

REPORT FOR WESTERN AREA PLANNING COMMITTEE

Date of Meeting	17.02.2021
Application Number	20/04400/FUL
Site Address	16 Conway Crescent, Melksham SN12 6BD
Proposal	Retrospective application for erection of an annex to be used as ancillary accommodation
Applicant	Mr Ross Thomas
Town/Parish Council	MELKSHAM (TOWN)
Electoral Division	Melksham South - Ward Member Cllr Jon Hubbard
Grid Ref	390861 162825
Type of application	Full Planning
Case Officer	Yancy Sun

Reason for the application being considered by Committee

In accordance with the Council's Scheme of Delegation Specific to Planning', this application is brought to committee at the request of Councillor Jon Hubbard who has cited having concerns about the scale of development, the visual impact upon the surrounding area, its relationship with adjoining properties (pursuant to the design, bulk, height and general appearance), and environmental or highway impacts; and specifically about flooding and storm drainage impacts.

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 planning considerations; and to recommend that the application should be approved subject to conditions.

2. Report Summary

The main issues discussed in this report are as follows:

- The principle of the development
- Impact on neighbour amenity
- Impact on visual amenity
- Drainage and flooding
- Environmental impact

3. Site Description

The application site at No.16 Conway Crescent is located within the settlement limits of Melksham and comprises a two-storey detached dwelling, which has an attached single-storey garage along the western site boundary.

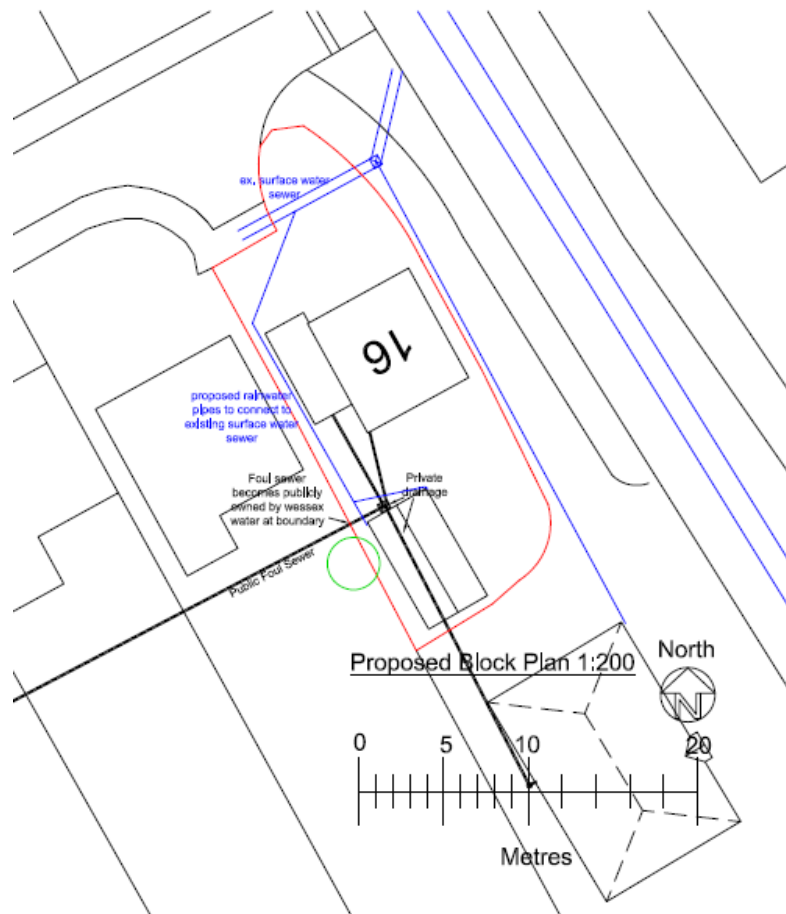
The application site is not subject to any specific land designation constraints and it is not within Flood Zone 2 or Flood Zone 3.

The subject property at No.16 Conway Crescent is shown on the following map extract.



