

**R13**

**FH/TH/21/0275**

PROPOSAL: Erection of conservatory to rear

LOCATION: 21 Farrar Road BIRCHINGTON Kent CT7 0AQ

WARD: Birchington South

AGENT: Mr Alistair Burgess

APPLICANT: Mr C Molloy

RECOMMENDATION: Approve

Subject to the following conditions:

RECOMMENDATION: Refuse Permission

For the following reasons:

1 The proposed extension, by virtue of its location, height and depth would result in an overbearing impact and sense of enclosure to 19 Farrar Road, significantly detrimental to the living conditions of the adjoining residents, contrary to policy QD03 of the Thanet Local Plan and paragraph 127 of the National Planning Policy Framework.

#### SITE, LOCATION AND DESCRIPTION

The application site lies within an established residential area in Birchington. The area is largely characterised by semi-detached (with some terraced properties) set back from the road with front gardens generally set behind low walls/small hedges and large rear gardens.

The gaps between properties vary, but it is not uncommon for dwellings to cover nearly the whole of the width of their site with only a couple of metres between plots. 21 Farrar Road is a two storey semi-detached dwelling located towards the northern end of the road.

#### RELEVANT PLANNING HISTORY

FH/TH/20/1252 - Erection of conservatory to rear elevation. Refused 13 November 2020 due to the impact of the development upon the living conditions of the neighbouring property occupier.

FH/TH/20/0460 - Erection of two storey rear extension. Granted 26 May 2020

FH/TH/17/0232 - Erection of two storey rear extension. Granted 18 May 2017

## PROPOSED DEVELOPMENT

The proposed development is the erection of conservatory to rear elevation.

The proposed development is the same as the development that was refused under application reference FH/TH/20/1252 in November 2020

## DEVELOPMENT PLAN POLICIES

### **Thanet Local Plan 2020**

SP35 - Quality Development

QD01 - Sustainable Design

QD02 - General Design Principles

QD03 - Living Conditions

TP06 - Car Parking

## NOTIFICATIONS

Letters were sent to neighbouring property occupiers and a site notice was posted close to the site.

No responses have been received.

**Birchington Parish Council** - Supports the application

## CONSULTATIONS

None received.

## COMMENTS

The application has been called into planning committee by Cllr Fellows on the grounds to consider the impact on neighbouring properties.

### **Principle**

The site comprises an existing dwelling located within the urban confines of Birchington. The principle of extending an existing dwelling is considered acceptable subject to all other material considerations.

### **Character and Appearance**

The proposed single storey rear extension would be located on the southern side of the rear elevation adjacent to the boundary with the adjoining neighbour 19 Farrar Road and extends from the rear elevation of the existing two storey rear extension. Due to the location and single storey height of the extension it is considered that it would have limited visibility from the street scene and would have no significant impact upon the character and appearance of

the area in line with policy QD02 of the Thanet Local Plan and the National Planning Policy Framework.

### **Living Conditions**

The proposed conservatory would extend from the rear elevation of the existing two storey rear extension and measure 2.9m deep, 2.9m wide, 2.2m to the eaves and 3m in total height. This extension would be located on the boundary with number 19 Farrar Road and in combination with the existing two storey rear extension would have a total depth of 5.9m beyond the rear elevation of this neighbouring property. There is a low boundary treatment between these adjoined properties and given number 19 has a habitable room window located in close proximity to the boundary with number 21. Due to the location of the proposed conservatory at the rear of the existing two storey rear extension and on the boundary with number 19 it would represent a substantial depth of built development within close proximity to the neighbouring habitable room window which is considered to result in a significant loss of outlook severely harmful to the living conditions of the occupiers of this neighbouring dwelling. Whilst the proposed conservatory would be partially glazed this is not considered to overcome the sense of enclosure to the neighbouring property occupiers.

There would be a separation distance of 11.4m to the rear boundary of the site and 4.9m to the northern boundary of the site. Given these separation distances the proposed development is not considered to result in any significant loss of light or sense of enclosure to the northern or rear neighbours.

Due to the single storey design of the conservatory it is not considered to result in any significant opportunity for overlooking to neighbouring dwellings.

In light of the above the proposed development would result in significant harm to the living amenity to the occupiers of number 19 Farrar Road, contrary to policy QD03 of the Thanet Local Plan and paragraph 127 of the National Planning Policy Framework.

### **Transportation**

The property does not currently benefit from any off street parking and the proposed development does not increase the number of bedrooms on the site. Therefore it is considered that the proposed development would not result in any significant increase in demand for on street parking or harm to highway safety.

### **Personal Circumstances**

The applicant has indicated that the proposed development was to provide additional space for disabled family members.

In exercising a function on behalf of a public authority, due regard has been had to the Public Sector Equality Duty (PSED) contained in the Equality Act 2010. The Act sets out the relevant protected characteristics which includes disability. Since there is the potential for this decision to affect persons with a protected characteristic, the Council have had due regard to the three equality principles set out in Section 149 of the Act and to the rights

conveyed within the Human Rights Act, in particular Article 8 of the European Convention on Human Rights which concerns a right to respect for private and family life.

The negative impacts of refusing this application will likely result in the continuation of current living arrangements which were stated not be ideal for the applicants, or result in the investigation of alternative means of providing appropriate accommodation. However, having due regard to this, and to the need to eliminate discrimination and promote equality of opportunity, it is the Council's view that any adverse impacts of refusing the scheme would be justified and the decision would be necessary and appropriate, given the harmful effect of the proposed development on the neighbouring living conditions as identified in this report.

## **Conclusion**

The proposed development is considered to result in significant harm to the living conditions of the neighbouring property occupier due to the location and depth of the proposed extension. The Council has previously considered the same plans under application reference FH/TH/20/1252 and the application was refused for this reason. This previous decision forms a significant material consideration in the determination of this application.

The need for consistency in decision making has been tested in the courts with two recent cases being R (Midcounties Co-Operative Limited) v Forest of Dean District Council (2017) EWHC 2050 and Baroness Cumberlege v Secretary of State for Communities & Local Government [2017] EWHC 2057. In both of these cases the decision makers failed to provide clear reasons for departing from their original position and the decisions were quashed by the High Court.

Given how recently the previous application for the same development was determined, and that there have been no changes to local or national policy since this decision was made, it is considered that this material consideration must be given significant weight and there is no justified reason for departing from this previous position. It is therefore recommended that the application is refused.

## **Case Officer**

Duncan Fitt

TITLE:

FH/TH/21/0275

Project

21 Farrar Road BIRCHINGTON Kent CT7 0AQ

