

Report of the Chief Executive

APPLICATION NUMBER:	24/00257/FUL
LOCATION:	196 Cator Lane, Chilwell, Nottinghamshire, NG9 4BE
PROPOSAL:	Construct detached building to rear to be used as ancillary accommodation

The application is brought to the Committee at request of Councillor Faccio.

1. Purpose of the Report

1.1 The application seeks planning permission for the erection of an ancillary accommodation building within the rear garden of the property.

2. Recommendation

The Committee is asked to resolve that planning permission be granted subject to conditions outlined in the Appendix.

3. Detail

3.1 The application site consists of 1½ storeys detached brick built property located centrally on a large plot off Cator Lane. The house is located centrally on the plot with an ancillary building located to the west. There is a drive and large grassed garden area to the front (west) of the property with a large area of garden and detached garage to the rear (east) of the property. The rear garden of the property has been subdivided by a 1.8m high post and panel fence running the full width of the site.

3.2 In regards to neighbouring properties the site is located in a built up residential area of Chilwell with an adjacent neighbour to the south (194 Cator Lane) and also an immediate commercial neighbour to the north (198 Cator Lane) in the process of being converted from commercial to residential. 170 Cator Lane is located to the west on the opposite side of the public road and with 1-12a Park View located to the east of the site linked by the rear garden to the flats access and parking area.

4. Financial Implications

4.1 The comments from the Head of Finance Services were as follows:

There are no additional financial implications for the Council with the costs/income being within the normal course of business and contained within existing budgets. Any separate financial issues associated with S106s (or similar legal documents) are covered elsewhere in the report.

5. Legal Implications

- 5.1 The comments from the Head of Legal Services were as follows: The Legal implications are set out in the report where relevant, a Legal advisor will also be present at the meeting should legal considerations arise.

6 Data Protection Compliance Implications

- 6.1 Due consideration has been given to keeping the planning process as transparent as possible, whilst ensuring that data protection legislation is complied with.

7. Background Papers:

Nil.

Appendix

1. Details of the application

1.1 The application seeks full planning permission for the erection of an ancillary accommodation building within the rear garden of 196 Cator Lane. The building will measure 7m by 9m and with a pitched roof height of 4m

2. Site and surroundings

2.1 The building is a suburban home that has a single side storey extension. The application site consists of 1½ storeys detached brick built property located centrally on a large plot off Cator Lane. The house is located centrally on the plot with an ancillary building located to the rear. There is a drive and large grassed garden area to the front (west) of the property with a large area of garden and detached garage to the rear (east) of the property. The rear garden of the property has been subdivided by a 1.8m high post and panel fence running the full width of the site.

2.2 In regards to neighbouring properties the site is located in a built up residential area of Chilwell with an adjacent neighbour to the south (194 Cator Lane) and also an immediate commercial neighbour to the north (198 Cator Lane) in the process of being converted from commercial to residential. 171 and 173 Cator Lane is located to the west on the opposite side of the public road and with 1-12a Park View located to the east of the site linked by the rear garden to the flats access and parking area.

3. Relevant Planning History

3.1

77/00055/OUT	Construct two storey extension	Refused
77/00359/OUT	Construct first floor office and store extension, new vehicle park/hardstanding	Refused
86/00768/FUL	Construct detached chalet bungalow	Permitted
89/00372/OUT	Construct two retirement bungalows	Withdrawn
89/00679/OUT	Construct bungalow and garage	Permitted
92/00654/REM	Construct bungalow, garage and swimming pool enclosure	Permitted
97/00769/FUL	Renew permission to construct bungalow, garage and swimming pool enclosure	Permitted

03/00415/FUL	Renew permission to construct bungalow, garage and swimming pool enclosure	Permitted
23/00659/FUL	Construct detached bungalow	Refused

4. Relevant Policies and Guidance

4.1 **Broxtowe Aligned Core Strategy 2014:**

The Council adopted the Core Strategy (CS) on 17 September 2014.

