

**APPENDIX 1**

Report to Planning Committee – 18 July 2019

ITEM 3.1

**PLANNING COMMITTEE – 18 July 2019****PART 3**

Report of the Head of Planning

**PART 3**Applications for which **REFUSAL** is recommended

<b>3.1 REFERENCE NO - 19/501570/FULL</b>		
<b>APPLICATION PROPOSAL</b> Erection of rear extension (Retrospective) (Resubmission of 18/500629/FULL)		
<b>ADDRESS</b> 156 Scarborough Drive Private Street Minster-on-sea Sheerness Kent ME12 2LS		
<b>RECOMMENDATION</b> - Refuse.		
<b>SUMMARY OF REASONS FOR REFUSAL</b> Development is harmful to the character and appearance of the street scene, and to the amenities of the residents of 45 Lynmouth Drive.		
<b>REASON FOR REFERRAL TO COMMITTEE</b> Parish Council support the application.		
<b>WARD</b> Minster Cliffs	<b>PARISH/TOWN COUNCIL</b> Minster-On-Sea	<b>APPLICANT</b> Mr K Davies <b>AGENT</b> Ks Architectural Services
<b>DECISION DUE DATE</b> 19/06/19	<b>PUBLICITY EXPIRY DATE</b> 17/05/19	

**Planning History**18/500629/FULL

Retrospective application for erection of single storey rear extension to provide dayroom/and workshop/hobby area.

Refused. Decision Date: 31.10.2018

The reasons for refusal were:

- 1) *The proposed development, by virtue of its design, materials and prominence would cause significant harm to the character and appearance of the streetscene in a manner contrary to Policies DM14 and DM16 of the Swale Borough Local Plan 2017.*
- 2) *The proposed development, by virtue of its design and location relative to the adjacent dwelling (no.45 Lynmouth Drive) would amount to an overbearing structure, which gives rise to significant and intrusive overlooking, contrary to Policy DM14 of the Swale Borough Local Plan 2017.*

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- 3) *The flue, due to its inadequate height and location relative to the adjacent dwellings, would give rise to harm to residential amenity by virtue of smoke and fumes, contrary to Policy DM14 of the Swale Borough Local Plan 2017.*

### 17/500207/FULL

Erection of a front porch and conversion of the garage into a habitable room to allow for disabled access and the storage of disabled equipment.

Approved. Decision Date: 27.02.2017

### SW/01/0496

Erection of single storey side and rear extension and provide a garage and dining room.

Approved. Decision Date: 02.07.2001

### SW/00/1170

Extension to form garage and dining room

Approved. Decision Date: 29.01.2001

## **Enforcement History:**

### 17/500827/OPDEV

Notice Issued (20 March 2019) against the development considered under 17/500207/FULL. The period to appeal against the notice has elapsed, and it therefore remains in force. The requirements of the notice are (in short) to remove/demolish the extension and return the site to its previous condition.

## **1. DESCRIPTION OF SITE**

- 1.1 The application site is a detached bungalow situated on a corner plot in the built up area of Minster. The property is located on Scarborough Drive, with Lynmouth Drive to the side to which the properties front onto. Due to local land levels the property is significantly elevated from Lynmouth Drive and the neighbour to the rear.

## **2. PROPOSAL**

- 2.1 Retrospective planning permission is sought for the erection of a single storey rear extension for dayroom, workshop and hobby areas. The extension measures approximately 3.4m x 6.7m x 2.6m high with flat roof, and is sited 1.2m from rear boundary. The development has a flue serving a wood burning stove projecting from the roof, and the submitted drawings show this being extended from its current height to the same height as the ridge of the main roof on the original property.
- 2.2 Despite the description as a dayroom / workshop, the development has actually been put to use as an annex for the owner of the dwelling, his family having moved into the main dwelling. The applicant has provided supporting information setting out various serious health problems which necessitate his family living in the property to assist him. However it appears from the letter from his occupational therapist that the need for essentially separate accommodation stems primarily from the applicant's son owning two large dogs, and laminate flooring being difficult for him to negotiate.

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- 2.3 Apart from the increased height of the flue the application is identical to that which was refused planning permission last year under ref. 18/500629/FULL, and no additional supporting information has been provided.
- 2.4 Further to that refusal an enforcement notice was issued by the Council which required the extension and flue to be demolished / removed and the site to be restored to its original condition. The notice has not been appealed and therefore remains in force.