The property numbered No. 18 was approved and constructed relatively recently following planning permission being granted for application 15/11734/FUL (which was subject to a planning condition removing PD rights) and was modified by consented 16/04689/VAR, and is accessed via a driveway along No.16s eastern site boundary as shown below.

The insert below illustrates the location of the erected annex within the rear garden ground of No. 16 and illustrates its relationship with the neighbouring properties (No. 14 – a 2-storey detached dwelling and No.18 – which is a bungalow).



Proposed Block Plan for the Constructed Annex with sewer routing

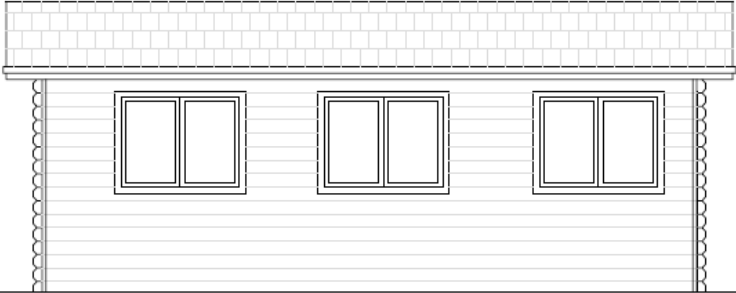
To provide Members with a fuller site context, the following site photos are included to illustrate the siting and design of the annex and its visual relationships with the immediate surroundings. The below photo looks in a southern direction towards the rear garden boundary with the bungalow at No.18 beyond. The constructed annex is the shown on the right of the photograph.



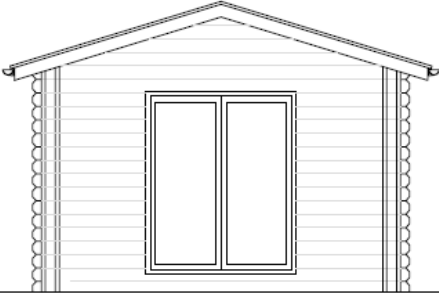
View towards No.18 Conway Crescent from No.16's rear garden



View looking west from within No.16s garden towards No.14 (right of photo)



