

SUPPLEMENTARY REPORT
TO THE PLANNING COMMITTEE
22nd April 2014

Agenda item 9

Application ref 14/00183/FUL

21 Rathbone Avenue May Bank

Since the preparation of the agenda report, a further **2 letters of representation** supporting the application have been received as well as further correspondence from the **applicant**. Correspondence has also been received from the applicant's partner

The letters supporting the proposal are from the occupiers of 1 and 3 Brampton Road stating that the previous conservatory erected was not harmful to their living conditions, that they were disappointed and surprised with the Inspector's decision and in the case of No.3 they consider the proposed conservatory to be an improvement to their own property's boundary.

The applicant and her partner dispute the conclusions of the officer report. They comment that contrary to your officer's findings:-

- The reduction in the length of the proposed conservatory has significantly improved the proposal from that previously considered by the Authority and its massing is now acceptable. The development is not overbearing unlike others approved by the Council (specific reference is made to a development off Sandy Lane)
- It is not feasible to move the conservatory away from the boundary by 1 metre due to the position of an existing back door serving the property which is around half a metre away from the boundary.
- The proposal will allow additional security to the occupiers of numbers 1 and 3 Brampton Road since a previous garage which stood against the boundary has been removed and they are also in support of the proposal. Due to this factor the proposal will have a positive impact.
- In addition the applicant also points out that the Inspector who dismissed the appeal for a larger conservatory did not have direct access to the allegedly affected properties in making his judgement as acknowledged in his report.
- Permitted development rights could be exercised to achieve a similar extension only just over a metre less in length

Your Officers' comments

The Authority needs to take into account the additional information received in reaching a decision on this application.

Members should note that the Inspector expressly considered the support given to the previous conservatory by the occupiers of some of the adjoining properties, but he still concluded that the development that was before him had a significant negative impact on the living conditions of the occupants of a number of nearby dwellings. He noted that paragraphs within the NPPF require planning authorities to take decisions that ensure a good standard of amenity for all existing and future occupants is maintained and that proposals provide positive improvements to people's quality of life, and that this applies not only to dwellings that are subject to development but also to neighbouring properties. The application now being considered is a different proposal but the principles underlying the Inspector's approach are not open to dispute.

That said there has been reference to the potential exercise in permitted development rights as a material consideration – i.e what is the applicant likely to do in the event of a refusal. Your officer to date has not placed any weight upon these rights as a fallback consideration, but with the further comments now received (and the deadline for late representations falling

on the 15th April without any objections to the current proposals being received from the occupiers of adjoining properties) it is relevant to revisit this aspect. As members may be aware a householder can erect certain extensions without requiring to obtain planning permission. Under new rights introduced last year a single storey extension projecting up to 6 metres from the original rear wall of the property (and meeting various other criteria) can be built as permitted development without the LPA having any opportunity to consider its merits if no adjoining neighbour makes an objection to it within a specified period. The other criteria are met here but in this case 6 metres equates to an extension that is just over a metre shorter than that which is proposed in the planning application here being considered. The absence of any objection to this larger scheme suggests, although not conclusively, that the applicant does have a significant fallback position which the LPA now needs to consider

However the fact remains that what is applied for is over one metre longer and there is no particular benefit that can only be secured by the grant of a planning permission. Thus whilst the potential exercise of a fall back position is a consideration, it is not one which your Officer considers tips the balance in favour of the application.

Your Officer's recommendation as given within the main agenda report remains unaltered.