



Committee and date
South Planning Committee
9 April 2019

Development Management Report

Responsible Officer: Tim Rogers
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Summary of Application

Application Number: 18/05705/FUL	Parish:	Worfield
Proposal: Erection of single storey rear extension with roof terrace above		
Site Address: 47 Folley Road Ackleton Shropshire WV6 7JL		
Applicant: Mr & Mrs Drummond		
Case Officer: Lynn Parker	email: planningdmse@shropshire.gov.uk	

Grid Ref: 377054 - 298471



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Recommendation:- Grant Permission subject to the conditions set out in Appendix 1.**REPORT****1.0 THE PROPOSAL**

- 1.1 This application is for the erection of a single storey extension with roof terrace above to the east facing rear of the dwelling at no. 47 Folley Road, Ackleton. The extension is proposed to measure approximately 11.8m wide x 2.58m in depth x 2.75 high and to project wholly from the original rear elevation of the dwellinghouse. The proposed dimensions and positioning mean that it could therefore be constructed under permitted development rights – it is the terrace above which requires planning permission. The development is proposed to enlarge the existing kitchen, dining area and lounge to form an open plan layout, particularly providing more light and views out into the rear garden from the kitchen. (The existing lounge and dining area are currently open plan). It is proposed to replace the existing first floor study and two bedroom windows with bifolding doors out onto a terrace on the extension roof with a 1.1m high clear safety glass screen around the perimeter.
- 1.2 Facing brick walls and white UPVC windows are proposed to match the existing dwelling. No alterations are proposed to accesses or parking, and no trees or hedges would be affected by the proposed development.
- 1.3 During the course of the application and in response to officers' concerns, amended plans have been submitted indicating 2m high obscure glazed safety screens to each side of the proposed terrace. The amended drawing additionally includes a Location Plan with lines annotated at 45° from the corners of the terrace to illustrate the field of normal visibility from it. A second set of amended plans has refined the visual appearance of the safety screens by rounding off their corners, all other details are retained.
- 1.4 The applicants have also provided a presentation (which includes potentially sensitive photographs and therefore is not available to view online) which explains their reasons for the proposal and responds to the neighbours' concerns. This document is précised below:
- o The wish is to move their kitchen from its position to the rear of the house because it is currently enclosed by two walls and is dark.
 - o The applicants can already look into the gardens and terraces of the neighbouring properties from all their existing bedroom windows.
 - o Only bedrooms would lead out onto the terrace – guests would not be brought through these very private spaces to be entertained on the terrace.
 - o As the terrace is east facing, the sun would disappear from it by mid-day, therefore there is no intention of the terrace bring socially congregated in the summer evenings. An existing section of the garden already provides facilities for entertaining if necessary within the late afternoon/evening sun.
 - o Privacy screens were always intended in order to prevent views from the terrace into the neighbouring properties.

2.0 SITE LOCATION/DESCRIPTION

2.1 The site falls within open Green Belt countryside that washes over the settlement of Ackleton which is half way between Albrighton to the north east and Bridgnorth to the south west. It is accessed directly from the C4263, the main route through Ackleton, which extends from the B4176 to the south. This part of Ackleton is characterised by two storey, detached modern properties of individual design which flank both sides of the road. They are set in generous plots with driveways, garaging and low level landscaping within their frontages.

2.2 The plot at no. 47 measures approximately 14.3m wide x 58m in depth, the dwelling being set back from the road by approximately 20m and the rear garden 30m in depth. This is generally commensurate with the size of the adjacent plots. The property is constructed in red brick with a grey tiled roof and white UPVC windows. It is designed with a dual pitched roof, low eaves, three pitched roof dormer windows to the front and a wide flat roof dormer to the rear, a chimney to the north side and a pitched roof porch centrally within the west facing front elevation. Like the other adjacent dwellings on this side of the road, a detached garage is located within the frontage adjacent to the south west corner of the property. The dwelling has not been previously extended. The rear garden comprises two levels, the slightly lower one being further to the east, the upper containing a slabbed patio directly outside the dwelling. The rear perimeter is defined by a mixture of timber fencing and mature landscaping.

