

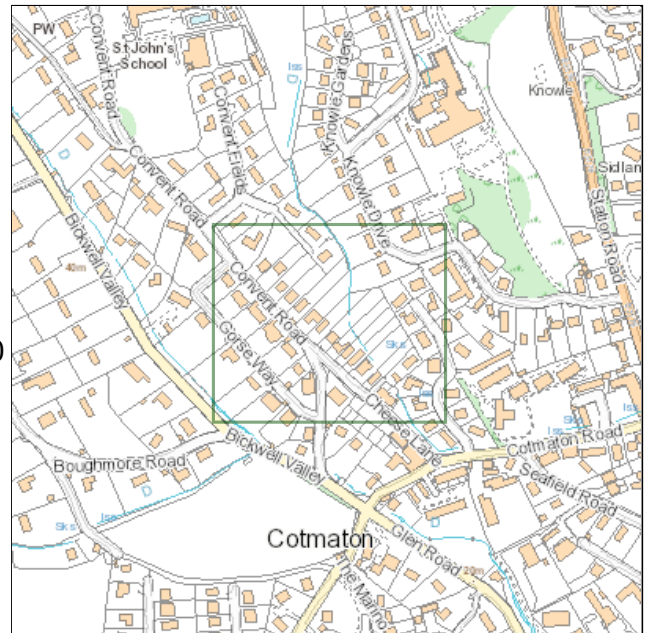
Ward Sidmouth Town

Reference 20/1395/FUL

Applicant Mr Tim Drake

Location Flat 1 Fernbrook Convent Road Sidmouth EX10 8RB

Proposal Alterations to front conservatory extension including increase in height (retrospective application)



RECOMMENDATION: Approve



		Committee Date: 4th November 2020	
Sidmouth Town (Sidmouth)	20/1395/FUL	Target Date:	25.09.2020
Applicant:	Mr Tim Drake		
Location:	Flat 1 Fernbrook Convent Road Sidmouth EX10 8RB		
Proposal:	Alterations to front conservatory extension including increase in height (retrospective application)		

RECOMMENDATION: Approve

EXECUTIVE SUMMARY

This application was deferred by Members at the meeting on the 7th October 2020 for officers to seek photographs from inside the flat at first floor to enable Members to fully consider the impact upon the occupiers of that dwelling. The photos taken by officers will form part of the plans and photographs presentation that will be circulated to Members and published on-line before the meeting.

The application was originally brought before Members as the officer recommendation is contrary to the view of a Ward Member.

The application seeks permission retrospectively for the retention of alterations to, and the enlargement of, a polygonal conservatory extension attached to the front of Fernbrook, a detached non-listed two storey period property sub-divided into two flats located in Convent Road just outside of the designated Bickwell Valley Conservation Area.

Planning permission was originally granted in 1991 for a conservatory and this was in place prior to its recent alteration and enlargement. The changes carried out take the form of an increase in both the pitch of the roof and its roof ridge height, the existing eaves height being left unaltered. This has the effect of increasing the ridge height by 420mm, from 3.38 metres to 3.8 metres high. The original polycarbonate roof has been replaced by glazing, as have PVCu panels forming the lower wall of part of the structure.

While the local objection to the development is acknowledged, it is not considered that the modifications are unduly unacceptable or that they result in any material harm or detriment to the character or appearance of the existing building or to the significance, in heritage policy terms, of the adjacent conservation area. Indeed, arguably the steeper roof pitch and use of glazing in place of the previous polycarbonate roof that it has replaced better reflect the style and materials of a

conservatory of a more 'period' form, design and appearance that, notwithstanding its greater height, are thought to represent a slight improvement.

As such, and mindful that there have been no other changes to the size, footprint or volume of the conservatory, it is not felt that the increased height results in the development appearing disproportionate in scale to the building or in any way harmful to the wider street scene or conservation area. There is a reasonable level of hedge and tree screening on all sides of the front garden of the site that help to mitigate its overall visual impact. It must also be kept in mind that the starting position for consideration of the proposal is the former conservatory. In this regard, overall it is contended that the alterations that have been carried out are acceptable and could not reasonably be opposed on visual/design grounds.

