

<b>LOCATION:</b>	1 Middle Close, Camberley, Surrey, GU15 1NZ,
<b>PROPOSAL:</b>	Proposed single storey front extension including two roof lights, a two storey extension to the western side elevation following demolition of the existing garage, change to main roof form, six roof lights to main front roof slope, two rear dormers and fenestration alterations (this application is a resubmission of 19/0701 to allow for alterations to the height of the building and the front gables, alterations to the dormers and fenestration, and the installation of fixed plant for heating and cooling units) - retrospective.
<b>TYPE:</b>	Full Planning Application
<b>APPLICANT:</b>	Mr B Mudgal
<b>OFFICER:</b>	Miss Shannon Kimber

**This application would normally be determined under the Council's Scheme of Delegation. However, it is being reported to the Planning Applications Committee by Cllr. E. Hawkins, on the grounds of residents' concerns over size and bulk, and concerns over the inappropriateness of the heating and cooling units and their potential impact on the residential amenities of the occupiers of 3 Middle Close.**

**This application was originally reported to the 15 July 2021 committee, with an officer recommendation for approval, but deferred to await the Environmental Health Officer's comments on the technical specification of the heating and cooling units and to enable a Member site visit to consider the size and bulk of the proposal.**

**A Member site visit took place on the 10 August 2021 with the application due to be reported back to committee on 12 August 2021. However, following the site visit, it became apparent that there were some inaccuracies on the drawings which required amending. In addition, the comments received from Environmental Health required further clarification. Consequently, the application was again deferred.**

**Since August 2021, there has been a delay with the applicant providing corrected drawings. Amended plans were received on 5 October, superseded by plans received on 22 November 2021. Re-consultation has been undertaken. Officers have also revisited the site to verify that the plans are accurate. Officers sought further noise survey details pertaining to the heating and cooling units, but this has not been forthcoming.**

## **RECOMMENDATION: REFUSE**

### **1.0 SUMMARY**

- 1.1 This is a retrospective application for amendments to the 2019 approval (19/0701), however despite numerous attempts to secure amended plans for the development as built, the submitted plans do not reflect the built form on site. While the deviation in the submitted plans could be considered minor in of themselves, the Local Planning Authority considers that an assessment of the built form and its impact on the character and appearance of the area is not reasonable in the absence of accurate

plans. In addition it could be considered that such an assessment would have no benefit given that even if approved, a breach of planning control would remain. In light of this a reason for refusal is proposed on this ground.

- 1.2 The Environmental Health Officer (EHO) objects to the noise effects of the heating and cooling units located on the flank wall closest to no. 3 Middle Close. Despite officer requests no noise report has been provided to demonstrate that there are attenuation methods to comply with British Standards and to satisfy the requirements of the EHO. In the absence of this there is considered to be adverse harm to the residential amenities of the owner/occupiers of 3 Middle Close and for this reason the application is recommended for refusal.

## **2.0 SITE DESCRIPTION**

- 2.1 The application site is a two storey, detached dwelling. It is located to the south of the highway. It is within the Hedged Estate Character Area. The surrounding area is predominantly residential.

## **3.0 RELEVANT HISTORY**

- 3.1 84/0176 Two storey extension  
*Approved 16.04.1984*
- 3.2 87/0767 Erection of double length garage  
*Approved 21.08.1987*
- 3.3 19/0026 Erection of first floor side extensions either side of property, single storey front extension, roof extension, five front rooflights and two rear dormer windows, and two side rooflights.  
*Withdrawn 11.03.2019*
- 3.4 19/0234 Proposed single storey front extension including 2 rooflights, first floor side extension to both sides of property, change to main roof form and increase in ridge height, 6 rooflights to main front roof slope, two rear dormers and fenestration alterations to front and rear elevations.  
*Approved 01.08.2019 and of material relevance to this submission. For a copy of the Officer's Delegated Report that supported this permission please see Annex B.*
- 3.5 19/0701/FFU Proposed single storey front extension including two roof lights, first floor extension to the eastern side elevation, a two storey extension to the western side elevation following demolition of the existing garage, change to main roof form to increase in ridge height, six roof lights to main front roof slope, two rear dormers and fenestration alterations to front and rear elevations (this application is a resubmission of 19/0234 to allow for a replacement garage to the west, application of render to external elevations and to increase the width of the rear dormer windows) - Part retrospective.  
*Approved 07.11.2019 and of material relevance to this submission. For a copy of the Officer's Delegated Report that supported this permission please see Annex A.*

- 3.6 19/2169/PMR Proposed single storey front extension including two roof lights, first floor extension to the eastern side elevation, a two storey extension to the western side elevation, following demolition of the existing garage, change to main roof form to increase in ridge height, six roof lights to main front roof slope, two rear dormers and fenestration alterations to front and rear elevations (this application is an amendment to 19/0701 to allow for an enlarged first floor side extension and four additional rooflights).