2.3 There are similar neighbouring properties on both sides of the property. No. 45 to the north side is set back from no. 47 by approximately 2.5m and has a ground floor window in its south facing side elevation closely adjacent to the 1.8m high boundary fencing, the top of which is visible over it. Otherwise the windowless side gable and timber clad dormer cheek area are adjacent. The distance between these two dwellings is approximately 1.8m. No.49 to the south side is set at a lower level and approximately 4.5m forward of no. 45, although the addition of its rear conservatory brings the rear elevations in line. In addition to a conservatory, no. 49 has previously benefitted from a single storey rear extension, then a first floor extension above it. The distance between the dwellings at no. 49 and no. 47 is approximately 1.75m. The boundary between them is defined by 1.8m high fencing and a line of Fir trees on no. 49s side which currently provide an effective screen as they extend up to the height of the top of the rear dormer window at no. 47. There is agricultural land beyond the rear boundary.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

3.1 The proposed development is considered to accord with the requirements of the Councils relevant adopted policies, but a contrary opinion from the Parish Council has been received. The Principal Planning Officer in consultation with the Committee Chairman and Vice Chairman, have confirmed that based on material planning reasons, a Committee decision is required in this case under the terms of the scheme of delegation to officers as set out in Part 8 of the Council Constitution.

4.0 Community Representations**4.1 - Consultee Comments****4.1.1 Worfield And Rudge Parish Council – Councillors refer to their original comment in January.**

Objection for the following reason. If this extension is permitted in the format which is shown on the application, i.e. with a large roof terrace, there will be a resultant total lack of privacy for neighbouring properties. Historically when this row of houses was first built, No 47 was the last to be completed. It was constructed after the building of its two nearest neighbouring houses almost as an "infill". The upshot of this was that the plot upon which No 47 sits is slightly narrower than the others. This fact contributes to the issue of proximity and potential for encroachment on privacy. However a roof terrace would definitely cause an issue in this context.

4.2 - Public Comments**4.2.1 Site notice displayed on 10th January 2019. Initially three public representations were received in relation to the proposal as submitted all expressing objections, one each from the neighbour either side, and one from a planning consultant acting on their behalf and which includes diagrams. All public representations are available to view in full online, however their concerns are summarised as follows:**

- o The proposed extension will result in a material loss of daylight to the lounge, conservatory, dining room and kitchen of no. 49, and the kitchen of no. 45.
- o The proposed roof terrace will allow direct vision into the rear bedroom windows of no. 49, and downward vision into the lounge, conservatory, dining room and kitchen, and the side and rear of no. 45 also partially into the lounge, dining room and rear bedroom windows.
- o All privacy to the external garden areas of no. 49 and no. 45 will be forfeit. This is exacerbated for no. 49 by the 1m difference in floor level.
- o The roof terrace would afford the end-users panoramic views over the rear gardens of my clients: this total loss of privacy is unacceptably harmful and contrary to guiding principle of good planning.
- o The views that will be afforded from the roof terrace will far exceed what the occupiers of no. 47 can currently see from their first floor windows. The impact will be two-fold (a) the scope of the view panoramic; and (b) the time spend enjoying that view will be considerably longer.
- o The roof terrace is obviously intended as a recreation and entertainment area which will generate noise, nuisance and visual disturbance.
- o The constant potential presence of neighbours, in an elevated position, looking out over your private rear garden is exceptionally harmful to the residential amenity my clients currently enjoy and are seeking to protect.
- o Noise generated on the proposed elevated roof terrace, rather than within the garden, will travel unencumbered over boundaries and beyond.
- o Any flat roof extension to the rear would facilitate it being used as a roof terrace whether or not it required planning permission.
- o No. 47 Folley Road (Plot 6 of 7) was the last to be constructed and had size and position restrictions imposed on it in order for it to fit the remaining

land. The current application challenges and negates the decision made reliant on these restrictions.