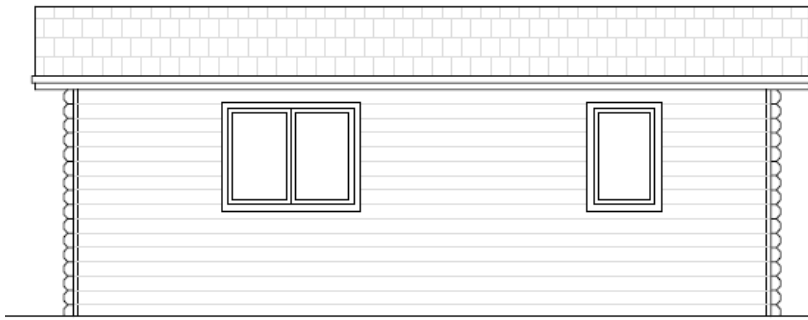
Existing East Elevation 1:50



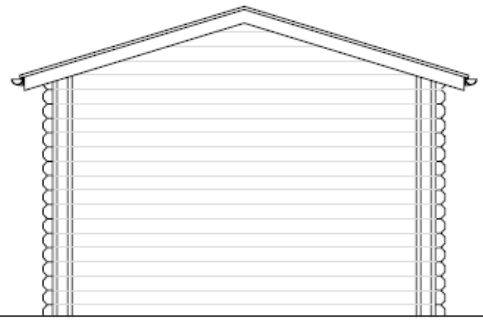
Existing North Elevation 1:100

Building Materials:-
 Walls- Painted Timber
 Roof- Felt
 Windows & Doors- Timber

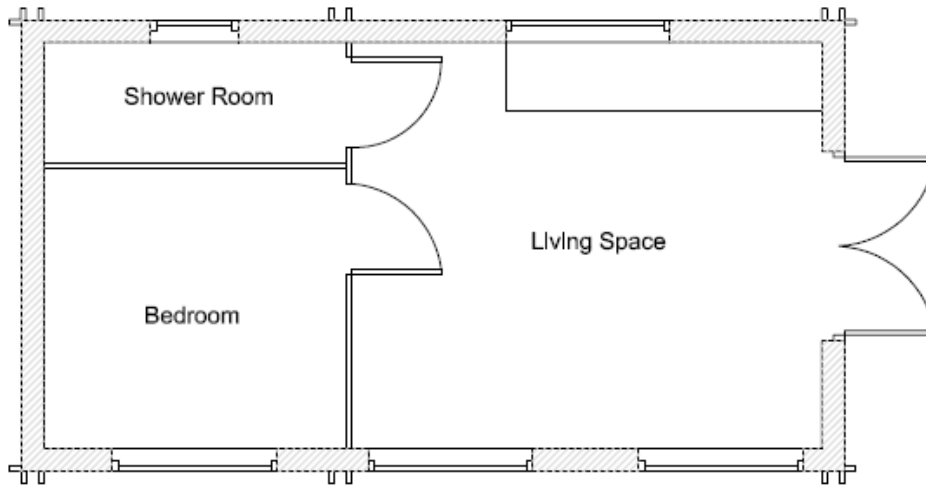




Existing West Elevation 1:100



Existing South Elevation 1:100

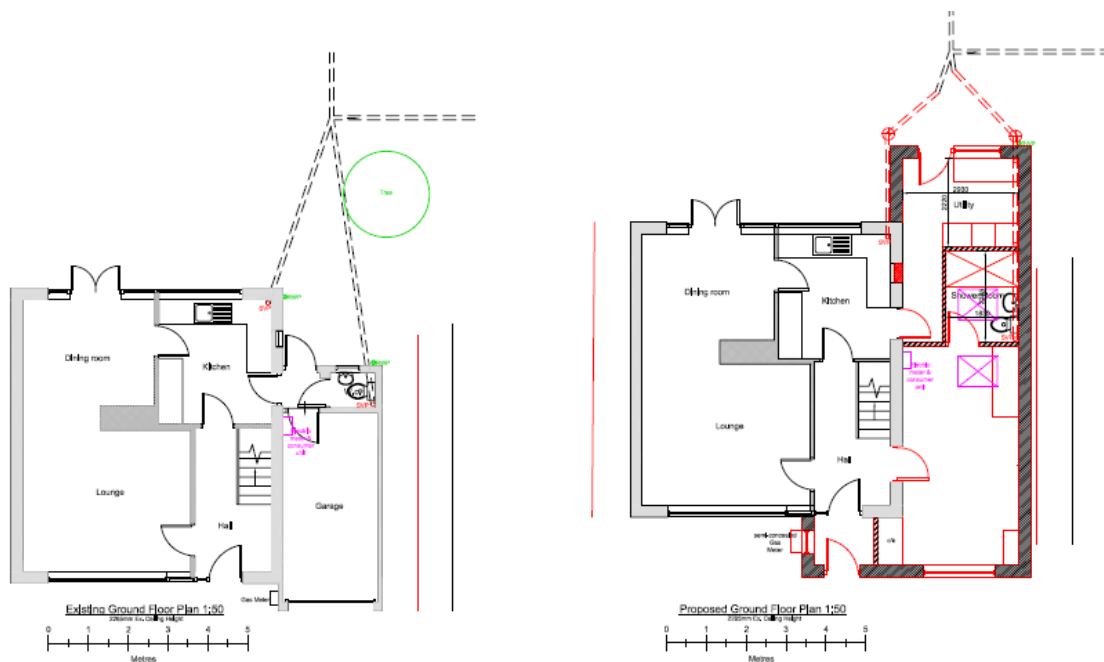


Existing Floor Plan 1:50

4. Planning History

19/05319/FUL – Proposed single-storey extensions – Approved with Conditions – which is extant pursuant to a single storey link extension, to convert the existing garage to habitable accommodation as well as an extension to the rear, which the following inserts reveal:

Associated Plans for Approved Application 19/05319/FUL





5. The Proposal

This application seeks retrospective planning permission for the construction of a single-storey outbuilding, which is occupied by an elderly relative of the applicant, and is used as ancillary accommodation to the main dwelling, and as shown below, is sited within the rear garden of No. 16 Conway Crescent. The outbuilding has a footprint of just under 29 sq.m and is 3.2m high to the ridgeline and 2.4m to the eaves (marginally higher than the common fence boundary) – and has a grey painted timber wall finish and a felted pitched roof.