*Withdrawn 03.02.2020*

- 3.7 20/0407/FFU Erection of first floor side extension with accommodation in the roof, including rooflights

*Withdrawn 01.06.2020*

#### **4.0 THE PROPOSAL**

- 4.1 This is a retrospective application with full planning permission sought for as built amendments to the 2019 approval. In effect, this is a resubmission of 19/0701 (see paragraph 3.5 above) which granted permission for a single storey front extension with two roof lights and a two-storey extension to the western side elevation following demolition of the existing garage (amongst other things).

- 4.2 As submitted the plans provided with the application showed the following deviations from the 2019 approved plans:

- The first-floor infill extension to the eastern side elevation has not been built and is no longer proposed;
- A total of 5 heating and cooling units (one to the eastern side elevation, one to the rear elevation and three to the western side elevation) have been installed. Each unit has a height of 0.5 metres, a width of 0.9 metres and a depth of 0.4 metres. They project 0.5 metres from the dwelling and have a maximum height of 3.4 metres above the adjacent ground level;
- An alteration to the two rear dormers, including relocation on the roof slope, increase width by 0.9 metres (from 2.6 metres to 3.5 metres), decrease the width of the glazing by 0.5 metres (from 2.3 metres to 1.8 metres) and a decrease in depth by 0.2 metres (from 2.6 metres to 2.4 metres). The heights of the dormers have not been changed;
- Reduction in the maximum height of the dwelling by 0.2 metres (from 8.4 metres to 8.2 metres);
- Increase in the height of the two gables to the front elevation by 0.6 metres (from 7.4 metres to 8 metres); and,
- Fenestration alterations including the relocation of windows and doors to the front, western side (of the existing single storey structure) and rear elevations at ground floor level, relocation of windows to the front elevation at first floor level and relocation of roof lights to front roof slope at second floor level.

- 4.3 Following the 12 August 2021 Planning Applications Committee an amended set of plan were received. However, these remained inaccurate and as consequence a further set were sought. On the 22<sup>nd</sup> November these were provided. The amended plans show some corrections as listed below:

The front elevation now shows the correct position of the garage door, windows are shown 0.2 metres lower than the soffit at ground floor level and 0.1 metres lower at first floor level and one wider window to the family room.

- The western elevation now shows a gently sloping roof (0.1 metres difference in height between the maximum height and eaves) and the eaves overhang of 0.4 metres for the single storey rear extension.
- Ground floor plan now shows the single storey rear extension with a depth of 1.4 metres, with a roof with a depth of 1.7 metres, so that the floor plans and elevations match.
- The rear elevation has been amended to show some correction to the fenestration.
- The ground floor plan/block plan now shows parking, turning and vehicle access to the garage, along with the location of soakaways, hardstanding and vegetation/boundary treatment. The retaining wall in the rear garden has been shown in the correct position.
- The distance from western side elevation of 1 Middle Close to the boundary and the side elevation of number 3 has been corrected on the block plan and floor plans so that the separation distance on the plans matches the distance measured on site (1 metre minimum separation distance between side elevations).

4.4 However, despite the submission of two sets of amended plans there remain a number of discrepancies in the development as built and that shown on the submitted plans. In addition, while the applicant has provided technical details for the heating and cooling units installed no noise survey or assessment has been provided.