**3. SUMMARY INFORMATION**

	<b>Proposed</b>
Approximate Ridge Height (m)	2.6m
Approximate Depth (m)	3.4m
Approximate Width (m)	6.7m
No. of Storeys	1

**4. PLANNING CONSTRAINTS**

- 4.1 None.

**5. POLICY AND CONSIDERATIONS**

- 5.1 Bearing Fruits 2031: The Swale Borough Local Plan 2017 – the following policies are relevant:

DM14 – General Development Criteria  
DM16 – extensions and alterations

- 5.2 The Council's adopted Supplementary Planning Guidance (SPG) entitled "Designing an Extension – A Guide for Householders" is relevant.

**6. LOCAL REPRESENTATIONS**

- 6.1 One letter of support from a neighbour, commenting that they do not object to the development overall, but do object to the flue as existing, and request that it be altered to prevent gases/smoke from entering their property.
- 6.2 One letter of objection commenting on the visual impact of the development, loss of garden space at the property resulting from the extension, potential for the property to be converted into flats, fumes and smell from the flue, and a perceived delay with the planning enforcement process.

**7. CONSULTATIONS**

- 7.1 Minster Parish Council supports the application "subject to improvement of the chimney for the dispersion of gases to avoid any negative impact on the neighbours' amenities."
- 7.2 It is worth noting, however, that the Parish Council objected to the previous (identical) application, commenting:

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*“Although Minster-on-Sea Parish Council has sympathy for the applicant, it cannot support this proposal on account of its close proximity to the neighbouring property, inadequate construction and associated fire risks and impact on the amenities neighbouring residents might reasonably expect to enjoy.”*

- 7.3 The Council’s Environmental Health Manager suggests that more information is required in respect of the proposed flue, because the proposed height may not be sufficient to prevent smoke from entering the neighbour’s windows due to the close proximity of the extension to the boundary with 45 Lynmouth Drive:

*“It is unclear from the drawings if the proposed extension of the flue will take it above the roof height of the neighbouring properties, although it looks unlikely.*

*In my opinion it is likely to continue to cause a nuisance to neighbouring properties especially since enforcement over the use of the correct fuels in the domestic sector is difficult.*

*I would recommend that further information is sought on the design of the wood burning stove, flue height calculations and building control approval.”*

## 8. BACKGROUND PAPERS AND PLANS

- 8.1 The application is supported by relevant plans, a letter from the applicant’s doctor which sets his various health issues, and a letter from his physiotherapist which, as above, appears to set out that the need for the extension is predicated upon the applicant’s difficulties navigating laminate flooring and his son’s large dogs.
- 8.2 The historic applications noted above are also relevant, especially 18/500629/FULL, which is identical to this current application apart from the height of the flue.

## 9. APPRAISAL

### Principle

- 9.1 The site lies within the built up area, where the principle of development is generally acceptable subject to design and amenity considerations.

### Visual amenity

- 9.2 The development is poorly designed. The materials used do not marry well with the existing dwelling, and the flat roof and elevated position above the highway, together with visibility from public vantage points ensure that the development is prominent, obtrusive and harmful to visual amenity. This is contrary to Policies DM14 and DM16 of the Local Plan, and this amounts to a reason for refusal.

### Residential amenity

- 9.3 The development lies very close to the rear boundary, with facing windows which directly overlook the flank window of the dwelling to the rear (no.45 Lynmouth Drive) at

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a distance of less than 4m. This gives rise to a significant and harmful overbearing sense of overlooking. In addition, due to the height difference between the two, the development appears overbearing, in my opinion, and gives rise to a sense of enclosure. These issues amount to reasons for refusal.

- 9.4 The previous scheme (ref. 18/500629/FULL) was refused partly on the grounds of the flue for the log-burner being of an insufficient height to allow for proper smoke dispersal, giving rise to harm to the amenity of neighbouring residents. The current application shows the flue increased in height, but it is not clear whether the additional height is sufficient to allow for proper smoke dispersal such that it would be carried away from the windows of 45 Lynmouth Drive. The Council's Environmental Health Manager has suggested that additional information is required to resolve this but, given my in principle objections to the development as set out above, I think it would be unreasonable to put the applicant to the additional expense of providing this information when the application is being put forward for refusal.
- 9.5 Therefore, however, the third reason for refusal of 18/500629 (as set out above) remains unresolved.