There are windows on the eastern, northern and western elevation.

Following the neighbour notification exercise, and concerns expressed, it has been confirmed that the annex has not been constructed over the private surface water sewer, although as the below photo reveals, it has been constructed very close to it.



View of the drain within the rear garden of No.16 Conway Crescent (dated 25.08.20)

In September 2020, following a series of officer exchanges with the applicant's agent and the concerned neighbour, a revised plan was submitted to illustrate and confirm the means by which the annex is served by foul and surface water drainage connections. The insert below reveals these connections.



Revised Proposed for Application 20/04400/FUL

6. Planning Policy

The Wiltshire Core Strategy (adopted Jan 2015); in particular: CP1 – Settlement Strategy CP2 – Delivery Strategy; CP15 – Spatial Strategy Melksham Area; CP57 – Ensuring High-Quality Design and Place Shaping; CP60 – Sustainable Transport and CP67 – Flood Risk.

Saved Policies for the West Wiltshire District Local Plan (1st Alteration): U1a Foul Water Disposal and U2 Surface Water Disposal

Other Material Considerations - The Wiltshire Local Transport Plan (LTP) and Car Parking Strategy

National Planning Policy Framework 2019 (NPPF) and Planning Practice Guidance (PPG)

7. Summary of Consultation Responses

Melksham Town Council – Objects on the basis of the scale of development, the visual impact upon the surrounding area, the relationships with adjoining properties, the design, bulk, height, general appearance, and environmental or highway impacts.

Wessex Water – No objection. Existing and available and sewerage arrangements have been used to serve the additional water supply and foul disposal requirements, which requires building regulation approval. Wessex Water also confirmed that the foul drain crossing underneath the applicant's and neighbouring garden site is private and not the responsibility of Wessex Water. There are no known public sewers or other Wessex Water infrastructure within the red lined site boundary parameters.

Wessex Water are aware of the third-party concerns made relative to the private sewer and have reported that the additional predicted foul flows from the annex would be minimal.

The surface water sewer connection that leads to an existing watercourse is a matter for the local authority to consider. The planning authority should be satisfied that the site is not at risk from surface water flooding and the proposal should not increase surface water flood risk elsewhere.

Wiltshire Council Drainage Team – No objection. The surface water drainage in the area is private, therefore any connections to the private system would need to be agreed with the respective owners. The Council does not own any surface water sewers in the area. As the application is a minor development, and Building Regulations would address the site's drainage requirements.

8. Publicity

The application was subject to individually posted out neighbour notification letters. In response to the notifications, one representation was received from the owner/occupier of No.14 who reported the following concerns:

- The subject building was constructed in late November/December 2019 without planning permission – which is considered an overdevelopment of the plot;
- The original combined drainage for plots 15 and 16 was installed in the 1960s and it cannot cope with the additional drainage requirements.
- On 21 April 2020, the occupant of No.14 contacted Wessex Water following a sewer leak due to a split pipe.
- The ancillary accommodation is occupied and has been built over the foul drain.
- Third parties own the private surface water sewer and there is a concern as to whether there is enough storm drainage capacity in the sewer to prevent future sewer problems or ground water pooling in the rear garden of No.14 Conway Crescent

In addition to the above, following an officer site visit to the neighbouring property at No.14 Conway Crescent, the owner verbally informed the officer that a tree within their curtilage had died following the construction of the annex (possibly due to root severance). The neighbour also voiced concerns regarding the fire safety of the annex.

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.

