

**SCOTTISH BORDERS COUNCIL**

**PLANNING AND BUILDING STANDARDS COMMITTEE**

**4 SEPTEMBER 2017**

**APPLICATION FOR PLANNING PERMISSION**

|                   |   |
|-------------------|---|
| <b>ITEM:</b>      | <b>REFERENCE NUMBER:</b> 17/00921/FUL   |
| <b>OFFICER:</b>   | Paul Duncan                             |
| <b>WARD:</b>      | East Berwickshire                       |
| <b>PROPOSAL:</b>  | Extension to dwellinghouse              |
| <b>SITE:</b>      | 12 Merse View, Paxton, Scottish Borders |
| <b>APPLICANT:</b> | Mr Steven McClymont                     |
| <b>AGENT:</b>     | None                                    |

**SITE DESCRIPTION**

12 Merse View is a semi-detached dwelling house on a residential cul-de-sac on the edge of the Berwickshire village of Paxton. The property adjoins 11 Merse View to the west, and its wide garden shares a boundary with dwellings at 13 and 14 Merse View to the south east. The house backs onto open fields to the north. The dwelling house is two storeys in height with a pitched roof and an existing single storey side porch extension to the east.

**DEVELOPMENT**

The proposal is to demolish the existing single storey side porch extension and replace it with a new two storey side extension with a larger footprint of approximately 4m by 9m. The extension would provide a kitchen/ dining room and utility room on the ground floor and two bedrooms on the first floor. Overall, the total number of bedrooms would increase from three to four as one existing bedroom would become a bathroom.

A new front door would be formed on the existing front (south) elevation of the house and an existing window on the rear elevation would be built up, with new sliding doors formed towards the centre of the existing rear elevation as well as on the new side elevation of the extension. The existing retaining wall to the rear would be extended around the side of the new extension, with an opening for new steps into the remaining garden ground to the east.

**PLANNING HISTORY**

There is no known planning application history on the site itself. There is relevant planning history at 13 Merse View to the south east of the proposed site where an extension was approved in 1996.

There has been enforcement history at the property. An unauthorised boundary fence was erected by the applicant between 11 and 12 Merse View and was the subject of an Enforcement Notice earlier this year. Compliance has now been achieved.

## **REPRESENTATION SUMMARY**

Members are reminded that all comments are available to view in full on the Public Access website.

6 letters of objection have been received, raising the following principal grounds of objection:

- Adverse impact on residential amenity including privacy/overlooking and overshadowing/loss of light impacts on neighbouring properties.
- Potential for a future further extension to be formed into the newly created roof space, resulting in overlooking.
- Existing parking problems on the street would be exacerbated during construction.
- Increased traffic levels resulting from increase in occupancy.
- There would be noise disturbance during construction. This could be exacerbated by the existing presence of dogs on the site.
- Storage of building materials, and disposal of building waste during construction
- Neighbours hold a variety of health issues and there are concerns about living close to a building site.
- The proposal would affect views from neighbouring properties.
- Working hours should be limited.
- The extension has no window on the upper floor thereby radically changing the appearance of the two adjoining houses from the front. The proposal would be out of keeping with the character of existing properties at Merse View and would set a precedent in altering the existing visual balance.
- The scale of the proposal is excessive. One objector speculates that the applicant may intend to run a business from the property.
- The proposal would reduce garden ground associated with the property.
- Concerns have been raised regarding the timescale of works.
- Health and safety concerns including the suggestion existing structures may contain asbestos.
- An outside boiler is shown on plans but its termination point is not identified.

Other non-planning matters have also been cited but are not valid grounds for objection and have not been included in the list above. A concern that planning rules would not be followed has also been put forward, but similarly, a concern that a breach of planning could occur in the future would not be valid grounds for refusal.

## **APPLICANTS' SUPPORTING INFORMATION**

The applicant has submitted detailed plans and elevations and has advised that the extension is required to provide additional living space and a quality family home for their growing family.

### **CONSULTATION RESPONSES:**

#### **Scottish Borders Council Consultees**

**Roads Planning:** The proposed extension will not interfere with the existing off street parking area. No objections have been raised.

## **Statutory Consultees**

There were no statutory consultees.

## **DEVELOPMENT PLAN POLICIES:**

### **Scottish Borders Local Development Plan 2016**

PMD1 - Sustainability

PMD2 - Quality Standards

HD3 – Protection of Residential Amenity

### **Other considerations:**

Privacy and Sunlight Supplementary Planning Guidance (SPG)

## **KEY PLANNING ISSUES:**

The key planning issues related to this application are whether the proposed development would be appropriate to the host building in terms of scale, massing, height and material; would be compatible with the character of the surrounding area and neighbouring built form; and would have an adverse impact on the amenity of existing residential properties.