## 5.0 CONSULTATION RESPONSES

- |     |                              |  |
|-----|------------------------------|--|
| 5.1 | County Highways Authority    | No comments or requirements to make.   |
| 5.2 | Environmental Health Officer | Raises objection. The heating and cooling units on the western side elevation result in adverse noise pollution for the occupants of 3 Middle Close (see section 7.5 of this report for more detail) |

## 6.0 REPRESENTATION

6.1 At the time of preparation of this report 15 letters of representation have been received, from 9 addresses. These are summarised below:

- Confusion of description of development [*Officer comment: The description of development has since been rewritten to clarify the development, also see 3.1 for a full list of amendments*];
- Conflict with national policy, local plan policies and supplementary planning documents [*Officer comment: The relevant policies are included at the start of each sub-section (7.4 and 7.5), and the development has been assessed against them*];

- Development too high and too wide (both this proposal and the cumulative impact of the existing extensions). The scale, bulk and mass of the development results in a cramped form of development and constitutes over development and is out of keeping with character of area as there are no other dwelling of this size within the estate [*Officer comment: See section 7.4*];
- Negative impact on the residential amenities of the occupiers of neighbouring properties due to proximity to boundary, loss of light, overly dominant and loss of privacy [*Officer comment: See section 7.5*];
- Excessive and unreasonable noise and pollution caused by the heating and cooling units, as well as noise and disturbance from the building works. The heating and cooling units also give the appearance of an industrial use rather than residential [*Officer comment: See section 7.5*];
- Insufficient parking and damage to Middle Close by delivery lorries [*Officer comment: See section 7.7 of Annex B*];
- Damage to/removal of vegetation during construction, contrary to previously imposed planning conditions [*Officer comment: See section 7.5 of Annex B – Officer’s delegated report for 19/0234. It is regrettable this condition was not followed. However, this vegetation was compromised prior to the first development and was not covered by a TPO. It has now been lost*];
- Inaccurate plans [*Officer comment: amended plans have been submitted*];
- The developers did not build in accordance with the plans from the previous approval and has been undertaken retrospectively. If approved, the development would set a precedent for a ‘built now and apply later’ attitude of development [*Officer comment: This point is noted, this application is to apply retrospectively for the development as built*];
- Is a restrictive covenant prohibiting front boundary fencing no longer active? [*Officer comment: No front boundary treatment has been approved previously at 1 Middle Close and none is sought by this application. In any event restrictive covenants are outside of the Planning Authority’s remit*];
- Developer has had no regard for the neighbours during construction, hours of operation have not been followed [*Officer comment: This is outside of the Planning Authority’s remit, although the developer should be compliant with other legislation including the Control of Pollution Act 1974 which limits the hours of noisy construction work*];
- General dislike of proposal and negative impact on outlooks [*Officer comment: Whilst this point is noted neither is a material planning consideration*].
- Drainage concerns [*Officer comment: The agent has confirmed that the waste water will connect to the mains drainage and the water from guttering and run off will be disposed of on-site through soakaways*].

## 7.0 PLANNING CONSIDERATION

- 7.1 The application site is located within the defined settlement boundary, as set out in the proposals map included in the Core Strategy and Development Management Policies document 2012 (CSDMP). For this proposed development, consideration is given to policy DM9 of the CSDMP and the National Planning Policy Framework

(NPPF). The Residential Design Guide (RDG) Supplementary Planning Document 2017 as well as the Western Urban Area Character (WUAC) Supplementary Planning Document 2012 also offer relevant advice.

7.2 Planning approval 19/0701 (which was an amendment to 19/0234) is also a material consideration. Since this permission there has been no change to policy. For completeness and comparison purposes a copy of the officer's reports for 19/0701 and 19/0234 is included with this agenda (Annexes A and B, respectively).

7.3 On this basis, the following assessment concentrates on the built alterations to the 2019 approval (listed in paragraph 4.2 of this report), relating to the following main issues:

- Impact on the character and appearance of the surrounding area; and,
- Impact on the residential amenity of neighbouring properties

#### **7.4 Character and appearance of the area**

7.4.1 Para. 130 of the National Planning Policy Framework (NPPF) requires good design principles; subparagraphs b and c clarify that a visually attractive extension which is sympathetic to local character should be acceptable. Policy DM9 of the CSDMP states that development will be acceptable where it achieves a high-quality design which respects and enhances the local character in its urban setting, paying particular regard to scale, materials, massing and bulk. Policy DM9 also seeks to protect vegetation worthy of protection.

7.4.2 Principle 7.8 of the RDG sets out guidelines for designers detailing that design which positively contributes to the character and quality of the area will be supported. Principle 7.9 focuses on window design and principles 10.1, 10.2, 10.3 and 10.5 focus on extensions to existing dwellings.

