

**1.0 Application Number:** 6/2019/0458

**Webpage:** <https://planningsearch.purbeck-dc.gov.uk/Planning/Display/6/2019/0458>

**Site address:** 5 Brushwood Drive Upton BH16 5DS

**Proposal:** Erect a single storey extension and enlarge the window on the first floor south east elevation.

**Applicant name:** Mr & Mrs Hiljemark

**Case Officer:** John Hartigan

**Ward Member(s):** Councillor Alex Brenton, Councillor Bill Pipe and Councillor Andrew Starr

Comments received from the Town Council are contrary to officer recommendation and Dorset Councillors have requested that the application is referred to planning committee. The nominated officer has given careful consideration to all representations received and the planning merits of the application concluding that the application should be presented to the planning committee.

**2.0 Summary of recommendation:**

Officers are recommending approval subject to conditions set out in the report.

**3.0 Reason for the recommendation:** as set out in paragraph 16 at end of report

- The principle of development is acceptable within the defined settlement boundary.
- The proposals are acceptable in terms of design and scale and impact on the amenity of the area.
- There is not considered to be any significant harm to neighbouring residential amenity or privacy.
- There are no material considerations which would warrant refusal of this application

**4,0 Key planning issues**

<b>Issue</b>	<b>Conclusion</b>
Principle of development	Acceptable in principle in the defined settlement boundary.
Scale, design and impact on the character and appearance of the area	Acceptable. The extension reads as subservient to the scale of the host dwelling. Design integrates with host dwelling. No adverse impact on character of the area.

Impact on the living conditions of the occupants of neighbouring properties	Acceptable. This is a residential area with no formal dark skies policy in place. The proposal results in a development which is not considered to be of sufficient harm to neighbour privacy or amenity in terms of it being overbearing or giving rise to potential overshadowing and loss of light to warrant an outright refusal of the submission.
Impact of protected trees	Acceptable.

## 5.0 Description of Site

The site is located to the north side of Sandy Lane in Upton. The subject dwelling is one of a group of 5no dwellings approved 10 years ago and accessed via a new access road. The dwellings are uniform in their design with pitched and hipped roofs and employing timber materials. Some of these dwellings within Brushwood Drive have since been enlarged with extensions authorised by planning permission, with permitted development rights having been withdrawn by condition under the original application, due to the impacts of further development on the privacy and amenity of the occupants of neighbouring dwellings.

A protected birch tree is located within the garden area of the neighbour at 3 Heatherdell, to the immediate east of the site.

The site is located within the settlement boundary of Upton.

## 6.0 Description of Development

The application seeks planning permission for the erection of a single storey extension to project off the south east elevation. This extension will feature a pitched roof with a high level window on the south east facing gable end, together with 2no Velux windows on the north east facing roof slope. A small part of the proposed extension will feature a flat roof.

As part of the submission, the applicants also propose to enlarge the existing window on the first floor south east elevation of the host dwelling.

The application is supported with a design and access statement. The agent for the applicant has also supported the application with a response to the objections raised by the occupants of Heatherdell. (Email to the Council dated 19 September 2019)

\*\*\*Case officer note: the first floor window located on the south-east elevation of the host dwelling has now been amended (twice) so that it is obscure glazed and fixed shut. The window will have a restricted opening for ventilation. (Illustrated on amended drawing 07 revision B dated 2/8/19).

## 7.0 Relevant Planning History

The group of 5 no dwellings within this vicinity was granted planning permission under application 6/2019/0394. Various conditions were applied to that grant of permission including;

- The withdrawal of permitted development rights
- Roof lights and first floor windows to be obscure glazed and non-opening in the interests of safeguarding the privacy and amenity of the occupants of adjacent residential properties.
- Measures for the protection of protected trees and compliance with the recommendations of an Arboricultural Impact Appraisal and Method Statement submitted with that application.

## 8.0 List of Constraints

This property is in the parish of Lytchett Minster and Upton

This property is within a Settlement Boundary - Upton

This property has a TPO Order - T2 - Silver Birch

## 9.0 Consultations

All consultee responses can be viewed in full on the website.

- **Dorset Council Arboricultural Officer**

No objection.

- **Lytchett Minster and Upton Town Council**

Originally raised no objection but changed their stance to a recommendation of refusal based on the strength of neighbour objections.

### **Representations received**

Five objections received from neighbours raising the following concerns:

- Condition 9 added to the original planning permission under 6/2009/0394 removing permitted development rights
- The first floor window at the south east facing gable end of the host dwelling has clear glass and is openable.
- Precedent
- Scale
- Privacy and amenity
- Amenity
- Biodiversity and protection of species
- Protected tree within the garden of 3 Heatherdell

- Provision of a flue for a wood burner

## 10.0 Relevant Policies

### Purbeck Local Plan Part 1:

Policy LD: General Location of Development

Policy SD: Presumption in favour of Sustainable Development

Policy D: Design

Policy LHH – Landscape, Historic Environment and Heritage

Policy BIO – Biodiversity and Geodiversity

### Emerging Purbeck Local Plan

No relevant policies.