9.1 Principle of Development and Permitted Development Fall Back

9.1.1 The application site is located within the defined town limits, and is a sustainable location.

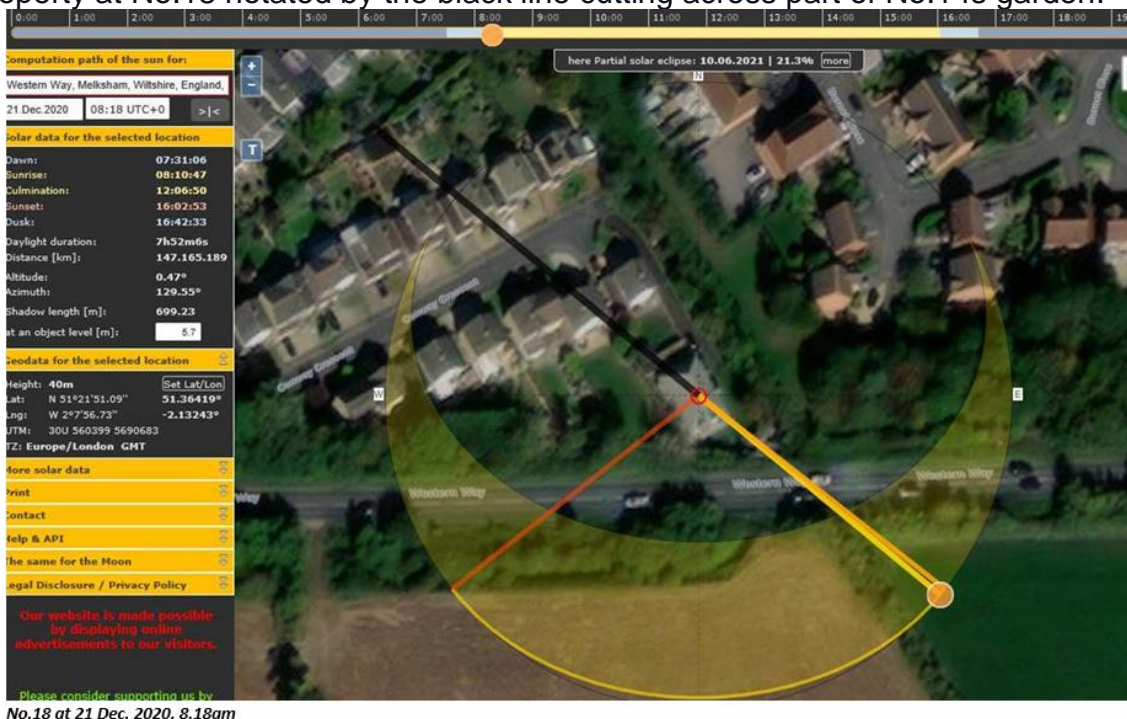
9.1.2 The modest annex occupies about 20% of the rear garden and it is not considered overdevelopment of the plot. Although the annex has a bathroom, there remains a direct, functional and dependent relationship with the main dwelling. Should members concur with the officer recommendation to grant planning permission, a planning condition is recommended to ensure that the annex remains ancillary to the residential use of the main dwelling.

9.1.3 Officers are also mindful that the host property benefits from permitted development rights, which would allow the owner to construct a similar sized outbuilding incidental to the enjoyment of a dwellinghouse under Schedule 2, Part 1, Class E provided that it meets the provisions set in the General Permitted Development Order (2015) (as amended). The constructed annex exceeds the maximum height parameters for a structure being within 2m of the boundary. The siting of the annex is not considered harmful and having it located centrally within the garden would not be good planning. Should Members resolve to grant permission, a planning condition is recommended to remove any residual PD rights for other outbuildings to be constructed on the plot. Thereby requiring the submission of planning applications for any future proposed additions.