7.4.3 The WUAC sets out the importance of achieving a good design which builds on the existing character of an area. The application site is located within the Hedged Estate Character Area, this area is characterised by a regimental layout of generous plots containing detached dwellings with hedges enclosing the plots, creating a green appearance.

7.4.4 Guiding principle (HE1a) of the WUAC SPD states the importance of maintaining space between and around buildings. HE2 seeks to ensure the form appearance, spacing and plot ratios are not harmful, HE3 states the importance of vegetation and soft boundaries. HE4 seeks to improve architectural quality.

7.4.5 The three heating and cooling units to the western side elevation and the one unit to the eastern side elevation are visible from the public realm. However, due to their positioning, only the front-most unit would be clearly visible. Given their size and siting these units are not considered to have any significant adverse impact to the appearance of the dwelling or wider area.

7.4.6 The most visible deviation from the approved 2019 plans are the alteration to the gables on the front elevation which show a height increase of 0.6m from that approved in 2019, however there are concerns that the extent of the changes shown on the latest submitted plans still do not reflect the form of the gables as built. There are also clear deviations in the fenestration details shown. A further concern is the extent of rain water and waste pipes installed and the fact these are not shown on the plans. Officers have made repeated requests for amended plans to accurately show the development as built, however it remains that the submitted plans are still not accurate. It is therefore considered the Local Planning Authority cannot reasonably undertake an assessment of the built developments impact on

the character and appearance of the area and accordingly cannot conclude the aims and objectives of the NPPF, Policy DM9 of the CSDMP, the RDG and the WUAC are met. A reason for refusal is therefore proposed.

## **7.5 Impact on residential amenity of neighbouring properties**

- 7.5.1 Para. 130(f) of the NPPF seeks to create a high standard of amenity for existing and future users. Para. 185. States that new development should be appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so the development should mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development and avoid noise giving rise to significant adverse impacts on health and the quality of life. This is further supported by the Noise Policy Statement for England (Department for Environment, Food & Rural Affairs, 2010).
- 7.5.2 Policy DM9 of the CSDMP states that development will be acceptable where the proposal respects the amenities of the occupiers of neighbouring properties and uses. The importance of appropriate design for extensions, so as not to result in a material loss of amenity for the occupiers of neighbouring properties, is set out in principles 8.1 and 10.1 of the RDG.
- 7.5.3 The three heating and cooling units on the western side elevation are a minimum of 0.5 metres from the side wall of 3 Middle Close. Environmental Health have been consulted regarding the potential noise impacts from these units. It is accepted that the side elevation of number 3, which is blank, is not a noise sensitive area. However, the first metre to the front of the window on the front elevation of number 3 (which serves an annex), and the garden area to the rear are noise sensitive areas. Due to the proximity of these units to the boundary and the noise sensitive areas to the front and rear, these areas would be affected by the units. The technical details submitted with this application indicate that the units may well cause serious annoyance to neighbours and exceedance of daytime amenity levels in the adjoining garden. It has been recommended by Environmental Health that a report assessing the existing units and any potential methods for these units to comply with BS4142:14 be submitted. Whilst one was sought, no such report has been submitted by the agent. As such, it has not been demonstrated that there are attenuation methods which would result in a scheme that complies with the British Standards. The existing units do not comply with the British Standards and as such, are considered to result in an adverse impact on the amenities of the occupiers of this neighbouring property.
- 7.5.4 There is an alteration to the western fenestration approved in 2019. This is at ground floor level only and sited 18 metres from the shared boundary with no. 3 Middle Close. This is not considered to alter the approved pattern of overlooking.
- 7.5.5 The revised dormer structures to the rear are not sited any closer to the rear boundary than the previously approval.
- 7.5.6 The removal of the infill extension to the eastern side has the result of reducing the amount of built form facing the rear elevation of 56 Roundway, the neighbouring dwelling in this direction. Therefore, the development is considered an improvement compared to the 2019 approval.

