

<b>APPLICATION NO:</b> 22/00708/FUL		<b>OFFICER:</b> Michelle Payne
<b>DATE REGISTERED:</b> 15th April 2022		<b>DATE OF EXPIRY:</b> 10th June 2022 (extension of time agreed until 17th June 2022)
<b>DATE VALIDATED:</b> 15th April 2022		<b>DATE OF SITE VISIT:</b>
<b>WARD:</b> St Peters		<b>PARISH:</b>
<b>APPLICANT:</b>	Mr Z Kwinter	
<b>AGENT:</b>	SF Planning Limited	
<b>LOCATION:</b>	37 Market Street Cheltenham Gloucestershire	
<b>PROPOSAL:</b>	Proposed side and rear extensions (revised scheme following refusal of application ref. 21/02361/FUL)	

**RECOMMENDATION:** Permit



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## 1. DESCRIPTION OF SITE AND PROPOSAL

- 1.1 The application site is located on the north-eastern side of Market Street, within St Peters ward, and comprises a terraced, two storey dwelling. To the rear, the site backs onto the rear of properties in Bloomsbury Street.
- 1.2 The property is red brick beneath a pitched, slate roof, with white uPVC windows and doors. The property has been previously extended to the side at ground floor by way of a flat roofed addition which is finished in render.
- 1.3 The applicant is seeking planning permission for the erection of a first floor side extension and a single storey rear extension. It is a revised scheme following a recent refusal of planning permission at the February committee meeting.
- 1.4 The previous application was refused by members, contrary to the officer recommendation, due to the lack of adequate sanitary facilities to serve the dwelling. The refusal reason reading:

*The proposed development would be inadequately served by sanitary facilities with only a single shower room and toilet to serve a four double bedroomed property. As such, the proposed development would be contrary to the aims and objectives of policy SD14 of the Joint Core Strategy (2017) which requires development to "protect and seek to improve environmental quality. Development should not create or exacerbate conditions that could impact on human health or cause health inequality." Additionally, the development would fail to meet the provisions of paragraph 126 of the National Planning Policy Framework (2021) which highlights the need to ensure that design proposals are of a high quality, and create better places in which to live and work.*

- 1.5 In order to address the above reason for refusal, the scheme has been revised to include an additional shower room at first floor. In all other respects, the proposals are unchanged.
- 1.6 The application is again before planning committee at the request of Cllr Willingham whose comments can be read in full at section 4 below.

## 2. CONSTRAINTS AND RELEVANT PLANNING HISTORY

### **Constraints:**

Airport Safeguarding over 45m  
Honeybourne Line  
Principal Urban Area  
Residents Association  
Smoke Control Order

### **Relevant Planning History:**

**21/02361/FUL**

**REFUSED**

**18th February 2022**

Proposed side and rear extensions

## 3. POLICIES AND GUIDANCE

### **National Planning Policy Framework 2021 (NPPF)**

Section 2 Achieving sustainable development  
Section 4 Decision-making  
Section 12 Achieving well-designed places

### **Adopted Cheltenham Plan 2020 (CP) Policies**

D1 Design

SL1 Safe and Sustainable Living

### **Adopted Joint Core Strategy 2017 (JCS) Policies**

SD4 Design Requirements

SD9 Biodiversity and Geodiversity

SD14 Health and Environmental Quality

### **Supplementary Planning Guidance/Documents**

Residential Alterations and Extensions (2008)

## **4. CONSULTATION RESPONSES**

### **Building Control - 19th April 2022**

The application will require Building Regulations approval. Please contact Cheltenham and Tewkesbury Building Control on 01242 264321 for further information.

### **Ward Councillor - 27th April 2022**

This is just a brief note to say that I would like to call-in 22/00708/FUL (37 Market Street). I will provide some more details in due course, but the neighbours have raised concerns about the over-development of the site, and I have concerns about the quality of living space based upon the sizes of the two new double bedrooms, which are very cramped, the noise implications of having a bathroom between them, the size of the kitchen for 8 people, and the general quality of the development.