9.2 Impacts on Neighbour Amenity

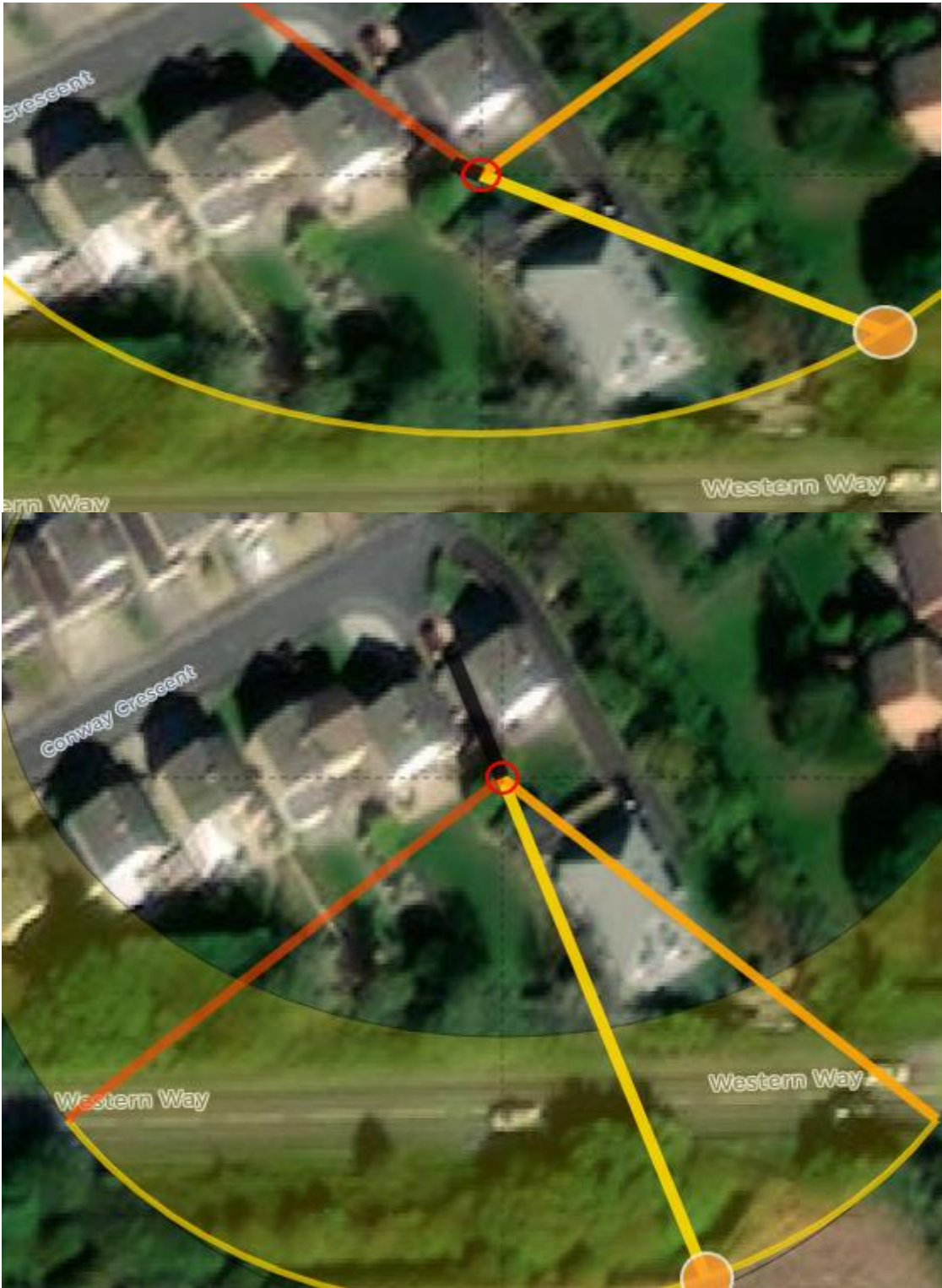
9.2.1 Paragraph (vii) of adopted Wiltshire Core Strategy Core Policy 57 requires new development to have regard to the compatibility of adjoining buildings and uses, as well as to consider the impacts on the amenities of existing and neighbouring occupants, and this application should consider overshadowing, overbearing and loss of amenity impacts.