## **ASSESSMENT OF APPLICATION:**

### Policy

Policy PMD2 of the Local Development Plan (LDP) aims to ensure that all new development, not just housing, is of a high quality and respects the environment in which it is contained. The policy does not aim to restrict good quality modern or innovative design but does aim to ensure that it does not negatively impact on the existing buildings, or surrounding landscape and visual amenity of the area.

Policy HD3 aims to protect the amenity of residential areas. The policy is supplemented by the Council's Privacy and Sunlight SPG which provides more detailed, technical standards for assessing impacts on residential amenity including loss of privacy/ overlooking, loss of light and overshadowing.

### Design

The proposal would be set back slightly from the front elevation and would clearly read as an extension to the existing building. The proposed extension would have a larger footprint than the existing single storey extension and would incorporate accommodation at first floor level. However, as mentioned above, the extension would be set back from the front elevation of the existing dwelling and would incorporate eaves and ridge details below that of the host building allowing the extension to remain subservient.

There is no uniformity of house design at this end of Merse View and it must also be acknowledged that the existing building is of limited architectural merit. The scale, massing and height of the extension are appropriate for both the existing building and the surrounding area and it is felt that the proposed extension would be compatible with and respect the neighbouring built form. Should members be minded to approve this application it is recommended that a simple planning condition is attached to the

grant of consent requiring the external materials to match those on the existing building.

Unusually for a two storey extension, the proposed development would not include a window at first floor level on the principal elevation. Concerns have been raised by third parties regarding the design of the proposed extension with a particular focus on the lack of a first floor window. However, this has deliberately been omitted on the grounds that it would potentially have an unacceptable adverse impact on the residential amenity of the neighbouring dwelling. Privacy and loss of amenity will be discussed later in this report, however it is worth recognising that there is no strong architectural language locally and the omission of a window at first floor level does not detract from the overall appearance of the proposal.

It is agreed that the appearance and balance of the elevation would be improved by the inclusion of an additional window but this would result in unacceptable adverse impacts on the privacy of 13 Merse View. The current arrangement is therefore preferable. Concerns have also been raised regarding the size of the property but the site is more than capable of accommodating the extension without unacceptable loss of garden ground and there is no reason to believe the extension would not be used for the purpose of accommodating a growing family as the applicant has indicated.

#### Impact on the amenity of neighbouring residential properties

As mentioned earlier in this report, Policy HD3, supplemented by the Council's SPG on householder developments (Privacy and Sunlight Guide), aims to protect the amenity of both existing and proposed residential areas. The policy is also applicable to applications such as this for alterations and extensions to existing dwellings, as well as development on garden ground, backland development, gap site and brownfield sites.

It is considered that the proposals are of a scale, form and type appropriate for this residential area. The impact of the development however on the existing and surrounding properties, in particular No 13 Merse View, in terms of overlooking and loss of privacy is relevant.

#### Privacy

The primary privacy concern would be the impact of the proposed extension on 13 Merse View, which sits around 7 metres to the south east of the application building. As there is no window proposed at the first floor of the extension the impact on privacy is limited to that from the new ground floor level window. This window would be around 8 metres from the ground floor window of 13 Merse View which, taking into account the angle between the two dwellings, would not normally comply with the approved supplementary guidance where, as a rule, a minimum of 18 metres privacy zone should be maintained between windows of principal rooms when directly opposite. This distance can be reduced where the windows are at an angle to each other.

However in some instances these standards cannot be met and the proposals may be considered unacceptable, but it is worth noting in this case that there is an existing garden shed which sits within the garden ground of the neighbouring dwelling at No 13 and this helps to mitigate the potential for direct window to window overlooking. The shed is wholly within the control of the neighbouring objector and

ensures privacy is protected, ultimately meeting the requirements in relation to overlooking set down in the supporting guidance note.

The first floor windows of 13 Merse View may be within view of the new ground floor window but owing to the difference in height between the two it is considered that there would be no unacceptable adverse impact on the residential amenity of the neighbouring dwelling. Also, given the east elevation gable is at an angle to 13 and 14 Merse View the windows on this elevation do not raise concerns. The requirements of the Privacy and Sunlight SPG in terms of overlooking are therefore met and the residential amenity of the neighbouring dwellings is not compromised.

The concern that a future additional extension into the newly created roof space could result in overlooking is valid and a condition will be attached to remove permitted development rights on the extension to prevent this from happening.

#### Access to light/ overshadowing

The approved supplementary guidance on householder development also protects access to light and the impact of overshadowing when a new building or extension directly faces the window of an existing property. Suitable daylight for habitable (principal) rooms is achieved when the lowest window is kept unobstructed. In this case, the proposed extension does not directly face the neighbouring ground floor window as it is off-set to the west. This is very much a marginal decision given the relatively close proximity of the extension to existing dwellings. Applying the standards set down in the guidance note could indicate that some extensions are unacceptable therefore some relaxation may be necessary, however, in this case, as the proposed extension does not directly face the ground floor window it is considered that the impacts of the proposed extension on the neighbouring dwelling will be negligible.