The same is also considered to apply in relation to the impact of the proposal upon the living conditions of the occupier of the first floor flat within Fernbrook. While it is accepted that the increased roof height would add to the extent to which the conservatory is visible from lounge and bedroom windows within, it is not considered that this would equate to any level of harm to neighbour amenity that could, again, be reasonably justified as forming the basis for refusal of planning permission. The development would clearly remain below the level of the first floor windows that serve the neighbour's flat and the glazed nature of the roof finish would not adversely impinge to the detriment of light available to, or outlook or aspect from, these windows. Although the clear glazed nature of the new roof of the conservatory could allow for views down into it, these would be likely to be rather more at the expense of the applicant's own privacy as opposed to that of the neighbouring occupier and, as such, it is not felt that an objection on the grounds of harm to privacy and amenity would be reasonable or capable of being robustly justified in the event of any challenge to a refusal decision at appeal.

Approval is therefore recommended.

CONSULTATIONS

Local Consultations

Parish/Town Council

Support

Sidmouth Town - Cllr Denise Bickley

I have been asked to take this further and raise objections on behalf of a resident, so please register my request to have this rejected.

When looking at the Planning Statement provided by the applicant on 4th July, the photographs clearly show that the height of the new conservatory is much higher than its predecessor and is right up to the height of the upstairs neighbour's window. It is very overpowering and as it can now be seen from the road I feel aggrieved that as it is already built the pressure is on to accept this application. I firmly feel that retrospective planning applications are unfair on other residents. I hope that this

application will be looked at carefully and residents' opinions taken very much into account.

Technical Consultations

None.

Other Representations

9 representations of objection have been received.

Summary of Grounds of Objection

1. Encroachment onto a considerable area of wall space.
2. Unavoidable impact upon outlook from bedroom.
3. Similarly overbearing upon sitting room window and invades space.
4. Raised roof pitch is out of keeping and not in proportion with the character of the Edwardian house and is aesthetically unattractive.
5. Too large, of modern PVCu frames and tinted glass (not historic materials) and spoils the architectural character of the property and those adjacent.
6. Highly visible and adds nothing to the historic amenity of the road.
7. Precedent for similar designs along Convent Road.
8. Makes cleaning and maintenance of first floor flat impossible.
9. Clearly visible from Cheese Lane and will be even more so when trees and shrubs shed their leaves.
10. Could be lowered to original height without affecting usable space for the occupants.
11. Increased height makes the conservatory dominate the plot and the front elevation.
12. Affects views out of the conservation area.
13. Can see down into conservatory from some upstairs windows which wasn't the case before.

PLANNING HISTORY

Reference	Description	Decision	Date
91/P1260	Conservatory Extension To Residential Flat.	Approval with conditions	09.09.1991

POLICIES

Adopted East Devon Local Plan 2013-2031 Policies

D1 (Design and Local Distinctiveness)

EN9 (Development Affecting a Designated Heritage Asset)

EN10 (Conservation Areas)

EN22 (Surface Run-Off Implications of New Development)

Made Sid Valley Neighbourhood Plan 2018-2032

1 (Sid Valley Development Principles)
6 (Infill Development, Extensions and Trees)

Government Planning Documents
NPPF (National Planning Policy Framework 2019)

ANALYSIS

Site Location and Description

Fernbrook is a detached period two storey residential property, sub-divided into two flats, that occupies a plot of generous size that is located within a residential area to the west of the town centre.

Positioned on the eastern side of Convent Road immediately adjacent to its junction with Cheese Lane just beyond the boundary of the designated Bickwell Valley Conservation Area, it is understood from information submitted with application ref. 91/P1260, referred to within Planning History above, to have been constructed around 1900. It is not, however, listed as a building of special architectural or historic interest.

The property is set back from the road frontage of the plot, which is defined by a stone wall with pebble coping backed by hedge and shrub planting.

The application proposal relates to the ground floor flat within the building.

Proposed Development

The application, which has been submitted retrospectively, seeks to regularise modifications to a conservatory extension of polygonal form that features on the principal, road-facing elevation of the building.

It is understood from a covering letter accompanying the application that has been prepared by the agent representing the applicant that the 'original' conservatory is that to which planning permission ref. 91/P1260 related.

