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## Appeal Decision

Site visit made on 29 November 2016

**by Jacqueline Wilkinson Reg. Architect IHBC**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 6 December 2016**

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**Appeal Ref: APP/Y3940/D/16/3156898**

**8 Fulmar Close, Bowerhill, Wiltshire SN12 6XU**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr Omar Abdulshakour against the decision of Wiltshire Council.
  - The application Ref 16/02681/FUL, dated 16 March 2016, was refused by notice dated 29 June 2016.
  - The development proposed is new roof to detached garage with ancillary accommodation.
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### Procedural matters

1. The appellant has requested that I assess the proposal as first submitted, as well as revised. However, I can only assess this appeal on the basis of the plans that were before the Council when it made its decision. I have therefore assessed this appeal on the basis that the proposed increase in roof height would be 450mm, as revised in May 2016. This revision was the subject of further neighbour consultation before the Council made its decision.

### Decision

2. The appeal is allowed and planning permission is granted for new roof to detached garage with ancillary accommodation at 8 Fulmar Close, Bowerhill, Wiltshire SN12 6XU in accordance with the terms of the application, Ref 16/02681/FUL, dated 16 March 2016, subject to the following conditions:
  - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
  - 2) The development hereby permitted shall be carried out in accordance with the following approved plan: AH2016/24 dated 22 May 2016.
  - 3) 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, roof lights or dormer windows or other forms of openings other than those shown on the plan hereby approved shall be inserted into the development hereby permitted.
  - 4) The extension hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as 8 Fulmar Close.

### **Main Issue**

3. The main issue is the effect of the proposed garage roof extension on the living conditions of the adjacent occupiers at 7 Fulmar Close in terms of daylight, sunlight and aspect.

### **Reasons**

4. The side wall of the existing garage of 8 Fulmar Close is on the boundary with 7. The garage is to the south of 7, at a slight angle to due north, so it overshadows the garden and the rear conservatory of that property, although some afternoon sunlight does reach the corner of the rear of 7 through the gap. The conservatory at the rear of 7 is not shown on the block plan, but I visited this garden on a clear sunny day at around noon when the sun was highest in the sky and I have seen the relationships of the two properties for myself.
  5. The proposed roof would be raised by 450mm, which is the equivalent of approximately 7 courses of the brickwork. Some sunlight would be lost from the garden and conservatory at the rear of 7 in comparison to the existing situation, but the effect of this would be relatively small. Given its inset position on the west slope of the roof, the closest dormer ridge would not block sunlight reaching 7, except possibly for a small amount in the late winter afternoon. Given the layout of the conservatory, there would be no material impact on the levels of daylight it currently enjoys.
  6. There would be a small increase in the visual impact of the raised side wall of the garage but the front dormers would be set in from the edge of the roof. The overall visual impact of the proposal as seen from the rear garden areas of 7 would not be significantly greater than the existing situation. The conservatory at 7 is large and spans the whole of the rear wall. The existing garage wall can be seen in close proximity to this room, but there is a wide open aspect in other directions across the garden. The proposal garage roof extension would not therefore cause an unacceptably overbearing aspect for the occupiers of this room.
  7. The first floor window at the rear of 7 closest to the garage is a bedroom which faces east over the garden. This room would still have a reasonable aspect and due to its raised position in relation to the garage, this window would not lose sunlight or daylight. Concern has also been expressed about potential overlooking of this window from the proposed dormer windows. However, the proposed dormer windows would be approximately in line with the rear wall of 7 and would face towards the street, so they would not directly overlook either this window or the side bathroom window.
  8. I therefore conclude that the occupiers at 7 Fulmar Close would still have a good standard of living conditions, as required by paragraph 17 *Core planning principles* of the National Planning Policy Framework.
  9. Residents of Belvedere Road have expressed concern about the loss of privacy due to the external staircase and the proposed roof light in the rear slope. However, these properties are well separated from the proposed extension and given the mutual intervisibility between these dwellings, the proposed staircase would not cause an unacceptable loss of privacy to these occupiers. The roof light would be small and high up in the roof slope, so it would be unlikely to cause any overlooking.
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10. Concerns about the possible use of the room over the garage have been expressed, but a condition, as suggested by the Council, would prevent the garage building becoming a separate dwelling or being rented out separately.