### NPPF

*Chapter 2: Achieving sustainable development.*

*Chapter 4: Decision-making*

- Paragraphs 47 & 48 – Determining applications
- Paragraphs 54 & 55 – Planning conditions and obligations

*Chapter 12: Achieving well-designed places*

- Paragraphs 124, 127 & 130 - Achieving well-designed places

*Chapter 15: Conserving and enhancing the natural environment*

- Paragraph 170 - Conserving and enhancing the natural environment
- Paragraph 175 – Habitats and biodiversity

### **Other material considerations**

Purbeck District Design Guide Supplementary Planning Document

National planning practice guidance

British Standard 5837:2012 Trees in relation to design, demolition and construction – recommendations

## 11.0 Human rights

Article 6 - Right to a fair trial.

Article 8 - Right to respect for private and family life and home.

The first protocol of Article 1 Protection of property.

This recommendation is based on adopted Development Plan policies, the application of which does not prejudice the Human Rights of the applicant or any third party.

## 12.0 Public Sector Equalities Duty

As set out in the Equalities Act 2010, all public bodies, in discharging their functions must have “due regard” to this duty. There are 3 main aims:-

- Removing or minimising disadvantages suffered by people due to their protected characteristics
- Taking steps to meet the needs of people with certain protected characteristics where these are different from the needs of other people
- Encouraging people with certain protected characteristics to participate in public life or in other activities where participation is disproportionately low.

Whilst there is no absolute requirement to fully remove any disadvantage the Duty is to have “regard to” and remove or minimise disadvantage and in considering the merits of this planning application the planning authority has taken into consideration the requirements of the Public Sector Equalities Duty.

The proposals relate to a single storey extension and alteration to a private dwelling and do disadvantage the public under the public sector equalities duty.

## 13.0 Financial benefits

What	Amount / value
Material Considerations	None
Non Material Considerations	None

## 14.0 Climate Implications

The proposal is for a single storey extension and alterations to a dwelling. On this basis the proposal is not considered to have any significant climate implications.

## 15.0 Planning Assessment

### Principle of development

Guidance set out within both the National Planning Policy Framework (NPPF) and the Purbeck Local Plan Part 1 (PLP1) encourage new development in the most sustainable locations inside existing towns and villages.

The site is located within the Upton settlement boundary where there is no objection in principle to the proposed development subject to consideration of all material planning issues and site specific constraints.

### **Scale, design and impact on the character and appearance of the area**

Planning policy places strong emphasis new development securing high quality design that promotes and reinforces local distinctiveness. Proposals should positively integrate into their surroundings.

Poor design that fails to take the opportunity to improve the character and quality of an area should be refused. The design of an extension should harmonise with that of the property being extended in terms of scale, form, materials and detailing.

Objections have been received from neighbours asserting that the scale of the extension is too big and should be reduced in size. The scale of the proposed extension reads as subservient to the form and scale of the host dwelling, with the roof height well below the height of the existing roof line, with the eaves height not exceeding the eaves height of the host dwelling. Officers consider that the design approach of the extension with its pitched roof respects the form of the host dwelling and with matching materials are considered to visually integrate with the surroundings. A small section of the extension has a flat roof, but this is not considered to be of such visual significance that it would be seen to be harmful to the form and layout of the host dwelling.

Given the location of the proposed extension to the rear of the building, it will not impact within the street scene in Brushwood Drive and overall is considered to conserve the particular character of the wider area within this part of Upton.

### **Impact on the living conditions of the occupants of neighbouring properties**

Guidance contained in the Purbeck Local Plan Part 1 in Policy D: design directs that the Council will expect proposals for all development and other works to avoid and mitigate effects of overshadowing, overlooking and other adverse impacts including light pollution from artificial light on local amenity. This is consistent with the aims and principles of the National Planning Policy Framework that seek, amongst other things, for planning to secure a good standard of amenity for all existing and future occupants of land and buildings and for good design that contributes positively to making places better for people.

The Purbeck District Design Guide (adopted in January 2014) gives further guidance on assessing the impact of new development on the amenity of existing neighbours.

The issue of the impact of the development on the privacy and amenity of the occupants of neighbouring dwellings has generated numerous objections from

the occupants of Heatherside, to the east side of the application site and from the occupant of 140a Sandy Lane.

The nature of the objections raised are respectfully acknowledged by officers and each of the objections raised are considered and responded to in the section below under 'Neighbour comments received and case officer response' below.

In response to the objections raised, the case officer visited the site and met with a delegation of the neighbours from Heatherside, to enable them to articulate and discuss their concerns and to allow the case officer to consider each of these concerns raised from the vantage point of each of their rear facing gardens which face on to the application site.

Following on from this visit, the case officer referred back to the applicant to ask if they were prepared to reduce the scale of the extension and to omit the large triangular shaped window on the south east facing elevation at the upper level of the extension. The applicants did not want to change the submission, except for the change to the first floor window, which will now be obscure glazed and restricted opening to 60mm. (This window has now been amended so that it has restricted opening) The application has therefore been considered on this basis.