I appreciate that you may need this with more detailed planning reasons, but I wanted to let you know about this with as much notice as possible.

Just as an addition, if possible at least one of the objecting neighbours has said they would welcome the opportunity of a site visit via Planning View so that the committee can see the impact on their dwelling.

I'm not sure if this is possible, but I thought I should pass on the request.

### **Ward Councillor - 23rd May 2022**

In terms of planning policy considerations, I believe that the proposal represents "overdevelopment", e.g. it is excessive for the site that it is proposed to occupy. This seems contrary to NPPF ¶124, bullets c, d & e, insofar as the proposal does not fit with the capacity of local infrastructure and services, for example an eight-person dwelling without off-street parking only having two parking permits. The proposal changes the character and setting of the area, and as a primary objection, the proposal is not a well-designed, attractive and healthy place. The "healthy places" being a significant objection.

I also remain unconvinced that the proposal is compliant with NPPF ¶126 as this does not strike me as a "high-quality" building, the plans seem to be to try to cram as much bedroom space as possible into the space. If this was an application by a residential householder with a large family, then the council might look upon this more sympathetically, however, that is not the case.

Translating this down to local policies, the proposals still do not seem to be compliant with JCS policy SD14. This says, "High-quality development should protect and seek to improve environmental quality. Development should not create or exacerbate conditions that could impact on human health or cause health inequality." I do not believe that this has been achieved by this proposal.

Finally, the proposals do not seem to be compliant with the SPD on “Residential Alterations and Extensions”. At 2.1 (3), this policy notes “The Council will maintain such spaces between buildings to prevent a terracing effect between existing houses.” Given the current proposal seeks to completely remove this space, it clearly violates the council’s own SPD policy on this matter.

Following a further site visit, should the planning application be approved, then I believe that the following planning conditions (or slightly better worded equivalents) need to be put in place:

1. The dropped kerb outside the two-storey extension needs to be removed, and the kerb line restored. Reasons – space is too small for a car, but the dropped kerb affects parking provision, and also for public safety outside the development.
2. Refuse and recycling storage to be provided. Reasons – residential amenity of neighbouring dwellings
3. Cycle parking to be provided. Reasons – dwelling is limited to two parking permits, so this is to encourage / provide sustainable transport opportunities.

I realise that some of these issues are subjective, but I have tried to frame them in specific planning policies. Having the Planning Committee consider these will also ensure that my constituents and the applicant get to see this proposal determined in public. I hope this fulfils the requirements of giving material planning reasons for a call-in, but if you need further information, please let me know.

## 5. PUBLICITY AND REPRESENTATIONS

5.1 Letters of notification were sent to 10 neighbouring properties. In response to the publicity, objections have been received from four local residents. The representations have been circulated in full to Members but, in brief, they largely repeat the concerns made in response to the previous application, namely:

- Highway impact/parking
- Noise and disruption during construction
- Overdevelopment/overbearing
- Loss of light/overshadowing
- Overlooking/loss of privacy

## 6. OFFICER COMMENTS

### 6.1 Determining issues

6.1.1 The main consideration when determining this application is whether the revisions put forward by the applicant adequately address the previous reason for refusal.

### 6.2 Design

6.2.1 Adopted CP policy D1 requires all new development to complement and respect neighbouring development and the character of the locality; whilst extensions or alterations to existing buildings should avoid causing harm to the architectural integrity of the building or the unacceptable erosion of open space around the existing building. The policy is generally consistent with adopted JCS policy SD4 and advice set out within Section 12 of the NPPF.

6.2.2 Further design advice in relation to domestic properties is set out within the Council’s adopted ‘Residential alterations and extensions’ SPD.

