

LOCATION: 56 LITTLE HEATH ROAD, CHOBHAM, WOKING, GU24 8RJ
PROPOSAL: Erection of flat roof and supporting walls to side of garage to provide covered storage area, staircase with railings to provide access to bedroom, part lowered roof to front, changes to rear dormers and associated alterations. (Part-retrospective). (Amended plans recv'd 17/8/18). (Amended plans recv'd 21/8/18).
TYPE: Full Planning Application
APPLICANT: Mr David Ironside
OFFICER: Emma Pearman

This application would normally be determined under the Council's Scheme of Delegation, however it is being reported to the Planning Applications Committee at the request of Cllr Wheeler. She wishes the committee to consider the impact on the development on the neighbouring properties ability to enjoy their garden and space; concerns that it is overdevelopment of the site; and, overbearing to both neighbours and the plot size.

RECOMMENDATION: GRANT subject to conditions

1.0 SUMMARY

- 1.1 The application site is a semi-detached cottage, located at the end of Little Heath Road, in the settlement area of Chobham. Planning permissions 14/1103 and 16/0349 allowed the first floor of the detached side garage to be used as an annexe (currently occupied by an au pair). However, without permission, the garage roof was extended to the side boundary resulting in adverse loss of amenity for the adjoining neighbours at 17 and 18 Burr Hill Lane. The applicant has sought to rectify the situation but retrospective applications were refused in 2016 and 2017 with two appeals dismissed in January and June 2018. As a consequence an Enforcement Notice was issued which took effect on 4 July 2018 with a compliance period of 3 months. Section 3 of this report sets out the history in full.
- 1.2 This submission is the latest attempt by the applicant to overcome the harm by proposing to remove the extended garage roof and railings on the southern side and keep the flat roof and staircase, with new railings either side of the staircase to prevent access onto the flat roof, so it is not used as a balcony. The application is part retrospective, in that the flat roof, staircase and front and rear wall supports are already there, however the new railings are not and the roof and existing railings also need to be removed.
- 1.3 It is considered that subject to conditions, including the flat roof not being used as a balcony, this application overcomes the harm to residential amenity and the previous reasons for refusal. The application is therefore recommended for approval. The applicant has appealed against the Enforcement Notice but to date no start date has been confirmed by the Inspectorate and so the recommended 6 month time limit condition takes account of this.

2.0 SITE DESCRIPTION

- 2.1 The application property is a two-storey semi-detached red brick cottage, located on the western side of Little Heath Road, within the settlement area of Chobham as identified on the Surrey Heath Core Strategy Proposals Map 2012. The property has a driveway and garden to the front which is enclosed by a low white picket fence. Surrounding properties are varied in style though many are older detached or semi-detached properties.
- 2.2 The property had a detached garage to the southern side which has been joined to the main house by way of a roof over the passageway and a front door, with an annex on the first floor of the garage, which was to be accessed via an external spiral staircase. The property had an external polycarbonate roof extending to the southern side boundary, which was proposed to be removed. These elements had planning permission, granted under 14/1103. However, the garage roof has been extended to the southern side boundary without permission, with a flat roof underneath and the staircase changed from spiral to a wooden, straighter staircase, and the flat roof currently has railings on the southern side and as such can be used as a balcony. The garage also had two rear dormers on the rear elevation which had planning permission, and the position of these have been slightly altered such that they are now next to each other, and part of the roof over the front door has been lowered.

3.0 RELEVANT PLANNING HISTORY

- 3.1 14/1103 – Erection of roof extension to detached garage including rear dormers and side elevation external staircase *Granted 05/02/2015 (and implemented).*
- 3.2 16/0349 – Variations to conditions 2 and 4 of planning permission SU14/1103 dated 05/02/2015 so as to allow the installation of kitchen and bathroom facilities above the garage *Granted 09/06/2016 (and implemented).*
- 3.3 16/1200 - Extension of garage roof to provide covered walkway/staircase access to bedroom, part lowered roof to front, changes to rear dormers and associated alterations (part retrospective).

Refused 13/02/2017 due to the open southern end roof extension balcony causing loss of overlooking and privacy to the rear gardens of nos. 17 and 18 Burr Hill Lane; and, the extension causing overbearing impacts for the occupants of 18 Burr Hill Lane. In addition, there was insufficient information of the impact on a boundary tree.