Officers having made a very careful assessment of the impacts of the development, accept that the scale and height of the extension will result in some loss of evening sunlight to the occupant of 3 Heatherdell, however this is only at certain times of the day, in the evening. It is considered that given the degree of distance between the development site and the gardens of the neighbours the development will not reduce the amount of daylight (as opposed to sunlight) to the rear gardens of the neighbours to such a harmful extent as to warrant a refusal of the submission.

With the applicant prepared to change the proposed new upper floor window in the existing dwelling so that it is obscure glazed but openable to a small degree to allow for ventilation, officers judge that the submission will not be sufficiently harmful to the neighbours in terms of potential overlooking to warrant a refusal. The triangular window in the proposed extension serves an open plan void and would not result in any overlooking to the height of the windows above ground level.

Officers accept that the development will cause some loss of evening sunlight and that some internal light may emit from the upper window of the extension. With no formal dark skies policy applicable within this residential area, the introduction of the upper window in the extension cannot in planning terms be considered sufficiently harmful to the amenity of the neighbours so as to warrant a refusal of the submission.

In conclusion, it is considered that the extension and the treatment of the south east facing upper floor window will cause no harmful overlooking, nor will it appear overbearing or cause overshadowing to such a harmful degree as to warrant an outright refusal of the submission.

### **Impact on protected trees**

Policy guidance set out in the adopted Purbeck Local Plan Part 1 in Policy LHH directs that the impact of development proposals should conserve the future health and vitality of trees and hedgerows.

The current submission was supported by a tree report prepared by Mark Hinsley Arboricultural Consultants Ltd date 1<sup>st</sup> August 2019 (Ref: 5521/JC/IMP/08/19).

The report identifies the presence of a mature Silver Birch tree with good amenity but which should continue to be monitored for signs of further decay. The tree has been categorised as being of moderate quality. The report concludes that the proposed development is arboriculturally acceptable, with any incursion into the root protection area considered to be minor, so that there will be no significant detriment to this tree.

The Council's arboricultural officer has considered the details contained in the supporting arboricultural statement and has advised that he raises no objection to the submission on arboriculture grounds.

On the basis of the tree report and the response of the Council's tree officer to that report, officers consider that the future health and vitality of these protected trees and other retained trees on the site will be maintained.

## **16.0 Conclusion**

The proposed development is not considered to have a detrimental impact on the character and appearance of the area, protected trees, or the amenity of the neighbouring residents. Therefore the proposal is considered to be acceptable.

## **17.0 Recommendation**

To grant planning permission subject to the conditions as set out below.

1. The development must start within three years of the date of this permission.

Reason: This is a mandatory condition imposed by Section 91 of the Town and Country Planning Act 1990 to encourage development to take place at an early stage.

2. The development permitted must be carried out in accordance with the following approved plans: Drawings 016 01, 016 02, 016 03, 016 04, 016 05, 016 06, amended drawing 016 07B, 016 08 & 016 09 by RSP Design.

Reason: For the avoidance of doubt and in the interests of proper planning.

3. The new window in the existing dwelling in the South east elevation as shown on drawing 016 07B must be restricted opening to 60mm and glazed with obscure glass to a minimum Pilkington privacy 3, or equivalent as agreed in writing with the Council. It must be maintained in that condition.

Reason: To safeguard the amenity and privacy of the occupiers of adjoining residential property.

4. Before work starts on site, an Arboricultural Method Statement (AMS) prepared by a qualified tree specialist providing comprehensive details of construction works in relation to trees that have the potential to be affected by the development must be submitted to, and approved in writing by the Council. All works must be carried out in accordance with the approved details. In particular, the method statement must provide the following: (delete where not appropriate)

a) a specification for protective fencing to trees and hedges during both demolition and construction phases which complies with BS5837 (2012) and a plan indicating the alignment of the protective fencing;

b) a specification for scaffolding of building works and ground protection within the tree protection zones in accordance with BS5837 (2012);

c) a schedule of tree work conforming to BS3998;

d) details of the area for storage of materials, concrete mixing and any bonfires;

e) plans and particulars showing proposed cables, pipes and ducts above and below ground as well as the location of any soakaway or water or sewerage storage facility;

f) details of any no-dig specification for all works within the root protection area for retained trees:

g) details of the supervision to be carried out by the developers tree specialist;

Reason: This information is required to be submitted and agreed before any work starts on site to ensure that the trees and hedges deemed worthy of retention on-site will not be damaged prior to, or during the construction works.

5. Informative Note - Matching Plans. Please check that any plans approved under the building regulations match the plans approved in this planning permission or listed building consent. Do not start work until revisions are secured to either of the two approvals to ensure that the development has the required planning permission or listed building consent.

6. Statement of positive and proactive working: In accordance with paragraph 38 of the National Planning Policy Framework, the Council takes a positive and creative approach to development proposals focused on solutions. The Council works with applicants/agents in a positive and proactive manner by; offering a pre-application advice service, and as appropriate updating applicants/agents of any issues that may arise in the processing of their application and where possible suggesting solutions.

For this application: the opportunity to submit amendments to the scheme/address issues was given which were found to be acceptable; the application was approved without delay.