a shed in the curtilage of a residential property is acceptable.

Permission is also sought for the construction of a porch to the front of the property and a storm water harvesting system to the host dwelling. The principle of such features is considered to be acceptable on a residential property.

Impact on the character and appearance of the area

Concern was raised during the public consultation that the proposed annex was out of keeping with the surrounding area and had an adverse impact upon it. It was felt that the annex, which could be viewed from the highway, dominated the neighbouring properties and represented an overdevelopment of the site. This concern was echoed by the Parish Council who considered that the proposed annex and potting shed were not in-keeping with the surrounding area, and represented an overdevelopment of the site.

The annex is located to the rear of the host dwelling and is not therefore visible from the street scene. There is a public right of way running to the rear of the site (LMIL77) from which glimpsed views of the annex can be gained. The top of the annex is also visible from the surrounding residential properties. The site is well screened, with established mature boundary planting on all sides.

As outlined above, the principle of an annex on this site, and of the size proposed, is established and cannot therefore be revisited as part of this application. Given what is now proposed is the same size as that approved previously, the changes are considered minimal in terms of their impact on the character and appearance of the wider area. Moreover, the site is well enclosed by established boundary treatments, and is not visually prominent within the street scene. Whilst the annex proposal differs slightly from the previously approved scheme in terms of its roof shape, materials and fenestration; it is considered that the revised roof form has reduced the mass and scale of the annex and is acceptable in design terms. The revised fenestration proposed would be of a relatively low level, would not be highly visible from the surrounding properties and is considered to be acceptable in design terms.

It is proposed to clad the external surfaces of the development in Larch. Whilst timber cladding is not a common feature in the immediate area, the site is however well enclosed. The material is also a natural material and is not an uncommon feature of many properties in the wider community area surrounding Lydiard Millicent and indeed the wider north hub of Wiltshire. Therefore on balance, the use of timber cladding is considered to be acceptable and not considered to result in harm to the character and appearance of the area such that the revised proposals should be refused on these grounds.

Concern was also raised regarding the impact of the potting/bike shed on the character and appearance of the area. It was highlighted that there are no other examples of sheds to the front of properties in the area and that sheds are generally unattractive.

Although some views of the shed are visible from the street scene, due to the established boundary treatment surrounding the site, the shed is largely screened from view and does not constitute a prominent feature. The shed is relatively modest in mass and scale and is a typical feature of a large number of residential properties in the wider area and is considered to be acceptable in design terms.

Given its position on the front elevation, the proposed porch would be visible from the street scene. The plans indicate that it would have roof tiles to match the existing roof, with a solid oak fascia and brown guttering. The porch would be modest in mass and scale, projecting from the front elevation by 1230mm and measuring 2880mm in width. The proposed porch would not constitute a prominent feature when viewed from the street scene and is considered to be acceptable in terms of design and materials used.

The proposed storm water harvesting system would be located on the rear elevation and would not therefore be visible from the street scene. The plans indicate that the proposed storm water harvesting system would be domestic in nature, character and appearance and given that it would not be prominent, is considered to be acceptable in terms of design and materials used.

Impact on the conservation area

Concern was raised by the Parish Council regarding the impact of the proposals on the conservation area. They also noted the proximity of the site to The Grade II* listed church of All Saints.

The host dwelling is not listed and is not located within the conservation area. However, the site is in close proximity to the Lydiard Millicent conservation area and falls within its setting. The Planning (Listed Buildings and Conservation Areas) Act 1990 provides powers for the designation, protection and enhancement of conservation areas and the preservation of listed buildings. The Act requires that special regard should be given to the desirability of preserving a listed building or its setting (s. 66) as well as giving special attention to preserving or enhancing the character or appearance of the conservation area (s.72).

Paragraph 129 of the NPPF requires local planning authorities to identify and assess the particular significance of any heritage asset that may be affected by the proposal (including any development affecting the setting of a heritage asset). Paragraphs 133 and 134 require local authorities to assess whether there is substantial harm, less than substantial harm or no harm to the heritage asset. Core Policy 57 requires, amongst other things, that new development must be sympathetic to and conserve historic buildings. Core Policy 58 requires that development should protect, conserve and where possible enhance the historic environment.