- o The use of screening either side would introduce issues of over-dominance and the development being overbearing. The degree of dominance, given the difference in levels, the orientation, and the proximity to neighbouring properties of the extension sides with screens atop would be wholly unacceptable.

4.2.2 Following notification of the amended plans, further objection comments have been submitted by the planning consultant on the neighbours' behalf as follows:

- o My clients are exceptionally disappointed and dismayed that the roof terrace remains within this project and maintain their OBJECTION in the strongest possible terms.
- o The introduction of side screens may limit some of the potential for overlooking at either side, but the loss of privacy that would result to the private rear gardens of both no. 45 Folley Road and 49 Folley Road would still be considerable and significantly harmful to the current enjoyment of their gardens.
- o The impact of the side screens increases and significantly worsens the potential over-dominance of the project on both adjacent properties.

5.0 THE MAIN ISSUES

- o Principle of development
- o Impact on the Green Belt
- o Design, scale and character
- o Impact on neighbours/residential amenity

6.0 OFFICER APPRAISAL

6.1 Principle of development

6.1.1 Policy CS6 of the Shropshire Council Local Development Framework Core Strategy states that development should conserve and enhance the built environment and be appropriate in its scale and design taking account of local character and context. It further states that development should safeguard residential and local amenity. Policy MD2 of the SAMDev Plan builds on Policy CS6 providing additional detail on how sustainable design will be achieved.

6.1.2 With consideration given to the representations submitted by the residents of the neighbouring dwellings, and site visits having been carried out to the properties of all parties concerned, the proposed development is not considered to have adverse impact on the residential amenities of neighbouring properties that would result in a recommendation for Refusal. The character and context of the existing dwelling would be retained as the proposed extension is of an appropriately domestic scale and design, utilising matching and suitable materials. The principle of the development is therefore acceptable.

6.2 Impact on the Green Belt

6.2.1 Green Belt Policies CS5 and MD6, and Section 13 of the National Planning Policy Framework require that the openness, permanence and visual amenity of the land within its boundaries are preserved. Inappropriate development is, by definition,

harmful to the Green Belt and should not be approved except in very special circumstances. Exceptions to inappropriate development are identified in paragraph 145 of the NPPF and include the extension or alteration of a building provided it does not result in disproportionate additions over and above the size of the original.

6.2.2 As noted above in paragraphs 2.2 and 1.1 above, the dwelling has not been previously extended and the proposed dimensions and positioning mean that the extension can be constructed under permitted development rights – it is the terrace which requires planning permission. The use of the extension roof as a terrace would not result in disproportionate additions over and above the size of the original dwelling nor by its open nature would it introduce a first floor height solid mass that could be harmful to the attributes of the Green Belt.

6.3 Design, scale and character

6.3.1 The proposed development would be located across the rear elevation of the dwelling where it would be positioned over an existing area of hardstanding and to project a restrained 2.58m out to the rear, where a depth of 8.0m could currently be achieved under permitted development rights. Taking the safety barriers and screens into account, the usable area of the proposed terrace area would amount to approximately 28m² - roughly equivalent to that of the existing patio over which the extension is proposed. More than sufficient outside amenity space would be retained for the dwelling. Therefore the scale of the proposed extension is not considered to be significant, would be clearly subservient and compared with the size of the existing dwelling would be a modest addition.

6.3.2 The design of the proposed extension would be in keeping with the modern character of the dwelling. The clean lines and linear emphasis of the property would be respected and retained and the development is proposed to be constructed in materials to match those of the existing dwelling. The use of clear glazed safety barriers and obscure glazed privacy screens on the terrace would provide visual interest to an otherwise plain flat roof without introducing a denser structure that may not have such a high quality or lightweight appearance. This in conjunction with the alterations to the first floor windows would enhance the appearance of the rear elevation of the dwelling.