The modifications comprise the following:

1. The substitution of white PVCu lower panels to the side of the conservatory for glazed panels.
2. The replacement of a polycarbonate roof with glazing together with the raising of the pitch of the roof by 10 degrees, resulting in a roof ridge height increase of 420mm from 3.38 metres to 3.8 metres.

The footprint area, configuration and eaves height of the conservatory have not been altered.

Buildings that are sub-divided into flats do not have the benefit of the range of permitted development rights that single dwellings enjoy, hence the requirement for a grant of planning permission in this case. However, being positioned on the principal elevation of the building, it is likely that permission would have been required in any event even if it were a single residential unit.

Considerations/Assessment

The principal issues that are material to consideration of the proposal in this case relate to the visual impact of the modified conservatory - and principally the increase in its height - upon the character and appearance of the building and the character of the setting of the adjacent conservation area, which is a designated heritage asset, as well as its effect upon the living conditions of the occupiers of any neighbouring residential properties, principally the first floor flat within Fernbrook.

Visual Impact

There is an acceptance that, under ordinary circumstances, the addition of a conservatory to the front/principal elevation of a residential property, whether in the form of a single dwelling or a building that is divided into a number of flats/apartments, can often be detrimental to its character as well as that of the street scene to which it contributes. Such enlargements are invariably more appropriate, from a visual standpoint, where added to either the rear or side elevations of the building where they read as being rather more subservient in relation to the host dwelling/building, thereby reinforcing its more ancillary function, than the more assertive impact that can result from a position on the front of the building where they can often be in full public view.

However, it is considered in this case that there are mitigating factors that weigh in favour of the proposal; not least of which is the lawful presence of the conservatory prior to the adaptations that the application seeks to regularise. This must be acknowledged as the starting position for consideration as to the acceptability, or otherwise, of the modifications.

Furthermore, the alterations to the lower panels aside - which are themselves considered to represent a modest, but nevertheless marked, improvement to its appearance - it is not thought that either the increase to the roof pitch or ridge height result in material harm to the design or appearance of either the conservatory itself nor to that of the property overall or the wider street scene. While it would clearly create a slightly greater visual impact than the 'original' conservatory, it is not felt that this would amount to any level of harm that could be regarded as significant to the extent that a refusal of permission could reasonably be justified.

In the absence of any other changes to the size, volume, etc. of the conservatory, and notwithstanding its position on the front of the building, it is considered that it retains a subservience of scale that does not readily impose uncomfortably upon the building, the street scene or the character of the setting of the adjacent conservation area. In this regard, it is also thought that its visual impact is mitigated by both the extent to which it is set back from the road frontage of the site itself and the screening that is provided by the hedge and shrub planting.

It is also noted that the planting extends to both the south eastern and north western boundaries of the site with the respective neighbouring residential properties, Springfield and Walcott. It provides quite robust screening of the front garden area of Fernbrook to the extent that it is felt that the impact resulting from the presence of the heightened conservatory is reduced to an acceptable level in visual terms.

As such therefore, in spite of its position on the front of the building alongside the fact that it is the only property within this part of Convent Road/Cheese Lane that features a front conservatory extension, it is not considered that the development is unduly harmful to the character or appearance of the host building or to the significance, in heritage terms, of the designated conservation area alongside the site.

Whilst the concerns expressed by the interested third parties in relation to the palette of materials are acknowledged, it is thought that the development has replaced a shallow polycarbonate roof, comprising a non-traditional material, with a glazed roof of steeper pitch which better reflects the proportions and material of a 'period' addition to the property. The same could also be said for the removal of the PVCu lower panels and their replacement with glazing. It should also be noted that the white PVCu frame of the conservatory has remained unaltered while the slight tint to the glazing to which reference has been made is not readily apparent from view from the public domain outside of the site.

Impact upon amenity

Turning to the effect of the development upon the living conditions of the occupiers of neighbouring and nearby residential properties, the existence of the established hedge and shrub screening to which reference is made above is thought to be sufficient to mitigate against any impact upon the neighbouring residents at Springfield and Walcott, while the separation and screening provided by Convent Road itself and the frontage trees and shrubs respectively prevent any significant impact upon the occupiers of properties on the opposite side of the highway from the site. Again, it is necessary to be mindful of the relationship that already existed between the 'original' conservatory and these properties as well as the fact that there has been no change to its footprint area that has resulted in, for example, the development being enlarged so that it is nearer to any of these properties.