There is currently no conservation area appraisal currently published for this designation. However, the conservation area, by virtue of its designation is significant in heritage terms and this significance is likely to arise primarily from its historical (illustrative), aesthetic (fortuitous) and evidential value. The proposals are not considered to cause harm to the setting of the conservation area due to their nature, location, enclosure of the site and the very limited scale of the alterations and additional proposals that are the subject of this application. They would not feature within any key views either to, or from the conservation area. It should also be noted that the setting of the conservation area in this locality is characterised by the existing modern residential development that has already taken place. The proposals that are the subject of this application are very minor in scale in this context.

The Grade II* listed church of All Saints is located approximately 115 metres away from the application site. Therefore there is a significant distance between the application site and the church. The structures are separated by highways, established boundary treatments, a park and a graveyard which limits the inter-visibility between them and it is considered that the proposal would have no impact upon the setting of the church. It is also noted that the proposal would have no impact upon the setting of any other designated heritage assets. In this context it is important to recall that the proposals are limited alterations to a previously approved scheme. The differences between the schemes in term of built form, scale and character, which may impact on the designated heritage assets is therefore considered to be very limited in potential scope. In this instance, the revised scheme is considered to result in no impact on the setting of designated heritage assets.

Impact on neighbour amenity:

Concern was raised during the public consultation regarding the impact of the proposals upon the amenity enjoyed by surrounding properties. It was felt that the height of the annex was overbearing, was unnecessary and could allow for the insertion of a second storey. Concern was raised that the annex provides direct views into the surrounding properties and it was stated that any windows which would overlook neighbouring properties should be obscurely glazed. It was also felt that the annex has an adverse impact on the views and

vistas enjoyed by surrounding properties and that the block plan was inadequate and did not enable the impact of the proposal on the surrounding properties to be fully understood. It was requested that a condition limiting the construction hours permitted is placed on any permission given. These concerns were echoed by the Parish Council who considered that no windows should be inserted above eaves height in order to protect the privacy of the neighbours.

As outlined above, the principle of an annex of this height, size and in this position was established by the previous permissions issued, one of which remains extant and so is a material consideration of significant weight. As such the principles in this respect have been established but it is not considered that the scheme as previously permitted and now proposed subject to minor amendments does result in significant harms in this respect. It is considered that the altered roof form would not give rise to any additional overshadowing or overbearing impact. The submitted plans do not indicate that a second storey is proposed. It is considered that the height of the structure, combined with the roof form would be likely to make the insertion of a second storey unfeasible. It should also be noted that internal alterations for residential purposes that do not affect the external appearance of residential properties and ancillary structures do not constitute development under national legislation and, as defined in case law, as such do not require planning permission.

A number of additional windows would be inserted into the annex, some of which would be in the side elevation and would look out towards the surrounding properties. However, these windows would be of a low level and given the presence of established boundary treatments surrounding the annex, would not give rise to any significant overlooking. The submitted plans indicate that these windows would be obscurely glazed, a condition requiring implementation in accordance with the approved plans is proposed. As such additional conditions requiring obscure glazing are not necessary. In addition such an additional condition is not proposed as the windows are of a low level and such a condition would not be reasonable or necessary and in accordance with the six tests contained within planning policy guidance.

The loss of an existing view is not a material planning consideration and cannot be considered in the determination of the application. Similarly, it should be noted that just because a development is visible does not mean that significant harm results such that consent ought to be refused.

Given that the site is located in a densely populated area, a condition restricting the hours of construction has been suggested, which is considered to be reasonable and necessary in accordance with planning policy guidance. Moreover, the construction industry has produced best practice guidance for neighbourly development and an informative is proposed referencing construction in accordance with this guidance.

Due to the limited scale of the proposals and their positioning in relation to neighbouring properties, it is considered that the proposed porch, potting/bike shed and storm water disposal system would have no significant impact on the amenity enjoyed by the neighbouring properties. It is not considered that the application should and could defensibly be refused on this basis.

Drainage

Concern was raised during the public consultation that the application was not accompanied by details of the foul sewage system. It was stated that the existing septic tank sits within close proximity with the boundary and may not have sufficient capacity to accommodate the additional load.

The proposed drainage arrangement for the annex was found to be acceptable during the previous application. This current application and the proposals submitted have not altered the proposal in this respect and are considered to be acceptable. It is not considered that the scheme should and could defensibly be refused on this basis.

The site is not located in an area of high flood risk. The proposal would not significantly increase the footprint of the built form and is therefore considered to be acceptable.