It is worth noting that the proposed extension would be located to the north of the neighbouring dwelling and the garden shed mentioned above, which falls within the control of the owner/occupier of the neighbouring dwelling and would be located between the extension and the existing ground floor window. Access to light is already compromised and this is unlikely to be affected as a result of the proposed development.

In this instance the proposal meets the requirements of the key tests, albeit narrowly. The main impact would again be on number 13 Merse View. Any adverse impact on number 11 would be very limited, and would be within the acceptable parameters of the Privacy and Sunlight SPG.

#### Loss of view

An objection has been made which makes reference to the impact of the proposal on the objector's view. As the objector notes, there is no right to a view in planning law.

#### Parking, traffic and road safety

It is understood that there are existing parking issues at Merse View which could be exacerbated by additional vehicles attending the site during the construction period or by the storage of materials on the public road. These concerns are understood and appreciated, but ultimately Merse View is a public road and the applicant would need to comply with the relevant laws and regulations, with non-compliance being a matter for the Police and/or Roads Authority to address. Over the longer term, the

Roads Officer is satisfied that the proposal does not interfere with the existing parking area. The development would not result in the loss of any existing parking and should not exacerbate existing issues. Whilst an increase in occupancy is possible in the future this is speculation and could occur in any event.

### Noise

Several objections cite concerns regarding the potential for noise disturbance during construction. There are particular concerns that noise during construction could be exacerbated by the resulting disturbance of dogs which are kept on the site. Objectors have proposed that the Council limit working hours during the construction phase but existing environmental protection controls would address noise disturbances satisfactorily if they arise.

### Other matters

The plans show an oil fired boiler would be located on the rear (north) elevation. An objector has questioned where the flue would terminate. No flue is identified on elevation drawings and therefore any flue required will need to comply with the relevant permitted development rights. An informative will be added to advise the applicant that ultimately any associated nuisance would be actionable under environmental health legislation.

Concerns that the existing shed may contain asbestos have been raised. It would be for the applicant to satisfactorily address such matters in compliance with the relevant legislation if they arose.

Finally, there are concerns regarding the possible timescale for completing the works although there is no indication as to what the timescale may be. This would be for the applicant to address and is not generally controlled through the planning system.

## **CONCLUSION**

Overall it is concluded that the proposed extension is acceptable in terms of siting and design and meets the requirements of the key policy tests including Local Development Plan policies PMD2 and HD3 and the approved Privacy and Sunlight SPG.

## **RECOMMENDATION BY CHIEF PLANNING OFFICER:**

I recommend the application is approved subject to the following conditions and informative:

1. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development)(Scotland) Order 1992 (or any subsequent provisions amending or re-enacting that Order), no additional window or other opening shall be made in the extension hereby approved unless an application for planning permission in that behalf is first submitted to and approved in writing by the Planning Authority.  
Reason: To safeguard the privacy and amenity of the occupiers of adjacent properties.
2. The external materials to be used on the extension shall match in all respects those of the existing building, and no other materials shall be used unless the prior written consent of the Planning Authority is given for any variation thereto.

Reason: To ensure a satisfactory form of development, which contributes appropriately to its setting.

3. The development hereby permitted shall not be carried out otherwise than in complete accordance with the plans and specifications approved by the Planning Authority.

Reason: To ensure that the development is carried out in accordance with the approved details.

Informative:

Flues can give rise to smoke and odour complaints which may be actionable under Environmental Health legislation regardless of whether or not a flue has planning permission or is the subject of a Building Warrant. Neither Planning Consent nor Building Warrant approval would indemnify the owner in respect of any potential Nuisance action.

#### DRAWING NUMBERS

|            |               |               |            |
|------------|---------------|---------------|------------|
| Kw-125-JSJ | Drawing 003-A | Floor Plans   | 28.06.2017 |
| Kw-125-JSJ | Drawing 004-A | Elevations    | 28.06.2017 |
| Kw-125-JSJ | Drawing 005-A | Site Plan     | 28.06.2017 |
| Kw-125-JSJ | Drawing 006-A | Location Plan | 28.06.2017 |

#### **Approved by**

| Name       | Designation            | Signature |
|------------|------------------------|-----------|
| Ian Aikman | Chief Planning Officer |           |

The original version of this report has been signed by the Chief Planning Officer and the signed copy has been retained by the Council.

#### **Author(s)**

| Name        | Designation                |
|-------------|----------------------------|
| Paul Duncan | Assistant Planning Officer |



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