6.4 Impact on neighbours/residential amenity

6.4.1 The proposed site, the neighbouring sites either side and indeed the remaining dwellings along this section of the eastern side of Folley Road are laid out in a similar way i.e. set back from the road with detached garages off their south eastern corners and linear format dwellings which span the width of their plots. The width of the dwellings within their plots which places their side elevations approximately 1m from the boundary line does allow for a high level of vision across the neighbouring rear gardens. Furthermore, this combined with the relative stepped back or forward positions in relation to their adjacent dwellings results in the neighbouring amenity space directly outside the rear being more viewable at least on one side of each property. At no. 47, this occurs in relation to the rear at no. 45 to the north, which is clearly visible from the bedroom window on that side. It is therefore presented that the 'panoramic' views purported by the objectors would be resulting from the proposed roof terrace, do already exist from the first floor rear windows. Viewing of the existing 'panoramic' outlook is further supported by the

high level of the first floor window cills at no. 47 which make it necessary to be standing close up to the windows in order to see out of them. The suggestion in representations received that, 'it would be atypical behaviour to spend prolonged periods of time staring out of upper floor windows' would not be true for this property, as enjoyment of views over the wider landscape to the east could only be achieved by standing at the window, not for instance by sitting in a chair within the room.

- 6.4.2 Once the existing relationship of no.47s first floor windows with the outside amenity spaces of the adjacent neighbouring dwellings is understood, it is clear that the terrace proposed with obscure glazed privacy screens to each side would limit rather than expand the current line of vision from them. The installation of privacy screens to each side of the terrace would channel views from it directly down the rear garden of no. 47. Existing views from the bedroom window down into the side window at and amenity space directly outside no. 45 to the north side would be eradicated. Similarly should the occupier at no. 49 to the south decide to remove the Fir tree screen, their privacy would be protected by the terrace screen which would be further from the boundary on this side at approximately 2m, 3m from the conservatory.
- 6.4.3 With regards to the potential for the proposed development to be overbearing in relation to the neighbouring properties, it is considered that this type of impact would not be a significant one. The proposed extension would emulate the existing arrangement at no. 45 where a single storey flat roof element is closely adjacent to the boundary fencing and projects clearly above it. However, the proposed extension at no. 47 would not contain a north facing side window, whereas the neighbouring dwelling has a south facing side window which is clear glazed and partly visible above the top of the boundary fencing. It is considered that the addition of obscure glazed privacy screening atop the proposed extension would have less impact on the neighbouring property to the north as a light weight translucent structure than the extension itself which could be constructed under permitted development rights at the height and in the position proposed close to the boundary fencing. Furthermore on this side the proposed development would be located directly to the south of the adjacent neighbour at no. 45 where it be unlikely to result in overshadowing impacts. The position of the proposed extension on the south side is sufficiently further from the boundary at 2m for any overbearing impact to be minimised. Again, as the proposed privacy screens are a lightweight translucent structure rather than solid wall, it is unlikely that there would be overbearing or overshadowing impacts from them on the neighbouring property to the south at no.49, particularly as there are currently Fir trees on the neighbours side of the south side boundary that are higher than the proposed development.
- 6.4.4 The public representations also make comments in relations to plot restrictions at no. 47. However, the plot at no. 47 and its adjacent neighbours are all 58m in depth. The widths when measured across the dwellings range minimally from approximately 14.3m at no.47, to 15.3m at no. 45 being the widest, to 13.8m at no. 49 being the narrowest. The overall plot size at no. 47 also falls between that of its two neighbours at approximately 835m², where no. 45 amounts to 912m² and no. 49 to 790m². These three plots are therefore of commensurate scale in addition to layout.

6.4.5 The comments and reassurances submitted by the applicants and noted at paragraph 1.4 above, are also relevant to the concerns raised by neighbours.

7.0 CONCLUSION

7.1 It is considered that this proposal is not contrary to adopted policies and would not adversely affect the character and appearance of the existing dwelling, would not significantly impact on the residential amenities of neighbouring properties or harm the appearance of the street scene.