- Policy 10 - Design and Enhancing Local Identity

4.2 **Part 2 Local Plan 2019**

The Council adopted the Part 2 Local Plan on 16 October 2019.

- Policy 17 - Place-Making, Design and Amenity

4.3 **National Planning Policy Framework (NPPF) 2023**

- Part 2 - Achieving Sustainable Development.
- Part 4 - Decision-making.
- Part 12 - Achieving well-designed places

5. Consultations

5.1 **Councillors & Parish/Town Councils:**

- Councillor H Faccio – Concerns raised that this is an attempt to get round planning, having already had an application refused. Don't want to set a precedent for people building very small dwellings in their back gardens.
- Councillor T Marsh – No Comments Received
- Councillor P Smith – No Comments Received

5.2 **Neighbours:**

- Twenty-two neighbours were consulted on the application with one general comment and two objections being received from neighbouring properties and no comments received from any third parties. The comments received are as follows:
 - Loss of trees within the site,
 - Lack of Parking,
 - Change of description but no change to the proposal,
 - Suitability of the design for the materials proposed,
 - Circumventing the Planning System to build a house within the site,
 - Proximity to boundaries impacting neighbouring properties,
 - Inadequate access,
 - Existing use of the site as a builder's yard

6. Assessment

6.1 Principle

The principle of a single storey detached ancillary within the curtilage an existing dwelling within a residential area in this location, is deemed acceptable subject to any assessment of the design and appearance and its impact on neighbouring amenity.

6.2 Design

6.2.1 Policy 8 of the Aligned Core Strategy states that residential development should maintain, provide and contribute to a mix of housing tenures, types and sizes in order to create sustainable, inclusive and mixed communities. All residential developments should contain adequate internal living space and a proportion of homes should be capable of being adapted to suit the lifetime of its occupants. Policy 10 states that massing, scale, proportion, materials, architectural style and detailing will be considerations when assessing development.

6.2.2 The proposal is for a single storey detached building to be use as ancillary accommodation to the host property within the rear garden of a 1½ storey detached property. The area is made up of a mix of single storey and two storey properties with the adjacent site to the north having a live permission on it for the conversion of the building into ten flats; and two blocks of flats directly to the east. Given the mix of housing types within close proximity to the site an additional single storey ancillary building within the area would not look out of place in the context of the local vernacular.

6.2.3 The building was originally submitted on a larger scale having a ridge height of 5.1m and also including a kitchen within the building. Concerns were raised with the agent that the building resembled a residential property and did not visually constitute a traditional ancillary building. Also as the building was totally self-sufficient from the host dwelling it could not be described as an ancillary dwelling and the proposal would need to be considered as a standalone residential property. Following these discussions, the design of the building was amended, reducing the height of the building down to 4m and removing the kitchen form the plans. The reduced height did provide a better visual appearance for a building that was intended to be used as an ancillary building and with the removal of the kitchen the building was deemed to be no longer self-sufficient and would rely on the host property for services.

6.2.4 Class E of the Town and Country Planning (General Permitted Development) (England) Order 2015 allows for ancillary buildings to be erected in the rear gardens of residential properties provided that they meet with the conditions imposed by the legislation. If the proposed building was to be moved slightly

away from the boundaries of the site, then the building in question as amended could be built under permitted development rights with no further involvement from the Planning Authority.

- 6.2.5 Information submitted on the application form indicates that the finish materials of the proposed property will match that of the parent house with facing bricks used in the construction of the walls and grey concrete tiles to be used on the roof. The windows and doors will be constructed of Upvc double glazed casement style in a similar appearance and design to those existing house. Therefore, it is considered that the proposed finish materials to be used in the development are considered acceptable in respect to their appearance within the local streetscape.