### **Conclusions**

11. Although I have found that there would be some impact on the occupiers of 7 Fulmar Close in terms of loss of sunlight, I conclude that the effect of this on their living conditions would be small in comparison to the effect of the existing garage. I found that the living conditions of the adjacent occupiers in houses to the rear of the appeal site in Belvedere Road would not be significantly affected in terms of privacy. I therefore conclude that the proposed extension would not harm the living conditions of the adjacent occupiers, which will remain good.
12. The submitted plans indicate that the proposed materials would match the existing house and due to its set back position the proposed roof extension would not harm the wider character or appearance of the area.
13. Wiltshire Core Strategy policy CP57 *Ensuring high quality design* requires that development should enhance local distinctiveness, respond positively to the existing townscape, take into account the characteristics of the site, have regard to the impact on the amenity of existing occupants including consideration of privacy, or overshadowing. For the reasons I have set out above, I conclude that the proposal complies with this policy.
14. A condition would ensure that the accommodation remains ancillary to the main house.
15. For the reasons given above I therefore conclude that the appeal should be allowed.

### **Conditions**

16. I have considered the Councils suggested conditions in the light of the tests set out in paragraph 206 of the National Planning Policy Framework and the guidance in the Planning Practice Guidance. I have applied the standard time limit and required the development to be carried out in accordance with the approved plans, to provide certainty.
17. In order to protect the living conditions of the adjacent occupiers, I have attached a condition suggested by the Council withdrawing the permitted development rights to add new windows, doors, roof lights or dormer windows.
18. I have also attached the standard condition requiring the extension not to be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as 8 Fulmar Close. This in order to protect the living conditions of adjacent occupiers and future occupiers.

*Jacqueline Wilkinson*

INSPECTOR

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Town & Country Planning Act 1990

**NOTIFICATION OF REFUSAL of Full Planning**

Application Reference Number: 16/02681/FUL

<b>Agent</b> A Harlow & Son Park Gates Rood Ashton Park West Ashton Wiltshire BA14 6AT United Kingdom	<b>Applicant</b> Mr Omar Abdulshakour 8 Fulmar Close Bowerhill Wiltshire SN12 6XU United Kingdom
<b>Parish: MELKSHAM WITHOUT</b>	
<b>Particulars of Development: Proposed new roof to detached garage with ancillary accommodation</b>	
<b>At: 8 Fulmar Close Bowerhill Wiltshire SN12 6XU</b>	

In pursuance of their powers under the above Act, the Council hereby **REFUSE TO GRANT PERMISSION** for the development referred to in the above application and plans submitted by you, for the following reason(s):

- 1 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.

In accordance with paragraph 187 of the National Planning Policy Framework (NPPF), this planning application has been processed in a proactive way. However, due to technical objections or the proposal's failure to comply with the development plan and/or the NPPF as a matter of principle, the local planning authority has had no alternative other than to refuse planning permission.

Signed



Director for Economic Development & Planning

Dated: 29 June 2016



**REPORT FOR WESTERN AREA PLANNING COMMITTEE****Report No.1**

<b>Date of Meeting</b>	29 <sup>th</sup> June 2016
<b>Application Number</b>	16/02681/FUL
<b>Site Address</b>	8 Fulmar Close, Bowerhill, Wiltshire SN12 6XU
<b>Proposal</b>	Proposed new roof to detached garage with ancillary accommodation
<b>Applicant</b>	Mr Omar Abdulshakour
<b>Town/Parish Council</b>	MELKSHAM WITHOUT
<b>Electoral Division</b>	MELKSHAM WITHOUT SOUTH – Councillor Roy While
<b>Grid Ref</b>	391735 162252
<b>Type of application</b>	Full Planning
<b>Case Officer</b>	Katie Yeoman

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

Cllr Roy While requested that this application be called-in for the elected members to determine should officers be minded to grant permission. The expressed key issues identified by Cllr While for members to consider are:

The scale of development  
The visual impact upon the surrounding area  
The relationship to adjoining properties  
The design – bulk, height and general appearance

**1. Purpose of Report**

This application was deferred by the Western Area Planning Committee at 18<sup>th</sup> May meeting to allow for an elected member site visit to take place.

Following the deferral of the application, the agent submitted revised plans and therefore all interested parties were re-notified and given 14 days to comment.

Following the re-consultation process, this report has been updated and to assist the committee's determination, a member's site visit is scheduled for 13:30 on 29<sup>th</sup> June.

Melksham Without Town Council – updated comments were received on 07/06/2016 raising objections which are summarised in section 7.

Neighbourhood responses – In total, 10 letters of objection have been received which are summarised in 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 which is the subject building for this application is located to the north of the dwellinghouse 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 with Conditions
W/02/00610/FUL	Extension	Approved with Conditions

#### 5. The Proposal

This application seeks permission for ancillary accommodation to be provided within the roof space of the existing garage. The applicant proposes to increase the roof height by approximately 450mm (NB: the applicant originally proposed to increase the height by 800mm), install two dormer windows to the front roof slope and one roof light in the rear and construct an external staircase to the south elevation. This would be an ancillary use to the main building.