8.0 Risk Assessment and Opportunities Appraisal

8.1 Risk Management

There are two principal risks associated with this recommendation as follows:

- ☐ As with any planning decision the applicant has a right of appeal if they disagree with the decision and/or the imposition of conditions. Costs can be awarded irrespective of the mechanism for hearing the appeal, i.e. written representations, hearing or inquiry.
- ☐ The decision may be challenged by way of a Judicial Review by a third party. The courts become involved when there is a misinterpretation or misapplication of policy or some breach of the rules of procedure or the principles of natural justice. However their role is to review the way the authorities reach decisions, rather than to make a decision on the planning issues themselves, although they will interfere where the decision is so unreasonable as to be irrational or perverse. Therefore they are concerned with the legality of the decision, not its planning merits. A challenge by way of Judicial Review must be made a) promptly and b) in any event not later than six weeks after the grounds to make the claim first arose.

Both of these risks need to be balanced against the risk of not proceeding to determine the application. In this scenario there is also a right of appeal against non-determination for application for which costs can also be awarded.

8.2 Human Rights

Article 8 gives the right to respect for private and family life and First Protocol Article 1 allows for the peaceful enjoyment of possessions. These have to be balanced against the rights and freedoms of others and the orderly development of the County in the interests of the Community.

First Protocol Article 1 requires that the desires of landowners must be balanced against the impact on residents.

This legislation has been taken into account in arriving at the above recommendation.

8.3 Equalities

The concern of planning law is to regulate the use of land in the interests of the public at large, rather than those of any particular group. Equality will be one of a number of ‘relevant considerations’ that need to be weighed in Planning Committee members’ minds under section 70(2) of the Town and Country Planning Act 1990.

9.0 Financial Implications

There are likely financial implications if the decision and / or imposition of conditions is challenged by a planning appeal or judicial review. The costs of defending any decision will be met by the authority and will vary dependent on the scale and nature of the proposal. Local financial considerations are capable of being taken into account when determining this planning application – insofar as they are material to the application. The weight given to this issue is a matter for the decision maker.

10. Background

Relevant Planning Policies

Central Government Guidance:
National Planning Policy Framework
National Planning Practice Guidance

LDF Core Strategy Policies:
CS5 Countryside And Green Belt
CS6 Sustainable Design And Development Principles

Site Allocations & Management Of Development (SAMDev) Plan Policies:
MD2 Sustainable Design
MD6 Green Belt And Safeguarded Land

RELEVANT PLANNING HISTORY:

None relevant

11. Additional Information

View details online: <https://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=PJL68ZTDIHG00>

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)
Cabinet Member (Portfolio Holder) Cllr R. Macey
Local Member Cllr Michael Wood
Appendices APPENDIX 1 - Conditions

APPENDIX 1

Conditions

STANDARD CONDITIONS

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with Section 91(1) of the Town and Country Planning Act, 1990 (As amended).

2. The development shall be carried out strictly in accordance with the approved plans and drawings.

Reason: For the avoidance of doubt and to ensure that the development is carried out in accordance with the approved plans and details.

CONDITION THAT IS RELEVANT FOR THE LIFETIME OF THE DEVELOPMENT

3. The external materials shall be as specified on the submitted application form and approved plans.

Reason: To ensure that the works harmonise with the existing development.

4. The privacy screens at the northern and southern ends of the roof terrace shall be installed before the roof terrace is brought into use and shall thereafter be maintained in position.

Reason: To safeguard the residential amenity of the adjacent dwellings.

Informatives

1. If your application has been submitted electronically to the Council you can view the relevant plans online at www.shropshire.gov.uk. Paper copies can be provided, subject to copying charges, from Planning Services on 01743 252621.

2. In determining the application the Local Planning Authority gave consideration to the following policies:

Central Government Guidance:
National Planning Policy Framework
National Planning Practice Guidance

LDF Core Strategy Policies:
CS5 Countryside And Green Belt
CS6 Sustainable Design And Development Principles

Site Allocations & Management Of Development (SAMDev) Plan Policies:

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MD2 Sustainable Design
MD6 Green Belt And Safeguarded Land

3. In arriving at this decision the Council has used its best endeavours to work with the applicant in a positive and proactive manner to secure an appropriate outcome as required in the National Planning Policy Framework paragraph 38.

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