Personal circumstances

- 9.6 It is clear from the submitted information that the applicant suffers from considerable health problems. It is normally the case that personal circumstances will rarely outweigh conflict with the development plan or other material planning considerations. However, in this case the health problems of the applicant are apparently severe and ongoing. They are clearly capable of being a material planning consideration which should be taken into account.
- 9.7 However, the justification for the provision of this development does not appear to be directly related to the health of the applicant. Rather, due to the need to have family living at the site to assist him and his family owning dogs, the applicant needs to have separate accommodation. It appears to me to be questionable as to whether the dwelling has actually been subdivided into two. However, for the purposes of this application I will assume that it remains a single dwelling with an attached annex.
- 9.8 The need for the applicant to avoid contact with his son's dogs and his difficulty navigating laminate flooring are, in my opinion, insufficient justifications for the harmful development applied for here. These are not intractable problems, and could conceivably be solved by keeping the dogs under control and changing the flooring material rather than through construction of a harmful and unacceptable extension. Furthermore: the planning permission granted under 17/500207/FULL included the conversion of the integral garage into a separate lounge and entrance porch. According to the submitted plans this has not taken place; it would provide an almost identical amount of floorspace to the extension applied for here, and remains a viable alternative in my opinion.

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- 9.9 Given the above, whilst I have great sympathy with the applicant's situation, I do not consider his ongoing health problems amount to sufficient justification for the grant of planning permission given the harm the development causes.

### Next steps

- 9.10 If Members are minded to refuse the application the Council's planning enforcement team will progress with upholding the requirements of the enforcement notice, as set out above.

## 10. CONCLUSION

- 10.1 This application seeks retrospective planning permission for the erection of an extension to serve the needs of the seriously ill applicant. The extension is unacceptable in terms of scale, design, position, and impact on the amenity of neighbouring residents and the character and appearance of the area. The development is also largely identical to that which has previously been refused permission, and against which an active enforcement notice is in place. The previous reasons for refusal have not been overcome and, whilst I have utmost sympathy for the applicant and his circumstances, there are other, less harmful solutions to his requirements.

- 10.2 Taking the above into account I recommend that planning permission should be refused.

## 11. RECOMMENDATION - REFUSE for the following reasons:

- (1) The proposed development, by virtue of its design, materials and prominence would cause significant harm to the character and appearance of the streetscene in a manner contrary to Policies DM14 and DM16 of the Swale Borough Local Plan 2017.
- (2) The proposed development, by virtue of its design and location relative to the adjacent dwelling (no.45 Lynmouth Drive) would amount to an overbearing structure, which gives rise to significant and intrusive overlooking, contrary to Policy DM14 of the Swale Borough Local Plan 2017.
- (3) It has not been demonstrated that the proposed flue would be of a sufficient height, relative to the adjacent dwellings, to ensure proper smoke dispersal. The development would therefore give rise to harm to residential amenity by virtue of smoke and fumes, contrary to Policy DM14 of the Swale Borough Local Plan 2017.

### **The Council's approach to the application**

In accordance with paragraph 38 of the National Planning Policy Framework (NPPF), February 2019 the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and

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creative way by offering a pre-application advice service, where possible, suggesting solutions to secure a successful outcome and as appropriate, updating applicants / agents of any issues that may arise in the processing of their application.

In this instance the application was considered to be fundamentally contrary to the provisions of the Development Plan and the NPPF, and these were not considered to be any solutions to resolve this conflict.

In accordance with paragraph 38 of the National Planning Policy Framework (NPPF), July 2018 the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and creative way by offering a pre-application advice service, where possible, suggesting solutions to secure a successful outcome and as appropriate, updating applicants / agents of any issues that may arise in the processing of their application.

The application was considered by the Planning Committee where the applicant/agent had the opportunity to speak to the Committee and promote the application.

NB For full details of all papers submitted with this application please refer to the relevant Public Access pages on the council's website.

The conditions set out in the report may be subject to such reasonable change as is necessary to ensure accuracy and enforceability.

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