- 3.4 17/0379 – Erection of a garage roof to provide covered walkway/staircase access to bedroom, part lowered roof to front, changes to rear dormers and associated alterations (part retrospective).

Refused 03/07/2017 due to the development causing overbearing impacts for the occupiers of 18 Burr Hill Lane. Appeal dismissed 26 January 2018.

- 3.5 17/0911 – Erection of garage roof to provide covered walkway/staircase access to bedroom, part lowered roof to front, changes to rear dormers and associated alterations (part retrospective).

Refused 08/12/17 due to the development causing overbearing impacts for the occupiers of 18 Burr Hill Lane. Appeal dismissed 11 June 2018.

3.6 On the 30 May 2018 an Enforcement Notice was issued which took effect on 4 July 2018 and with a compliance period of 3 months i.e. by 4 October 2018 (unless an appeal is lodged beforehand). The steps of the Notice are summarised below:

- (i) Remove the staircase within the covered way, stair landing/balcony area (and balcony rails);
- (ii) Demolish the extended garage roof canopy;
- (iii) Demolish the supporting walls/false frontage and remove the associated front access door
- (iv) Remove all materials associated with (i) - (iii) from the Land

The applicant has appealed against this Notice but to date no start date has been confirmed by the Inspectorate.

4.0 THE PROPOSAL

4.1 The proposal is to retain the flat roof and staircase, and remove the part of the garage roof that has been extended to the side boundary, along with the railings enclosing it along the southern side. Railings would be placed either side of the stairs at the top, for safety and to prevent access from the staircase onto the flat roof. The extended front wall and rear supports would be retained to support the roof. The area under the flat roof is open to the rear and is used for storage. The flat roof is 2.5m in height, approximately 2.4m in width to the front and 1.6m to the rear. It extends to the southern boundary with a brick wall of around 1.5m in height and a fence on top of this forming the boundary with 18 Burr Hill Lane, which is on higher ground. There is a hedge belonging to this neighbour on the other side of the fence.

5.0 CONSULTATION RESPONSES

5.1 Chobham Parish Council	Objection – The build appears to extend right up to the boundary without sufficient space for maintenance without disturbance to neighbours. Represents an unneighbourly form of development detrimental to residential amenity and with potential for overlooking. Supports representations made from neighbours at 17 and 18 Burr Hill Lane.
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6.0 REPRESENTATION

6.1 At the time of preparation of this report one letter of objection and one neighbour comment have been received. It is noted that, given some of the proposal has already been built, what is referred to as “existing” and “proposed” in the application is confusing. The officer has responded to both neighbours below to answer the questions raised and clarify what is being proposed by this application. If any further response is received from the neighbours in this regard then an update will be reported to the meeting.

6.2 The objection raises the following issues:

- There are no measurements on the plans so do not know how far away the wall will be, and to build a wall will have a direct impact on hedge and trees.

[Officer comment: There are no new walls being built. The flat roof is existing and will be supported by the front and rear supports only, that are already in place]

- If structure of the roof over the store room is made more weight bearing then the whole roof could be used as an entertaining area.

[Officer comment: The roof is not being made more weight bearing, it will remain the flat roof as existing. The application documents refer to the difference between the old polycarbonate roof that has been removed some time ago, and the existing flat roof which will not be re-enforced or otherwise changed].

- Enforcement notice should continue to stand to remove the whole part of the building.

[Officer comment: The Enforcement notice came into effect on 4th July 2018 and gives three months for compliance. It is still in effect at this stage pending the outcome of this application.]

6.3 The comment letter raises the following queries:

- How far is the brick wall supporting the store being built?

[Officer comment: There is no new brick wall, just the existing front and rear supports]

- Should the alterations to the dormer windows be retrospective?

[Officer comment: Yes this element is retrospective]

- Will the enforcement notice be enforced by the deadline if the overbearing features have not been removed?

[Officer comment: The Notice came into effect on 4 July 2018 so the build should be removed by 4 October 2018. If this application is not granted permission then that would still stand. If it has not been taken down by this date then the Council will have to consider its next steps].