#### 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: Updated comments were received on 07/06/2016 stating that following receipt of further information from adjacent residents, the Council objects on the grounds of overlooking and loss of light amenity to the neighbouring properties.

#### 8. Publicity

The public consultation exercise comprised individual letters being sent to neighbours and the display of a site notice. Following receipt of the revised plans, all interested parties were re-notified allowing 14 days for comments. In total, 10 letters of objection have been received which in summary raise the following issues:

- Detrimental design and visual impact.
- There is a similar construction currently being built at the start of the same close (no. 3 Fulmar Close) but the high level doorway overlooks the road and not the surrounding gardens and houses.
- The garage at no. 8 Fulmar Close is already higher than other garages in the vicinity and any height increase would have a significant impact on the residential amenity. In particular, the proposal would adversely impact upon the outlook from these properties, cause loss of light, overshadowing and loss of privacy.
- Concerns regarding the proposed use of the site and future development that would cause noise and traffic concerns.
- The increase in building mass would have an overbearing impact on no. 7 Fulmar Close.



- The proposal breaches Core Policy 57 of the Wiltshire Core Strategy.

## **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 proposed garage would be increased in height by 450mm whilst retaining the same footprint. In consideration of the modest alterations proposed, the development would continue to represent a subservient addition to the host dwelling that would neither detract from the host dwelling or wider area.

9.4 The proposed front dormers would appear as sympathetic additions to the outbuilding, utilising a satisfactory design and matching materials to the existing dwelling. The proposal would therefore have a limited impact on the character of the host dwelling or cul-de-sac.

9.5 Whilst every application must be assessed on its own merits, members are asked to note that the Council recently approved a similar development at no. 3 Fulmar Close (under application 15/10154/FUL). The revised proposal submitted under this application would have a similar height, footprint and design to that found at no. 3 Fulmar Close thereby respecting the character and appearance of the cul-de-sac.

9.6 Under application ref 15/10154/FUL, permission was granted to create a first floor within the existing garage building. The external works included installing two dormer windows in the roof, erecting an external staircase to the north elevation and increasing the height of the building by 0.2m. The approved outbuilding measures 5.35m (height) x 5.35m (width) x 5.4m (length). Officers concluded that the minor alterations would cause no harm to the character and appearance of the host dwelling or street scene.

9.7 As part of this current application, the development proposal would measure 5.35m (height) x 5.35 (width) x 5.4m (length). The development also proposes installing two dormer windows, erecting an external staircase and increasing the roof height by 0.45m. A roof light would also be inserted into the rear roof slope of the outbuilding. On this basis, officers consider that given the similarities between the approved outbuilding at no.3 and the proposal submitted, the impact on the host dwelling and street scene would also be acceptable.

9.8 Impact on neighbour amenity: Officers appreciate that the existing 4.9m garage to a certain degree, reduces the amount of daylight and direct sunlight entering the conservatory and patio area of no. 7 Fulmar Close at certain times of the day, as illustrated in the aerial google image which is reproduced on the following page. Due consideration has been given to the degree of overshadowing and loss of light already caused to no. 7 at different times of the day and year as well as taking into account the potential increased shadowing impacts. Having reviewed the case and noted the applicants' proposed reduced altered ridge height, officers duly argue that the development would not result in a situation substantially different to what exists at present and the harm to the neighbours would be limited.



9.9 With regards to the potential overbearing effect on no. 7, whilst the owner's outlook from the side of the conservatory and patio area would be altered by having a marginally larger structure on the shared boundary with no. 8, the outlook is already impeded by the existing garage building and the proposal would not significantly exacerbate the situation.

9.10 The proposed dormer windows to the west elevation would 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 photograph and block plan which are reproduced within section 3 of this report. Furthermore, given the proposed 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 proposed 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 broadly meets the standard expected 21m between habitable rooms and on this basis, officers are satisfied that it would not cause unacceptable overlooking or loss of privacy.

9.13 For the reasons above, it is considered that the proposal would cause no significant harm and it is not considered that these impacts are so substantial that permission should be refused.

9.14 Other material considerations: Concerns have also been raised regarding the future use of the proposed outbuilding and potential adverse impacts created by increased noise and traffic that may arise. The conversion of ancillary accommodation into a separate planning unit would require separate planning consent therefore such works would be adequately controlled by the Planning Authority.

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

For the reasons set out above, the revised proposal is considered to comply with CP57, having due regard to the visual impact on the host dwelling and wider area and the impact on the amenities of the existing occupants of neighbouring properties.

On the basis of the above it is assessed that planning permission should be granted subject to conditions.

### **RECOMMENDATION: Approve with 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 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 22.05.2016

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

3. 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.

4. 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.