9.2.2 In terms of overshadowing, the baseline conditions must be first understood, and it should be noted that the neighbouring property at No.14 Conway Crescent, experiences levels of overshadowing at different times of the day to varying degrees throughout the year from both the No.16 and the bungalow at No.18 Conway Crescent. Officers have modelled the existing impacts by inputting the known details of the existing properties into a sun cast shadow program (an online model provided by <https://www.suncalc.org> which can model shadowing cast by buildings across neighbouring property). In this case, the following insert illustrates the direction of a shadow cast by the property at No.18 notated by the black line cutting across part of No.14s garden.



Calculated overshadowing impact on No. 14 created by the bungalow at No.18 at the Winter Solstice where the sun is at its lowest (above example timed at 08:18)

9.2.3 In modelling the overshadowing impacts of the annex, officers are fully cognisant of the existence of the c.2m high common boundary fence, and in running a test on the proposed 3.2m high annex and the shadowing it creates across No.14s property and garden, the extent of the shadow was found to be imperceptible, beyond that which is created by the fence and the existing boundary vegetation. By mid-morning on a sunny morning on the shortest day of the year, the extent of the shadow would mostly affect the host property rather than No.14 as illustrated by the following inserts – due to the siting and orientation of the annex in the context of the sun’s orbit.



9.2.4 Officers are satisfied that the annex, being only marginally higher than the boundary fence (as shown below), would not lead to substantive overshadowing harm to the neighbouring property at No.14, and by virtue of the siting and orientation and intervening boundary treatments, the annex has no material impact on No.18.



9.2.5 Officers appreciate that the proposed ancillary outbuilding is positioned close to the common fenced boundary, as shown above, but it is not considered visually obtrusive and nor would it result in a substantive loss of privacy. The annex is positioned just under 5m from the nearest window at No.14 Conway Crescent. The existing house at No.16 Conway Crescent is only about 2m from No.14, and officers are mindful of the extant nature of consented application 19/05319/FUL which permits the applicant to extend along the western elevation of the host property. There is no conflict in terms of window relationships and the 25-degree rule of thumb test for assessing overbearing effects. In applying the 25-degree test, a reference line is taken from the centre of No.14's nearest window/opening and a 25-degree line is drawn towards the proposed building. Since the entire annex falls outside a 25-degree line taken from the neighbouring property window, officers find that there are no substantive grounds to object to the annex on privacy/amenity impacts.





Views of the ancillary outbuilding from No.14 Conway Crescent's rear garden – noting that the third image immediately above, shows the annex on the left behind the trees/landscaping and the bungalow at No.18 further along the boundary fence – which forms no part of this application.

9.2.6 There is no substantive harm created through overlooking mindful of the modest height of the annex and its siting behind the common boundary fence as shown in the previous insert (noting the annex is on the far left and the bungalow at No.18, which is far more visible from the garden of No.14 is seen further along the common boundary fence as shown above right).

9.2.7 There are unobscured windows set within western rear elevation of the annex, facing towards No.14 Conway Crescent, but as shown below, the windows – which serve a bathroom and lounge are more or less in line with the top of the common boundary fence and set behind some significant boundary planting. Following the case officer's site visit, the subject windows are not considered to be harmful to the neighbouring amenity, and it should be noted that the trees along the boundary shown below are within the garden of No.14 and these provide ample additional screening. Mindful of the modest size of the annex and its relationship with the site boundary and neighbouring properties, officers are satisfied that the proposal is CP57 compliant.



Eastern elevation of the annex

9.2.8 Building Regulations would address fire safety matters, and it may be necessary for the applicant to complete some residual modifications. Officers have ensured that the applicant is aware of the necessity for a building warrant and a pre-application enquiry has been lodged with the Council's building control team. DM officers maintain that building control considerations should be fully addressed outside of the planning regime.

9.2.9 In response to the concerned neighbour's representation about the decay of a tree within No.14s garden, officers have received no evidence. It is possible that roots may have been severed during the formation of the concrete slab on which the annex sits, but this would be a civil matter and it cannot be used as grounds to refuse planning permission. The owner of No.14 has been advised to speak with the applicant and a tree surgeon to ascertain the reasons for the decay of the tree.

