

<b>REPORT FROM:</b>	<b>PLANNING, ECONOMIC DEVELOPMENT AND REGULATORY SERVICES MANAGER</b>
<b>TO:</b>	<b>SPECIAL POLICY AND RESOURCES COMMITTEE</b>
<b>DATE:</b>	<b>30<sup>th</sup> January 2020</b>

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## **PLANNING APPLICATIONS**

### **PURPOSE OF REPORT**

To determine the attached planning applications.

## REPORT TO POLICY AND RESOURCES COMMITTEE ON 30<sup>TH</sup> JANUARY 2020

**Application Ref:** 19/0763/HHO  
**Proposal:** Full: Erection of a single storey rear extension (Retrospective).  
**At:** 2 St Pauls Road, Nelson.  
**On behalf of:** Mr Mahmood Hussain  
**Date Registered:** 10.10.2019  
**Expiry Date:** 27.01.2020  
**Case Officer:** Charlotte Pinch

This report has been referred from Nelson Committee as members were minded to approve the application, against officer's recommendation. If approved this would result in a significant departure from policy and the development would result in severe detrimental impacts on the living conditions of the occupants of the adjacent property.

### **Site Description and Proposal**

The application site is a semi-detached two storey dwelling, within the settlement boundary of Nelson. The area is predominantly residential, with no special designations.

The proposed single storey rear extension is partly retrospective, a large proportion of the extension has been completed. The extension would have a total depth of 6m, width of 6.9m and pitched roof height of 3.6m, adjacent to the boundary with No.4 St Pauls Road.

### **Relevant Planning History**

13/13/0351P

Full: Erection of single storey extension to side and rear. Approved with Conditions. 2013.

13/13/0526P

Full: Erection of part 2 storey, part single storey extension to side and rear of dwelling. Refused. 2014.

13/14/0031P

Full: Erection of part 2 storey, part single storey extension to side and rear of dwelling (Re-Submission).  
Refused. 2014.

## **Consultee Response**

### **LCC Highways**

No objection.

### **Cadent Gas Network**

No objection.

Cadent have identified operational gas apparatus within the application site boundary. This may include a legal interest (easements or wayleaves) in the land which restricts activity in proximity to Cadent assets in private land. The Applicant must ensure that proposed works do not infringe on Cadent's legal rights and any details of such restrictions should be obtained from the landowner in the first instance.

If buildings or structures are proposed directly above the gas apparatus then development should only take place following a diversion of this apparatus. The Applicant should contact Cadent's Plant Protection Team at the earliest opportunity to discuss proposed diversions of apparatus to avoid any unnecessary delays.

If any construction traffic is likely to cross a Cadent pipeline then the Applicant must contact Cadent's Plant Protection Team to see if any protection measures are required.

All developers are required to contact Cadent's Plant Protection Team for approval before carrying out any works on site and ensuring requirements are adhered to.

## **Public Response**

One letter of objection was received from a neighbouring occupier, their comments can be summarised as follows:

- Loss of light into neighbouring ground floor rear facing windows, including a kitchen and living room.
- Subsidence of garden into neighbouring properties.

## **Officer Comments**

### **Policy**

#### **Pendle Local Plan Part 1: Core Strategy**

Policy SDP1 (Presumption in Favour of Sustainable Development) takes a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework.

Policy ENV1 (Protecting and Enhancing Our Natural and Historic Environments) seeks to ensure a particularly high design standard that preserves or enhances the character and appearance of the area and its setting. It states that the impact of new developments on the natural environment, including biodiversity, should be kept to a minimum.

Policy ENV2 (Achieving Quality in Design and Conservation) identifies the need to protect and enhance the heritage and character of the Borough and quality of life for its residents by encouraging high standards of quality and design in new development. It states that siting and design should be in scale and harmony with its surroundings.

### Replacement Pendle Local Plan

Saved Policy 31 sets out the maximum parking standards for development.

The Design Principles Supplementary Planning Document (SPD) applies to extensions and developments, setting out the requirements for good design and protecting residential amenity.

### National Planning Policy Framework

The Framework states that the purpose of the planning system is to contribute to the achievement of sustainable development. It states that there are three dimensions to sustainable development: economic, social and environmental. The policies in the Framework, taken as a whole, constitute the Government's view of what sustainable development in England means in practice for the planning system.

## **Design**

The single storey rear extension would not be visible from the front elevation of the dwelling or dominant from any public vantage points. The dual pitched roof and external materials consisting of render and concrete roof tiles, would be in keeping with the main dwellinghouse.

The design and materials of this development are acceptable in this location and as such comply with Policies ENV1, ENV2 and the Design Principles SPD.

## **Residential Amenity**

The Design Principles SPD states that a single storey rear extension located on, or immediately adjacent to, the party boundary with a neighbouring property will normally be acceptable if it does not project more than 4m from the rear elevation of the existing dwelling.

The SPD further advises that a single storey extension of greater depth will normally only be permitted if it does not breach a 45 degree angle. The 45 degree line is a

measure of the impact a development would have on the living environment of adjoining properties.