6.2.3 In terms of scale, form and external appearance, the proposed development is the same as that previously proposed; the officer report which accompanied that application stating:

*6.2.3 Officers are satisfied that the proposed extensions are acceptable from a design perspective. Whilst in this case, the side extension is not set back from the principal elevation, the extension will serve as a continuation of the terrace and is considered to be the most appropriate way of extending the property. Indeed, officers are of the opinion that the extension would result in an improvement to the streetscene; the existing flat roofed extension appearing as an obtrusive feature. Moreover, given the local context, which is largely characterised by terraced properties, the loss of the existing gap is not considered harmful in this instance.*

*6.2.4 To the rear of the property, as revised, the existing single extension would be subject to a fairly modest increase in footprint. The chamfered roof design, whilst perhaps not ideal, is an appropriate design solution to mitigate the impact on the neighbouring property, and will limit the height of the extension adjacent to the boundary. The extension will not be visible from the public realm.*

*6.2.5 The use of materials to match those used in the existing building and wider street scene will ensure that the general character and appearance of the property will be maintained.*

*6.2.6 Overall, officers are therefore satisfied that the proposals accord with the provisions of CP policy D1, JCS policy SD4, and the general design advice set out within the 'Residential alterations and extensions' SPD.*

6.2.4 Members will be aware that the previous scheme was not refused on design grounds; and it would be unreasonable to now reach a different conclusion given that the design of the development is unchanged.

### 6.3 Amenity

6.3.1 Adopted CP policy SL1 advises that development will only be permitted where it will not cause unacceptable harm to the amenity of adjoining land owners or the locality; these requirements are reiterated in adopted JCS policy SD14. CP paragraph 14.4 advises that "In assessing the impacts of a development including any potential harm, the Council will have regard to matters including loss of daylight; loss of outlook; loss of privacy...".

6.3.2 The impact of the development on all neighbouring properties was taken into account when considering the proposals previously; the officer report stating:

*6.3.2 As previously noted, revised plans have been submitted during the course of the application to mitigate the impact of the rear extension on the adjacent property, no.39 Market Street. The two storey addition originally proposed, particularly the first floor bedroom addition, would have had a significant impact on the kitchen window in the rear of this neighbouring property. Following the omission of the first floor element and the introduction of the chamfered roof, the extension now passes the 45° daylight test used to assess the impact of an extension on an adjacent window, and is acceptable. The height adjacent to the boundary will be 2.4 metres and the extension projects 3.5 metres.*

*6.3.3 In considering the first floor side extension, officers are satisfied that whilst the extension will undoubtedly have some impact on the neighbouring property, no.35 Market Street, it is not considered that any such impact will be so great as to warrant a refusal of planning permission on amenity grounds.*

6.3.4 With regard to overlooking and loss of privacy, the angled garden to this neighbouring property has been duly noted but the single window proposed in the rear of the extension is unlikely to significantly compromise existing levels of privacy and overlooking, over and above that which already exists. The relationship between the window and the neighbouring garden will not be dissimilar to that elsewhere

6.3.5 Light to windows serving habitable rooms in this neighbouring property will not be affected; the extension does not project beyond the rear elevation of this property.

6.3.6 Moreover, any loss of sunlight and overshadowing of the rear garden will be limited, given the orientation of the existing properties, and the width of the existing gap between the properties which narrows to the rear.

6.3.7 Furthermore, with regard to noise transfer between properties, this is a matter for Building Regulations; however, a new cavity wall is shown on the floor plans. Also, the works will require agreement under the Party Wall etc. Act 1996; the granting of planning permission does not negate the need to also comply with the act where it is applicable.

6.3.8 The comments from local residents in relation to noise and disturbance have been noted but some noise and disturbance during construction work is to be reasonably expected. Individual circumstances cannot be taken into account. However, for the avoidance of doubt, an informative has been attached advising the applicant/developer of the accepted construction hours for works which are audible beyond the boundary, which are Monday to Friday 8am to 6pm, and Saturdays 8am to 1pm.

6.3.3 Officers remain satisfied that the proposals would not result in any unacceptable amenity impacts on neighbouring residents. The provision of an additional shower room would not have any detrimental impact on neighbouring residents.

6.3.4 In addition, the impact of the development on neighbouring properties was not a reason for refusal of the previous application.