9.3 Drainage Matters

9.3.1 Wessex Water and the Council's drainage team report no objections on drainage matters, and as previously discussed, the case officer secured a revised plan from the applicant to establish the routing of the sewers and the available connections. At present the foul and roof water connect with the private sewer, but the applicant intends to connect to the private surface water sewer pending third-party agreement and building regulation approval. A planning condition is recommended to secure the splitting of the foul and the surface water drainage disposal and to conform with the recommendations of Wessex Water and WCS Core Policy 67.

9.3.2 Although a concern has been raised by the neighbour about ground water pooling, the site is not at risk of flooding (pluvial or fluvial), and through the building regulation requirements and third-party agreements, there is an alternative means of disposing the surface water drainage from the annex building.



Map showing the risk of flooding from surface water in the area

9.4 Impacts on Surroundings – Design

9.4.1 Adopted Wiltshire Core Strategy Core Policy 57 states that a high standard of design is required in all new developments, and development is expected to create a strong sense of place through drawing on the local context and being complementary to the locality. Paragraph (iii) of CP57 requires that new development should respond positively to the existing townscape features in terms of height, mass, scale, elevation design and materials.

9.4.2 Conway Crescent is mainly characterised by detached, two-storey dwellings with various additions (mostly single-storey). The detached dwellings are either a dark red/brown brick or a cream coloured brick, with timber/plastic cladding elevation features as shown below. The exception to this is No.18 - which is a bungalow and is constructed from red brick with a hipped roof.



View of No.16 from public domain

9.4.3 The 3.2m high annex is a modest addition within the domestic garden of No.16 and does not appear out of keeping or obtrusive. Painted timber is a common material for domestic outbuildings within residential gardens, and the structure is considered acceptable in terms of its design and appearance.



9.5 Highway Impacts

9.5.1 The annex does not create any highway concerns. The Wiltshire Car Parking Strategy (which was adopted in 2015) states that the minimum parking standards for 2-3 bed dwellings require 2 allocated parking spaces. Dwellings with 4 bedrooms or more require 3 allocated parking spaces. The minimum parking requirement for each external parking space to be 'counted' is 2.4m x 4.8m. The host dwelling is a 3-bed property, and the annex provides for one additional ancillary bedroom 1 additional bedroom. It is also important to appreciate that the property benefits from extant planning permission to convert the garage to accommodate an extra bedroom – which cumulative requires 3 on-site parking spaces, which can be accommodated.

10. Conclusion (The Planning Balance)

Overall, officers are satisfied that this retrospective application complies with the relevant policies of the adopted Wiltshire Core Strategy and the NPPF, and subject to planning conditions it is recommended for approval.

11. RECOMMENDATION – Approve subject to the following conditions.

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

AH2019/60, Sheet 1 of 1, Received 3 September 2020

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

2. Within three months of the date of this permission, written confirmation shall be provided to the local planning authority to evidence the annex being connected to the surface water drainage sewer, or to a suitable alternative system.

REASON: To annex requires building warrant approval which shall confirm the most appropriate surface water disposal option to ensure that the development is provided with a permanent satisfactory means of drainage.

NOTE: Off-site connections are understood to require third-party agreements and the applicant should not delay in terms of seeking to secure these.

3. The ancillary annex accommodation hereby approved shall only enure for the benefit of the owner/occupiers of the host dwelling at No.16 Conway Crescent and it shall only be used for purposes ancillary to the residential use of the main dwelling, and shall remain solely within the same planning unit as the main dwelling and not be sold or let as a separate unit of accommodation.

REASON: To define the terms of this planning permission and in the interests of good planning.

4. 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 garages, sheds, greenhouses or any other ancillary domestic outbuildings shall be erected within the curtilage of the host dwelling unless approved under a separate planning application.

REASON: The Council is mindful of the extant nature of application 19/05319/FUL and in combination with this annex, it is considered necessary to remove any residual Permitted Development rights for any additional outbuildings in order to safeguard the character and appearance of the area.

Planning Informatives

Pursuant to condition 3, the applicant is advised that this application is approved on the basis that it has and maintains a direct, functional and dependant relationship with the main dwelling.

The applicant is advised that the development requires a retrospective building warrant, to include surface water drainage connections.