

DELEGATED DECISION REPORT

APPLICATION NUMBER

210362

Goosepool Cottage, Winforton, Hereford, HR3 6EB

CASE OFFICER: Miss Amber Morris
DATE OF SITE VISIT: 03/03/2021

Relevant Development Plan Policies: **Herefordshire Local Plan – Core Strategy (CS) Policies:**
SS6 Environmental quality and local distinctiveness
LD1 Landscape and townscape
SD1 Sustainable design and energy efficiency
SD3 Sustainable water management and water resources
SD4 Waste water treatment and river water quality

Eardisley Group Neighbourhood Development Plan (NDP):
NDP made 13th June 2016
H7 Criteria for housing development in Eardisley Group

National Planning Policy Framework (NPPF):
Chapter 2 Achieving sustainable development
Chapter 11 Making effective use of land
Chapter 12 Achieving well-designed places
Chapter 15 Conserving and enhancing the natural environment

Relevant Site History: **P150468/FH** – Proposed construction of a single storey extension – **Approved with conditions**

N121241/FH – To convert first floor dormer windows (x2) to a single dormer of same foot print – **Approved with conditions**

DCN043664/F – Proposed two storey extension, alteration to dormer windows, new replacement windows and new conservatory – **Refused**

DCH890240/A30 – Garaging of two cars plus workshop/study at Goosepool Cottage, Winforton, Herefordshire, HR3 6EA – **Approved with conditions**

DCH860353/A30 – Erection of first floor extension to dwelling house, being The Cottage, Winforton Common, Winforton,

Herefordshire – Approved with conditions

CONSULTATIONS

	Consulted	No Response	No objection	Qualified Comment	Object
Parish Council	X		X		
Ecologist	X	X			
Site Notice	X				X
Ward Councillor	X		X		

PLANNING OFFICER'S APPRAISAL:

Site description and proposal:

The application site dwelling part of an attractive semi-detached pair of dwellings that have been altered with varying degrees of success over time. The site is located in an area of open countryside, approximately 45 metres north of the settlement of Winforton.

The proposal is for the demolition of the existing rear extension and its replacement with a larger two-storey extension. The proposal is illustrated below:



Existing



Proposed

Representations:

Parish Council (superseded) – Qualified comment

Eardisley Group Parish Council has considered application P210362/FH for the removal of an existing rear extension and proposed new single and two storey rear extension at Goosepool Cottage, Winforton. Since receipt of the plans for review, however, the Parish Council has become aware of a legal dispute that has arisen over boundaries between Goosepool and Holly Cottage. Until such time as the legality aspects raised have been formally resolved, it is not appropriate for this Parish Council to further evaluate the application. As the deadline for representations is due to close tomorrow, 24th March, the Parish Council would expect a moratorium to be imposed whilst Herefordshire Council or the appropriate agency looks into the matters raised

Parish Council (amended) – Support

After taking advice, Eardisley Group Parish Council considered the above application again at its meeting this week and requested I pass on their following additional representation as input to the decision making process. "In conclusion and taking into account planning material considerations only, the Parish Council determined the proposed extension and improvements to the property were reasonable and generally in accordance with the housing policies documented in its Neighbourhood Development Plan. The Parish Council therefore wishes to support this application on the understanding that the ongoing boundary dispute will be resolved as a civil matter, which is outside the remit of this consultation."

Ecology – No response

Site notice – 2 letters of objection:

Mr and Mrs Boucher:

We object to P210362/FH planning application including amendments on the following grounds. (Images and drawings can be found below the objection).

- Roof plan
- Right to light
- Overdevelopment
- Party wall agreement

Roof plan

Image 1.0 shows the current roof design. The image shows in blue the direction of rainwater from Holly Cottage's roof into guttering attached to Goosepool Cottage. This is an easement, which has been in effect for 38+ years.

The proposed new development will prevent this flow of rainwater into guttering, resulting in rainwater pooling, as indicated in image 1.1 and 1.2, causing roof failure. Image 1.2 – The red lines highlight Holly Cottage's roof. Blue arrows show direction of rainwater and clearly shows where pooling and roof failure will occur.