The proposed single storey rear extension has a total depth of 6 metres, with no separation distance from the south eastern side boundary with No.4.

No.4 has ground floor rear facing windows in close proximity to the proposed development. When a 45 degree line is drawn from the closest window, which serves a lounge the extension significantly breaches the 45 degree line. The 45 degree line serves to illustrate situations that are likely to have a detrimental impact on the adjoining property due to scale and proximity. In this case the development would appear large and dominate the adjoining property. The development would have a significant overbearing impact and be detrimental to the living conditions of the adjoining occupier. As such the proposal would be significantly detrimental to the living conditions of the occupants of the adjoining property and fails to comply with adopted guidance within the SPD and Policy ENV2.

### **Highways and Parking**

No objection.

### **RECOMMENDATION: Refuse**

The proposed development, by virtue of its depth and proximity to the adjoining property would result in a significant detrimental impact on the living conditions of the occupants of that property. The application thereby fails to accord with Policy ENV2 of the Pendle Local Plan Part 1: Core Strategy and guidance within the adopted Design Principles SPD.

### **Enforcement Action**

The development has substantially been completed. As the conclusions are that it has a detrimental impact on the living conditions of the occupiers of the adjoining property and is contrary to the development plan the Committee need to consider whether or not enforcement action is necessary and proportionate to the situation.

The development would have a significant impact on the quality of life and living conditions of the occupants of the adjoining property. There are strong planning grounds therefore to take enforcement action.

In determining if enforcement action should be taken the impact it would have on the applicants need to be considered.

Under the Human Rights Act 1998 fundamental rights are granted to people in the UK. Under Article 8 everyone has the right to respect of his private life, his home and his correspondence. There shall be no interference with that by a public authority unless in

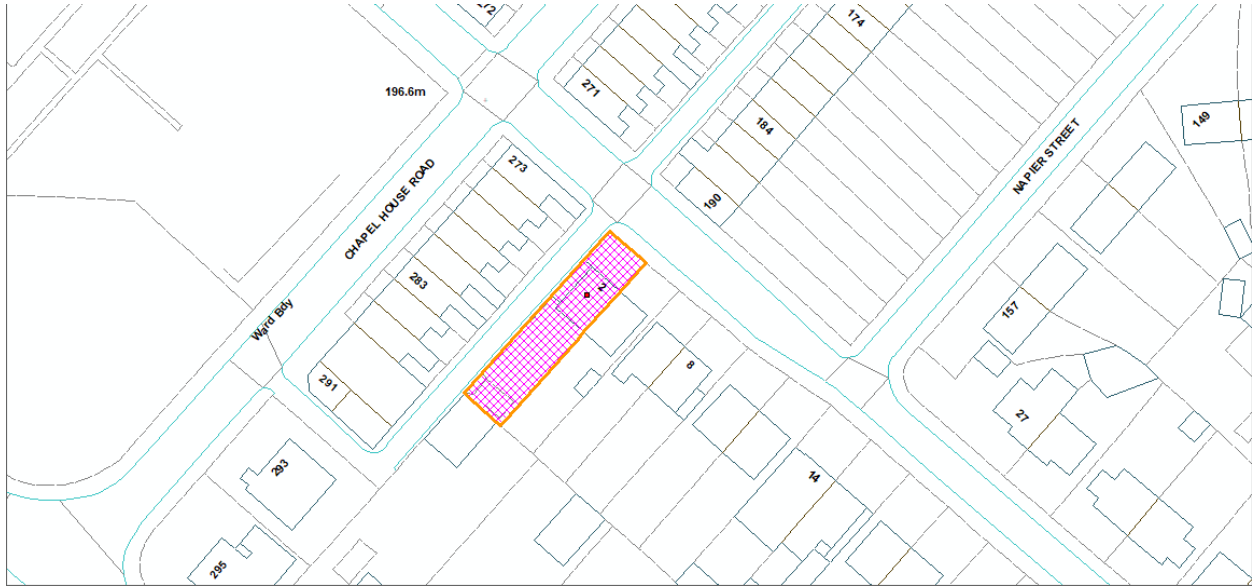
accordance with the law and is necessary in a democratic society for, amongst other things public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

Under Article 1 of the First Protocol every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.

Taking enforcing action would be lawful as it would be in accordance with the Town & Country Planning Act 1990. The development is unlawful and less weight would be given to the protection of the rights of the applicant due to it being unlawful. The development would have a significant impact on the living conditions of the adjoining occupiers and this would interfere with their freedom to enjoy their dwelling. If developments of this nature were allowed across the country it would affect property prices and hence the economic well-being of the country.

Taking enforcement action would therefore be in accordance with the law, necessary to remedy an unacceptable development and proportionate to the situation. There would also be a right of appeal.

It is therefore recommended that enforcement action be authorised requiring the development to be brought back to a lawful position.



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## LIST OF BACKGROUND PAPERS

Planning Applications

**NW/MP**

**Date: 13th January 2020**