Trees

Concern was raised during the public consultation regarding the impact of the proposal upon trees. It was suggested that the application form incorrectly states that there are no trees or hedges adjacent to the development site. It was highlighted that there is an existing mature beech and a leylandii hedge in close proximity to the annex. The objector requested that a tree survey be conducted so that the impact of the proposal upon trees could be understood.

The impact of the annex on surrounding trees was found to be acceptable by the previous application. This current application has not altered the scheme proposals in this respect and is considered to be acceptable.

It is noted that the porch, potting/bike shed and the storm water disposal system would have no significant impact upon trees.

Use of the annex and future development

Concern was also raised during the public consultation that the grant of planning permission would set a precedent for future development in the area. There is no precedent in planning terms and as defined in national legislation each application must be assessed and considered on its own merits. It does not therefore follow that what is found to be acceptable on one site will be acceptable on another. This is illustrated by the above consideration of the current proposals, in that the previous grants of consent are a material consideration of significant weight but not assessed as creating a precedent that automatically requires permission to be granted for these proposed revisions.

A number of concerns were also raised regarding the occupation of the annex and it was felt that a section 106 agreement should be used to ensure that it cannot be rented or sold. A condition was placed on the previous application (14/06202/FUL) to require that the annex remains ancillary to the host dwelling and is not occupied separately from it. It is also suggested that this condition is applied to this application. It is now common, particular at appeal by Planning Inspectors, to use conditions to restrict the use of buildings and such

conditions are considered to be sufficiently robust to achieve this purpose and a section 106 agreement is not therefore necessary.

Other matters

A letter of objection received stated that the submitted plans do not resemble what has been built. A number of public consultation responses also stated that an access had been inserted into the property from the public right of way on Bury Fields. These concerns were echoed by the Parish Council who requested that the Applicant is asked to confirm their intentions in respect of this access.

Any development must be constructed in accordance with the submitted plans and if members of the public suspect that it has not been they are able to report it to the Council's Planning Enforcement Team to investigate. Moreover, the access referred to does not form part of this application and the grant of planning permission does not grant permission for other works on the site other than that described. Any member of the public is invited to report works that they believe need planning permission, but which do not benefit from consent, to the Council's Planning Enforcement Team who will investigate. In terms of the use of the rear access for construction purposes in relation to rights of access over the land this is a civil matter between the interested parties and not a material planning consideration in and of itself. Given the scale of development involved and the existing site circumstances it is not considered necessary to impose a condition requiring submission and approval of a construction method statement to address matters of access, vehicle parking, storage of materials etc during construction. In addition construction is well advanced with limited additional work required. No such condition was imposed on previous consents but a condition is now proposed in respect of hours of working as such it is considered that matters raised are appropriately addressed as far as is possible.

10. Conclusion (The Planning Balance)

The proposal is considered to be in accordance with the development plan. The development is considered to be acceptable on its planning merits as the proposal is compatible with the scale and character of the existing dwelling and surrounding area and would not be detrimental to residential amenities. It is therefore in accordance with CP57 and CP58 of the Wiltshire Core Strategy, and the NPPF including paragraphs 4, 7, 8, 14 and 17 in addition to Sections 7 and 12.

RECOMMENDATION

That permission is granted:

- 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 development hereby permitted shall be carried out in accordance with the

following approved plans:

Proposed south elevation Rev E

The plan showing the existing and proposed rear elevation of the host dwelling

The plan showing the proposed north elevation of the host dwelling and annex, roof plan and potting shed

The plan showing the proposed roof plan of the host dwelling and annex and the proposed north elevation of the annex and host dwelling

The location plan Rev E

The plan showing the proposed potting/bike shed front and side elevation

The plan showing the existing and proposed south elevation

The plan showing the existing and proposed front elevation of the host dwelling

Received by the Local Planning Authority on 26th May 2017

The plan showing the proposed west elevation of the annex

The plan showing the proposed floor plan of the annex

The plan showing the proposed east elevation of the annex

The plan showing the proposed south elevation of the annex

The plan showing the proposed north elevation of the annex

Received by the Local Planning Authority on 2nd June 2017.

The plan showing the existing and proposed floor plan of the host dwelling

Received by the Local Planning Authority on 27th June 2017.

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

- 3 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.

REASON: to protect neighbour amenity

- 4 The accommodation hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the main dwelling, known as 3 Church Place 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.

5 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.

6 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.

7 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.

8 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.