Right to light

The proposed development for Goosepool Cottage would significantly decrease the natural light in Holly Cottage. It is a direct infringement of our legal right to light under common law. Essentially, a person's 'right to light' is enshrined under common law in England and Wales by the Prescription Act 1832.

We feel that the Goosepool Cottage development has not taken into consideration a person's right to light. Even with Goosepool Cottage's amended downsized plan, it infringes our right to light.

Image 2.0, the affected window (outlined in yellow) has been in situ for 38 years and has received daylight for this time, we are entitled to still receive it. A red box has been superimposed onto the image to reflect the proposed extension. Externally the window would seem to service one room, however there is a dividing partition wall that runs down the centre of the window dividing the window into two rooms.

Image 2.1 is a block plan from Holly Cottage's planning application submitted to Herefordshire County Council, planning department. Application number-P170975/FH. This block plan evidences the window dividing into two rooms.

As you would be aware, the 45-degree rule is assessed on both plan and elevation. An extension should not exceed a line taken at 45 degrees from the centre of the nearest window of a room in an adjoining property. See image 2.2

The only way for Goosepool Cottage to conform to our right to light is to not extend the second story extension by more than 1 metre past our house.

Overdevelopment

The artist's impression submitted as drawing "Amended Before and After Visual" under application number P210362/FH now clearly demonstrates the significant overdevelopment of the site. With effectively a huge square box with a large flat roof being added onto a small pitch roofed 19th century cottage in an idyllic rural location.

As can be seen from the artist's impression the new extension will disproportionately dominate the rear elevations of Goosepool and Holly cottages.

The development is surely not in keeping with the existing Goosepool cottage, Holly Cottage or other similar properties in the immediate vicinity. Other extensions added to similarly aged properties in the area have all been proportionate to the original dwelling and all have pitched roofs on the main extension.

Recent local developments include:

- (1) The earlier single storey extension made to Goosepool cottage by the current owner which was proportionate and in keeping with the design of the original cottage with a pitched roof.

- (2) The recent two storey development made to Holly cottage by ourselves under Planning application number P170975/FH which again demonstrates a proportionate development with a pitched roof.
- (3) The two storey development to Common cottage, Winforton under planning application P153644/FH which has just been completed and again is proportionate to the original dwelling and also has a pitched roof.

We believe this again emphasizes the excessive overdevelopment being proposed for Goosepool cottage which coupled with the Bungalow style property already existing in the garden of Goosepool is not in keeping with the original 19th century site

Party wall agreement

In order for Goosepool Cottage to erect their proposed extension it would involve works that would materially affect our property. This could result in extensive damage, therefore we request that it should be a condition of any planning permission that a party wall agreement should be in place before permission is granted. At the time of writing no application has been made by the applicants to discuss the impacts of the Party wall Act 1996.

This is the third iteration of the proposed development that has been submitted for Goosepool Cottage under application number P210362/FH. This is extremely frustrating and has caused much anxiety.

We have never wished to prevent our neighbour's developing Goosepool Cottage in a proportionate manner but feel the impact on us and our property, which will be materially impacted by being attached to the development on two levels has never been taken into consideration in the proposed plans. An example of this would be no survey of our property was conducted by the owners of Goose Pool cottage or their architect to fully assess the impact the proposed development would have prior to the submission of plans.

Harrison Clark Rickerbys Ltd. on behalf of T and K Boucher Further Objection:

We are instructed by Kate and Tom Boucher of Holly Cottage, Winforton, whose property neighbours and adjoins the applicant's property Goosepool Cottage. On 12 March 2021, we submitted online representations to Herefordshire County Council in the form of an objection to the applicant's application number P210362/FH. The representations were submitted with references 742222 and 742229 (742229 contained only additional supporting documents to the submission number 742222 and those documents have since been published with our main representations under 742222). We note that since our clients' representations were published, the applicant has submitted an amended proposed roof plan.