6.3 Amenity

- 6.3.1 Policy 10 of the Aligned Core Strategy states that development will be assessed in terms of the impact on the amenity of nearby residents or occupiers. Policy 17 of the Part 2 Local Plan 2019 states that any development should not cause an unacceptable loss of amenity for the occupiers of neighbouring properties.
- 6.3.2 The proposal is for an ancillary building to be used in conjunction with the host property (196 Cator Lane) and not proposed to be a stand-alone dwelling. Given this fact, the reasons for refusal for the previous application (23/00659/FUL) regarding limited amenity space and overlooking from the host property, cannot be regarded as sufficient reasons for refusal in this instance as the proposed building will only be able to be used as ancillary to the host property and will be conditioned accordingly.
- 6.3.3 Concerns have been raised with regards to the impact of the building on neighbouring properties. The immediate neighbour to the north is currently in the process of being converted into residential flats. The southern elevation of this property facing onto the application site is totally blank and much higher than the proposed building therefore raising no concerns in terms of its impact on the property. The immediate neighbour to the south has a separation distance of over 5m between the building and the neighbouring amenity space and over 22m between it and the neighbouring property. Given these distances and the proposed use as an ancillary building it is considered that there will be no negative impact on neighbour amenity from the proposal.
- 6.3.3 There is a window within the proposed building which faces north east towards the flatted development opposite. This will face directly onto an additional ground floor window within the flats with a separation distance of 8.5m. If this was to be a standalone residential property, then this would be considered unacceptable. However, as this is to be an ancillary building and to be used in association with the host property the bedroom in question can

be accepted with a reduced living quality and so a condition will be added requiring this window to be frosted glazing and remain so for the lifetime of the development.

6.3.4 Given the proposed location of the building within the existing site and its relationship with the neighbouring houses along with its single storey design it is considered that there will be no additional loss of sunlight/daylight to the surrounding neighbouring amenity spaces.

6.4 Access and Parking

6.4.1 Policy 17 of the Part 2 Local Plan 2019 states that planning permission will be granted for new development that provides sufficient, well-integrated parking and safe and convenient access.

6.4.2 The proposal is for ancillary accommodation in relation to the existing property. As such no new parking facilities are proposed and the parking for the host property is considered adequate to provide additional parking spaces if required.

6.4.3 There is currently a vehicular access to the rear of the garden immediately adjacent to the proposed building. This existing access could be utilised to provide vehicular access to the rear garden and also to the proposed building without any further need for planning permission. It is unknown whether the applicants have the relevant permissions to use this access as a vehicular access but this would be a civil matter and not a material planning consideration.

6.5 Public Comments

6.5.1 Comments have been raised with regards to the loss of the existing trees within the site. These trees are not protected in any way as they are not located within a Conservation Area and none of them are covered by a Tree Protection Order and their removal could have been carried out at any time without the notification to the LPA.

6.5.2 Comments have been made with regards to the proposed use of the building and its change of description from the previously refused application being a way to circumvent the planning system. Applications have to be assessed on their own merit on the details provided at the time of submission. This point was raised with the agent who confirmed that the building was to be used as ancillary to the host property and so a condition will be added to secure this.

6.5.3 Comments have been raised with regards to the suitability of the proposed materials. The technical choice of a material is not a material planning

consideration and any changes to the proposed materials would need to be submitted as a variation of the conditions attached to the decision.

6.5.4 The lawful use of the site is as garden ground to the host property. Comments have been submitted stating that the area of ground in question is currently being used as the storage yard for a building firm with containers and building materials stored within. This matter will be passed to the Planning Enforcement Team to investigate.

7. Planning Balance

The benefits of the proposed works are that it would provide additional accommodation in relation to the host residential dwelling, would improve the property to the benefit of the occupants, the building would have an acceptable design, would be of an acceptable scale, and although the use of the proposed building as ancillary accommodation is drawing residential use further into the garden, it is considered that the proposal would not have a significant negative impact on neighbour amenity, and would be in accordance with the policies contained within the development plan.