The key matter for consideration in this regard therefore relates to the impact of the roof pitch and ridge height increase upon the living conditions of the occupier of the first floor flat (no. 2) within Fernbrook itself, and principally the outlook from a first floor bedroom window that is directly above the ridge of the 'new' conservatory roof. This now sits just below the window sill level of this window.

While there can be no question that more of the conservatory roof would be visible from this window owing to its closer proximity to view from it, it is not considered that this would equate to a level of harm to outlook that would be substantial enough to justify opposing the proposal on neighbour impact grounds. Clearly, the roof and its ridge would remain below the level of any person standing at the window. Moreover, its juxtaposition in relation to it, coupled with the transparent nature of the predominantly glazed roof, would not create any material issues in regard to loss of light or through being of unduly dominating, overbearing or intrusive appearance physically to any extent that, again, could reasonably form the basis for any sustainable objection.

Furthermore, notwithstanding the substitution of the former polycarbonate roof for the clear glazing that is now exhibited, it is not thought that the development would result

in any material mutually detrimental impact upon the privacy of the occupiers of either flat within Fernbrook while any relationship with the adjacent garden would remain unchanged owing, again, to the footprint of the conservatory being retained unaltered.

Much the same is also thought to apply in relation to concerns expressed regarding the impact upon the outlook from a lounge window that is within a shallow two storey bay projection beneath a subservient gable element on the principal elevation of the building. Indeed, with this window itself being further away from the development than the bedroom window, as well as obviously above its roof ridge level, it is again not considered that the level of impact that would result would be sufficiently harmful to warrant refusal of the conservatory in its adapted form.

Other matters

Following comments at the last Committee regarding the ownership situation and boundary between the two dwellings, as the roof of the Conservatory exceeds the floor level to the flat above and almost reaches cill level, the applicant has been asked to comment on ownership and any implications even though these are private civil matters. In response the applicant's agent has stated the following:

Without Prejudice

The freehold of Fernbrook is owned by myself (as legal representative for my deceased parents) and Ms Bearwolf.

Each of the two flats in the property has a lease from the freeholders.

The terms of the lease relating to the ground floor flat include an easement granting the right to support from the Building. The Building is defined in the lease as the whole of the house, not just the flat in question.

Secondly, if for any reason the specific easement contained in the lease were considered to be deficient (and there is nothing to indicate that it is) then the fact that the conservatory has been in place for more than twenty years has established an easement in accordance with the relevant law (The Prescription Act 1832).

In light of the above, and as any issues relating to attachment to the objector's property would be a private civil matter between the applicant and the objector, this matter should not impact upon the planning merits and consideration of the proposal and a refuse of permission on this ground could not be defended. The appropriate certification as to ownership of the site and service of notice of the application upon this third party has been provided with the application and is sufficient to satisfy relevant requirements in this regard.

Furthermore, insofar as the planning merits of the proposal are concerned, having regard to the material factors set out above it is thought that the development is acceptable from a neighbour impact perspective.

RECOMMENDATION

APPROVE

1. Notwithstanding the time limit to implement planning permission as prescribed by Sections 91 and 92 of the Town and Country Planning Act 1990 (as amended), this permission being retrospective as prescribed by Section 63 of the Act shall have been deemed to have been implemented on 31st July 2020.
(Reason - To comply with Section 63 of the Act.)
2. The development hereby permitted shall be carried out in accordance with the approved plans listed at the end of this decision notice.
(Reason - For the avoidance of doubt.)

NOTE FOR APPLICANT

Informative:

In accordance with the aims of Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 East Devon District Council works proactively with applicants to resolve all relevant planning concerns; however, in this case the application was deemed acceptable as submitted.

Plans relating to this application:

FS-002 B	Combined Plans	04.08.20
FS-002 C	Combined Plans	04.08.20
	Location Plan	03.08.20

List of Background Papers

Application file, consultations and policy documents referred to in the report.