Our clients believe that the development will trespass onto their property. We are in the process of corresponding with the applicant's solicitor in an attempt to resolve the boundary dispute. Irrespective of where the boundary lies, our clients have a number of grounds for objection as follows:

1. Adequacy of parking, loading and turning (Relevant Planning Matters point 2): our clients are concerned that, at present, there is little room for parking, turning or unloading (there is currently enough space for two parked cars at the first applicant's

- property). As the access drive is a very narrow country lane with a single track frequently used and there are no loading facilities, this makes it very difficult to load heavy materials for building works. Our clients anticipate that vehicles would be parked all over the common which would in turn block entrances to properties and delay traffic;
2. The overdevelopment of the land (Relevant Planning Matters point 6): our clients are concerned that the first applicant's property is already an overdeveloped site already. The property is a stone cottage which was built in the 1800's, and recent extensions have been added to the cottage in the 1980's and 2000's. Our clients are concerned that the newest planning proposal may ruin all the character of the existing 1800's cottage, given that the structure is out of character in the area and has a visual impact on the landscape (Relevant Planning Matters point 1).
 3. As the applicant's property currently has a large annex with shower and toilet, together with bedrooms, in the garden of property which is currently being used as an office and spare bedroom for visitors at the property, our clients are concerned as to why, under the current plans, the office space will be moved into proposed extension (Relevant Planning Matters point 3); and
 4. A further concern of our clients is that if the applicants intend to use either the annex or the property itself as a holiday let, our clients' privacy would be lost due to, amongst other considerations, neighbours and parking issues (Relevant Planning Matters points 2, 3 and 4). Our clients envisage that any guests would need to park at the front of property on common ground, which may in turn create a nuisance for cars pulling in to give way to oncoming traffic on the single track common road, as well as gaining access to our clients' residence.

We therefore repeat that our clients' representations are not withdrawn and that our clients' objections to planning permission application number P210362/FH remain valid and require consideration.

We understand that Eardisley Group Parish Council has withdrawn its approval of the application (by email on 23 March 2021) until such time as the boundary dispute between our client and the applicant has been resolved. We should be grateful if you would confirm what steps, if any, Herefordshire County Council is taking in considering the application, and whether you require anything further from us or our clients in order to assist with the determination of the Council's decision.

Ward Councillor – Updated via telephone on 2nd July, Cllr has no objections to the Officer recommendation and has not made a redirection request.

Pre-application discussion:

None sought

Constraints:

U90625
Surface water adjacent

SSSI impact zone
NE priority habitat adjacent
Common land adjacent

Appraisal:

Policy context and Principle of Development

Section 38 (6) of the Planning and Compulsory Purchase Act 2004 states as follows:

“If regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise.”

In this instance the adopted development plan is the Herefordshire Local Plan – Core Strategy (CS) and the ‘made’ Eardisley Group Neighbourhood Development Plan (NDP). At this time the policies in the NDP can be afforded weight as set out in paragraph 48 of the National Planning Policy Framework 2019, which itself is a significant material consideration.

The Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended) (the 2012 Regulations) and paragraph 33 of the National Planning Policy Framework requires a review of local plans be undertaken at least every five years in order to determine whether the plan policies and spatial development strategy are in need of updating, and should then be updated as necessary. The Herefordshire Local Plan Core Strategy was adopted on 15 October 2015 and a review was required to be completed before 15 October 2020. The decision to review the Core Strategy was made on 9th November 2020. The level of consistency of the policies in the local plan with the NPPF will be taken into account by the Council in deciding any application. In this case, the policies relevant to the determination of this application have been reviewed and are considered to remain entirely consistent with the NPPF and as such can be afforded significant weight.

The principle of an extension is not objectionable, however a number of detailed site specific considerations are determinative as to the overall acceptability of the proposed extensions, as considered below.

Design and Amenity

At a neighbourhood level, when considering the design and visual impact of a proposed development Policy H7 of the Eardisley Group NDP is of relevance. Whilst this policy relates to new residential development in the neighbourhood area and is not specific to alterations and extensions to existing properties, it is relevant insofar as it requires that all development should achieve good standards of design. This will be achieved by requiring development to, amongst other things, respect the scale and character of existing properties in the vicinity.

Policy SD1 of the Core Strategy (CS) is significant in considering the design and visual impact of a proposal as it requires development proposals to create safe, sustainable, well integrated environments for all members of the community. In so doing, all proposals should take into

account the local context and site characteristics. Moreover, buildings should be designed to maintain local distinctiveness through incorporating local architectural detailing and materials and respecting scale, height, proportions and massing of surrounding development. Where appropriate, proposals should also make a positive contribution to the architectural diversity and character of the area, including through innovative design. They should also safeguard the residential amenity of existing and proposed residents in terms of overlooking, overshadowing and overbearing.