8. Conclusion

It is concluded that, having regard to the relevant policies of the Local Plan, national planning guidance and to all other material considerations including the Public Sector Equality and comments raised in representations received, the development is acceptable and that there are no circumstances which otherwise would justify the refusal of permission.

<u>Recommendation</u>	
<p>The Committee is asked to RESOLVE that the Head of Planning and Economic Development be given delegated authority to grant planning permission subject to:</p> <p>(i) the following conditions:</p>	
1.	<p>The development hereby permitted shall be commenced before the expiration of three years beginning with the date of this permission.</p> <p><i>Reason: To comply with S91 of the Town and Country Planning Act 1990 as amended by S51 of the Planning and Compulsory Purchase Act 2004.</i></p>
2.	<p>The development hereby permitted shall be carried out in accordance with the following plans received by the Local Planning Authority on 20 October 2023:</p> <ul style="list-style-type: none"> • Site Location Plan (Drawing Number: 23.451-S01.01), • Proposed Site Plan (Drawing Reference 23.451 S03-01 C), • Proposed Floor Plans (Drawing Reference 23.451 S03-02 A),

	<ul style="list-style-type: none"> • Proposed Front and Rear Elevations Plan (Drawing Number 23.451 S03-03 A), • Proposed Side Elevations (Drawing Number: 23.4451 S03-04 B) <p><i>Reason: For the avoidance of doubt</i></p>
<p>3.</p>	<p>The single storey rear extension shall be constructed using materials to match the existing house and as specified in the application form received by the Local Planning Authority on 30 March 2023, unless otherwise agreed in writing by the Local Planning Authority.</p> <p><i>Reason: To ensure a satisfactory standard of external appearance and in accordance with the aims of Policy 17 of the Broxtowe Part 2 Local Plan (2019) and Policy 10 of the Aligned Core Strategy (2014).</i></p>
<p>4.</p>	<p>The development hereby approved shall be used solely as accommodation ancillary to the main dwellinghouse and at no time shall it be occupied as a separate dwelling.</p> <p><i>Reason: To ensure that the development does not become used as a separate dwellinghouse in recognition of unacceptable impact on neighbour amenity, in accordance with the use applied for and in accordance with the aims of Policy 17 of the Broxtowe Part 2 Local Plan (2019) and Policy 10 of the Aligned Core Strategy (2014).</i></p>
<p>5.</p>	<p>Notwithstanding the provisions of Schedule 2 Part 1 of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking or re-enacting that Order with or without modification), no development within Classes A, B, C, D or E of without planning permission being granted on application to the Planning Authority.</p> <p><i>Reason: In the interests of privacy and amenity for nearby residents, to prevent over development of the site in accordance with the aims of Policy 17 of the Broxtowe Part 2 Local Plan (2019) and Policy 10 of the Aligned Core Strategy (2014).</i></p>
<p>6.</p>	<p>The ground floor bedroom window on the north eastern gable of the building shall be obscurely glazed to Pilkington Level 4 or 5 (or such equivalent glazing which shall first have been agreed in writing by the Local Planning Authority) and retained in this form for the lifetime of the development.</p> <p><i>Reason: In the interests of neighbour amenity and in accordance with the aims of Policy 17 of the Broxtowe Part 2 Local Plan (2019)</i></p>
	<p>NOTES TO APPLICANT</p>

<p>1.</p>	<p>The Council has acted positively and proactively in the determination of this application by working to determine it within the agreed determination timescale.</p>
<p>2.</p>	<p>You are advised that construction work associated with the approved development (incl. the loading/unloading of delivery vehicles, plant or other machinery), for which noise is audible at the boundary of the application site, should not normally take place out with the hours of 08:00 and 19:00 Monday to Friday, 08:00 and 13:00 on Saturdays or at any time on a Sunday or Bank Holiday, as prescribed in Schedule 1 of the Banking and Financial Dealings Act 1971 (as amended).</p>

Map