#### 6.4 Other considerations

##### *Householder application*

6.4.1 It is important to remember that this is a householder planning application. The property is not on the Public Register of Licensed HMO's. The speculative future use of the property as a HMO is not a material consideration in the determination of the application. This was addressed in the previous offer report at paragraph 6.4.1 which sets out that "*The occupation of a domestic property by up to six unrelated individuals does not require planning permission unless permitted development rights have been removed. This site does not fall within the area covered by the Article 4 Direction which removes permitted development rights for developments involving a change of use of a dwelling to a HMO*".

6.4.2 The sizes of the individual rooms such as the kitchen etc. are not relevant in the consideration of this application. If, in the future, the property was to be occupied by five or more people, forming two or more households, a HMO licence would be required from the Council. This is entirely separate to any need for planning permission, albeit planning permission would also be required if the property were to be occupied by six or more unrelated individuals.

##### *Parking*

6.4.3 Whilst parking has again been raised as a concern by local residents, the proposals will not result in the loss of any existing on-site parking space. Moreover, the scale of

development proposed is unlikely to result in any tangible impact on parking. There are no parking standards for the development to adhere to. As such, the condition suggested by Cllr Willingham, requiring the removal of the existing drop kerb, would fail to the necessary tests in that planning conditions, as per NPPF paragraph 56, should “*only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.*”

6.4.4 Similarly, given that this is an application to extend a single domestic property, it is not reasonable or necessary to secure refuse and recycling storage, or cycle parking, by way of conditions; the proposal will not result in an increase in residents above and beyond that reasonably expected of a residential property. The property benefits from adequate, secure, outdoor amenity space to the rear.

#### *Protected species*

6.4.4 Whilst records show that important species or habitats have been sighted on or near the application site in the past, given the scale and nature of the proposals, it is not considered that the proposed development will have any harmful impact on these species.

#### *Public Sector Equalities Duty (PSED)*

6.4.5 As set out in the Equalities Act 2010, all public bodies, in discharging their functions must have “due regard” to this duty. There are three main aims:

- Removing or minimising disadvantages suffered by people due to their protected characteristics;
- Taking steps to meet the needs of people with certain protected characteristics where these are different from the needs of other people; and
- Encouraging people with certain protected characteristics to participate in public life or in other activities where participation is disproportionately low.

6.4.6 Whilst there is no absolute requirement to fully remove any disadvantage, the duty is to have “regard to” and remove OR minimise disadvantage and in considering the merits of this planning application the planning authority has taken into consideration the requirements of the PSED.

6.4.7 In the context of the above PSED duties, this proposal is considered to be acceptable.

## **7. CONCLUSION AND RECOMMENDATION**

- 7.1 With all of the above in mind, the proposals are considered to be in accordance with relevant national and local planning policies, and the recommendation is to grant planning permission subject to the conditions below.
- 7.2 Members are reminded that the previous application was only refused on one ground, namely, the lack of adequate sanitary facilities; and officers are satisfied that the additional shower room now proposed at first floor is sufficient to address the previous concern.

## **8. CONDITIONS**

- 1 The planning permission hereby granted shall be begun not later than the expiration of three years from the date of this decision.

Reason: To accord with the provisions of Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

- 2 The planning permission hereby granted shall be carried out in accordance with the approved plans listed in Schedule 1 of this decision notice.

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

## **INFORMATIVES**

- 1 In accordance with the requirements of The Town and Country Planning (Development Management Procedure) (England) Order 2015 and the provisions of the NPPF, the Local Planning Authority adopts a positive and proactive approach to dealing with planning applications and where possible, will seek solutions to any problems that arise when dealing with a planning application with the aim of fostering the delivery of sustainable development.

At the heart of this positive and proactive approach is the authority's pre-application advice service for all types of development. Further to this however, the authority publishes guidance on the Council's website on how to submit planning applications and provides full and up-to-date information in relation to planning applications to enable the applicant, and other interested parties, to track progress.

In this instance, having had regard to all material considerations, the application constitutes sustainable development and has therefore been approved in a timely manner.

- 2 The applicant/developer is advised that the works will likely require agreement under the Party Wall etc. Act 1996; the granting of planning permission does not negate the need to also comply with the act where it is applicable.