- 7.5.7 The heating and cooling unit installed to the eastern side elevation is 4.7 metres from the shared boundary with number 56 and there is a minimum separation distance of 16 metres between the unit and the rear elevation of number 56. This distance is considered sufficient to mitigate the noise produced by this unit. It is not considered that the development results in an adverse impact on the residential amenities of the occupiers of this neighbouring dwelling.
- 7.5.8 The altered front gables are set a minimum of 10.3 metres from the front boundary of the application site. Middle Close has a width of 12.1 metres, at this point. As such, the alterations to the gables or the front fenestration will not have a significant impact on the residential amenities of the dwellings opposite.
- 7.5.9 In summary, the three heating and cooling units to the western side elevation are harmful to the residential amenities of no.3 Middle Close. It has not been demonstrated that there is mitigation to attenuate the harm caused by these units. The development therefore fails to comply with the NPPF and Policy DM9 of the CSDMP.

## **7.6 Other matters**

- 7.6.1 The proposed development is not for a net increase in dwellings, nor is it for a residential extension of over 100 square metres, as such the development is not CIL liable.

## **8.0 POSITIVE/PROACTIVE WORKING & PUBLIC SECTOR EQUALITY DUTY**

- 8.1 In assessing this application, officers have worked with the applicant in a positive, creative and proactive manner consistent with the requirements of paragraphs 38-41 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.
  - c) Have proactively communicated with the applicant through the process to advise progress, timescale or recommendation.
- 8.2 Under the Equalities Act 2010, the Council must have due regard to the need to eliminate discrimination, harassment or victimisation of persons by reason of age, disability, pregnancy, race, religion, sex and sexual orientation. This planning application has been processed and assessed with due regard to the Public Sector Equality Duty. The proposal is not considered to conflict with this Duty.

## **9.0 CONCLUSION**

- 9.1 In the absence of accurate plans for the development as built the Local Planning Authority is unable to conclude that the development results in no adverse harm on the character and amenity of the area. Additionally, the applicant has failed to demonstrate acceptable noise attenuation measures to mitigate the adverse harm of the heating and cooling units upon the owner/occupiers of no. 3 Middle Close. The application is therefore recommended for refusal.

## 10.0 RECOMMENDATION

### REFUSE for the following reasons:

1. The three heating and cooling units on the western side elevation of the dwelling by reason of their number, submitted technical details and close proximity to the neighbouring property 3 Middle Close, result in adverse noise pollution to this neighbour's noise sensitive areas including the rear garden and front window. It has not been demonstrated to the satisfaction of the Planning Authority, by a technical noise report, that there are any attenuation measures to comply with British Standards (BS4142:14) to resolve the harm. The development is therefore harmful to the residential amenities for the occupiers of 3 Middle Close, contrary to the National Planning Policy Framework and the Noise Policy Statement for England 2010 and Policy DM9 of the Surrey Heath Core Strategy and Development Management Policies Document 2012.
2. In the absence of accurate plans showing the retrospective development as built the Local Planning Authority cannot reasonably assess the development's impact on the character and appearance of the area and cannot conclude the built development complies with the aims and objectives of the National Planning Policy Framework, Policy DM9 of the Core Strategy and Development Management Policies 2012, the Residential Design Guide Supplementary Planning Document 2017 or Principles HE1a, HE2, H3 and HE4 of the Western Urban Area Character Supplementary Planning Document 2012.

### Informative(s)

1. This Decision Notice is a legal document and therefore should be kept in a safe place as it may be required if or when selling your home. A replacement copy can be obtained, however, there is a charge for this service.
2. The decision has been taken in compliance with paragraphs 38-41 of the NPPF to work with the applicant in a positive and proactive manner. Further information on how this was done can be obtained from the officer's report.
3. For the avoidance of doubt, the following plans and details were under consideration at the time of determination:  
Site Location Plan, Drawing reference: S01, Received 17.06.2021  
Proposed Block Plan and Roof Plan, Drawing reference: S104 E, Received 22.11.2021  
Proposed Ground Floor Plan, Drawing reference: S102 E, Received 22.11.2021  
Proposed First Floor Plan, Drawing reference: S103 C, Received 22.11.2021  
Proposed Second Floor Plan, Drawing reference: S107 A, Received 22.11.2021  
Proposed Front and Eastern Elevations, Drawing reference: S105 C, Received 22.11.2021  
Proposed Rear and Western Elevations, Drawing reference: S106 D, Received 22.11.2021  
Heat and Cooling Unit Model AC12BQ, Received 13.07.2021  
Heat and Cooling Unit Model CT24F NBO, Received 13.07.2021