7.0 PLANNING CONSIDERATIONS

- 7.1 The application proposed is considered against the policies within the Surrey Heath Core Strategy and Development Management Policies Document 2012, and in this case the relevant policy is Policy DM9 (Design Principles). It will also be considered against the Surrey Heath Residential Design Guide 2017 (RDG) and the National Planning Policy Framework (NPPF).

- 7.2 The previous refusals and dismissed appeals plus the current Enforcement Notice are material considerations. The previous applications were refused due to the overbearing impacts to no.18 Burr Hill Lane, and overlooking and loss of privacy for nos. 17 and 18 Burr Hill Lane. These applications were not refused on character grounds. Whilst the 2016 application was refused due to a lack of information on the impact on adjacent trees, this was resolved with later applications by the submission of a tree report and with no objection by the Council's Tree Officer. The part-lowered front roof, velux window to front and the slight alterations to the position of the rear dormers have also been considered acceptable in the past three refused applications, and were not part of the reasons for refusal. As such the main planning issue to consider is whether this submission overcomes the harm to residential amenity.

7.3 Impact on residential amenity

- 7.3.1 Paragraph 17 of the NPPF states that planning decisions should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings. Policy DM9 states that development will be acceptable where it respects the amenities of the occupiers of neighbouring properties and uses. It is necessary to take into account matters such as overlooking, overshadowing, loss of light and an overbearing or unneighbourly built form.
- 7.3.2 Principle 10.1 of the RDG states that extensions should not result in a material loss of amenity to neighbouring properties as a result of overshadowing, eroding privacy or being overbearing. Principle 10.3 states that side extensions should not erode neighbour amenities. The most affected neighbours to this application are numbers 18 and 17 Burr Hill Lane. The rear garden boundary of number 18 adjoins the southern side boundary of the application property, where the extended roof currently sits. Number 17 also adjoins the southern side boundary of this property, further down the garden.
- 7.3.3 The application for the development as it currently stands was refused under 16/1200, for reasons of the extended garage roof being overbearing to number 18 on the southern side boundary, and loss of privacy because of the balcony area to numbers 17 and 18. Although it adjoins only the very end of the gardens of 17 and 18 which are quite long, number 18 uses the end of the garden in particular as an amenity area with a small outbuilding and seating area in this location.
- 7.3.4 Since then, there have been two further applications to try to overcome these issues, and these have both been refused. Application 17/0379 proposed filling in the southern side of the roof and slightly hiping it, and although this overcame the privacy reason for refusal, it was considered the proximity of the roof to the garden of number 18, and filling it in so it was solid, would have still been overbearing to this neighbour. Application 17/0911 proposed moving the roof 500mm from the boundary and still filling it in, and again this was not considered sufficient to overcome the overbearing impacts to the neighbour given the limited distance from the boundary. The filling in of the side of the roof was considered to overcome the privacy issue.
- 7.3.5 This application proposes the entire removal of the extended part of the garage roof which was considered to cause the overbearing issues in all of the previous applications. The garage roof would be no closer to the garden of these neighbours than was previously allowed under 14/1103, which is about 2.5m from the boundary in line with the front elevation and 1.6m in line with the rear elevation. The side of the flat roof is likely to just be visible to the neighbours above the boundary conifers and fence, though will be mostly obscured by the neighbour's rear outbuilding. The railings would be either side of the

staircase only and not along the southern side boundary as they are currently. Given the height of the roof and the boundary treatments, it is not considered that this or the railings would give rise to any significant overbearing effects for no. 18.

- 7.3.6 The flat roof is not proposed to be used as any kind of balcony, and the railings are proposed in such a way to prevent anyone stepping onto the roof from the staircase. There would be no railings for safety around the edge of the roof, as there might be if a balcony was the intended use, and it is noted that it would no longer be undercover so would not be as desirable to be used in this way as it currently is. It is noted that concern is raised that this could still be used as a balcony. However, many dwellings have flat roofs and it would not be reasonable to prevent these because of the risk of them being used as a balcony. Any use as a balcony would require planning permission. It is considered that a condition could be imposed to prevent it being used in this way, which would overcome the impacts on privacy. It is not considered that the changes to the staircase i.e. from a spiral staircase allowed under 14/1103 to the current straighter staircase makes any material difference in terms of privacy, as the spiral staircase would have also had a small platform at the top by the door, as is required by building regulations.
- 7.3.7 The property adjoins 54 Little Heath Road to the northern side, however the proposal is not considered to have any adverse impacts on this neighbour as it would be concealed by the existing dwelling. It is therefore considered that the proposed development would overcome the previous reasons for refusal in terms of overbearing issues and loss of privacy, with a condition that the flat roof cannot be used as a balcony. The proposal is therefore now considered acceptable in terms of its impact on residential amenity and complies with Policy DM9 (iii) of the CSDMP.

7.4 Other matters

- 7.4.1 The previous applications were not refused on character grounds. However, this application is different in that the flat roof would be visible to the front, and the part of the roof extending to the side boundary removed. The property is at the end of Little Heath Road, and as such is in a very secluded location, with significant boundary vegetation along the southern side. The property currently appears fairly wide in its plot, as it extends to both side boundaries. The removal of the part of the roof extending to the boundary will reduce this width above ground floor and as such will be beneficial in this regard. The railings will be partly visible in the street scene, as will the flat roof, however given its limited height and width, it is not considered that this would result in any significant harm to the appearance of the dwellings or the street scene. It is noted that the spiral staircase allowed under 14/1103 would have also been visible in the street scene. As such the proposal would comply with Policy DM9 of the CSDMP and the RDG.
- 7.4.2 There is no increase in floorspace over 100m² and as such the proposal is not CIL liable.
- 7.4.3 In the event that this application is approved then regard must be had to the materiality of the current Enforcement Notice and the lodged appeal, as explained at paragraph 3.6 above. Given these considerations a normal time limit condition of 3 years would not be appropriate. At the time of writing this report there is no indication from the applicant that the enforcement appeal would be withdrawn, nor is there any indication as to when they would carry out these works. In the officer's opinion a shortened time limit of 6 months would therefore be reasonable i.e. taking into account the current Notice compliance period of October 2018 and the likely period of time it would take the Inspectorate to determine the enforcement appeal.

8.0 CONCLUSION

- 8.1 Subject to appropriate conditions, the proposed alterations would overcome the harm to the residential amenities upon nos. 17 and 18 Burr Hill Lane. The application complies with adopted policy and is therefore recommended for approval.

9.0 ARTICLE 2(3) DEVELOPMENT MANAGEMENT PROCEDURE (AMENDMENT) ORDER 2012 WORKING IN A POSITIVE/PROACTIVE MANNER

In assessing this application, officers have worked with the applicant in a positive, creative and proactive manner consistent with the requirements of paragraphs 38 - 44 of the NPPF. This included the following:

- a) Provided or made available pre application advice to seek to resolve problems before the application was submitted and to foster the delivery of sustainable development.
- b) Provided feedback through the validation process including information on the website, to correct identified problems to ensure that the application was correct and could be registered.

10.0 RECOMMENDATION

GRANT subject to the following conditions:-

1. The garage roof that extends beyond the southern side elevation wall of the garage, and the existing railings, shall all be removed within six months of the date of this decision. The new railings shall be installed within six months of the date of this decision.

Reason: In the interests of limiting the existing overbearing and overlooking harm to the neighbours at 17 and 18 Burr Hill Lane, in accordance with Principles 10.1 and 10.3 of the Surrey Heath Residential Design Guide 2017, Policy DM9 of the Surrey Heath Core Strategy and Development Management Policies 2012 and the National Planning Policy Framework.

2. The proposed development shall be built in accordance with the following approved plans: Proposed Floorplans 156-P-1, Proposed Elevations 156-P-2 and Proposed Block Plan 156-P-3 all received 29.6.18.

Reason: For the avoidance of doubt and in the interest of proper planning and as advised in ID.17a of the Planning Practice Guidance.

3. The flat roof hereby approved over the storage area, shall not be used as a balcony/terrace or similar, and shall not at any time have railings erected around the perimeter of the roof nor any furniture upon it.

Reason: In order to prevent overlooking of neighbouring properties, in accordance with Principles 10.1 and 10.3 of the Surrey Heath Residential Design Guide 2017, Surrey Heath Core Strategy and Development Management Policies 2012 and the National Planning Policy Framework.

Informative(s)

1. Party Walls (etc) Act 1996 DE3
2. Advice regarding encroachment DE1
3. Building Regs consent req'd DF5
4. Decision Notice to be kept DS1