Specifically regarding landscape matters Policy LD1 of the CS requires that proposals demonstrate that the character of the landscape and townscape has positively influenced the design scale, nature and site selection of the development, as well as the protection and enhancement of the setting of settlements and designated areas. Development proposals should conserve and enhance the natural, historic and scenic beauty of important landscapes and features (specifically designated assets) through the protection of the area's character and by enabling appropriate uses, design and management.

The framework is a key material consideration for the proposal , it includes a chapter focused on achieving well-designed places (chapter 12), which sets out that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve, as good design is a key aspect of sustainable development. Decision-making (as directed at paragraph 127 of the framework) should ensure developments will: function well and add to the overall quality of the area over the lifetime of the development; are visually attractive as a result of good architecture, layout and appropriate and effective landscaping; are sympathetic to local character including the surrounding built form and landscape setting (whilst not preventing innovation or change); establish or maintain a strong sense of place creating attractive and distinct places to live and visit; with a high standard of amenity for existing and future users that doesn't undermine quality of life or community cohesion and resilience.

The framework is clear at paragraph 130 that *"planning permission should be refused for development of poor design that fails to take opportunities available for improving the character and quality of an area and the way it functions, taking into account any local design standards or style guides."* The government has confirmed by way of a Written Ministerial Statement (on 1st October 2019) that *"in the absence of local design guidance, local planning authorities will be expected to defer to the illustrated National Design Guide"*; the National Design Guide is therefore considered to be a material consideration for considering what achieves good design in proposed developments. However design shouldn't be concocted as a reason for refusal when proposals accord with the design expectations of the framework, material considerations and development plan.

The National Design Guide's chapters on identity and built form state that development should be visually attractive; strengthen the local character of place; create a positive identity; a coherent pattern of development; sited and designed demonstrating an understanding of the existing situation. Additionally, paragraph 40 states that well designed new development should have an understanding of the wider context and the concerns and perceptions of local communities. Paragraph 70 states that proposals for buildings with a significantly larger scale

or bulk that their surroundings require special consideration including their location and siting; relationship to context; impact on local character, views and sight lines; composition - how they meet the ground and the sky; and environmental impacts, such as sunlight, daylight, overshadowing and wind. These need to be resolved satisfactorily in relation to the context and local character.

The existing building is a good example of a traditional rural cottage. It is modestly proportioned and displays features such as a narrow building span which is typical of the rural vernacular. At present the building makes a positive contribution to the character of the area and it therefore important that any scheme respects and maintains this.

Whilst the principle of an extension to this dwelling is acceptable, it is considered that the proposed scale of this proposal results in a development which dominates the host dwelling. At the scale proposed, the proposed extension would fail to appear to subordinate to the host dwelling and would overwhelm its inherently modest character. The proposal also uses a contemporary design approach which in my opinion fails to respect the character of the host dwelling. I appreciate that the proposal has been designed to be clearly read as a new element to the dwelling however, there appears to be a clear disconnect between the existing and proposed. Although the extension would not be visible from the principle front elevation it would be visible from the roadside/ east elevation, it is considered the extension as currently proposed fails to respect the modest scale, proportions and massing of the existing dwelling. As a result, it would be harmful to the traditional character of the cottage and would fail to make a positive contribution to the character of the area. The proposal is thus contrary to Policies SD1 and LD1 of the CS, H7 of the NDP, Chapter 12 of the NPPF and paragraph 70 of the National Design Guide. A clear way forward would be to reduce the scale and massing of the proposal to better respect the host dwelling.

Further to the above, given that the proposed rear extension would lie on the boundary between Goosepool Cottage and Holly Cottage, which is less than 1 metre away from the closest first floor window of Holly Cottage, the proposal is considered to impact upon the natural light reaching the first floor of Holly Cottage, thus having an overshadowing effect. Moreover, the loss of light to the first floor of Holly Cottage is exacerbated given the overbearing scale of the proposal. Therefore it is concluded that the proposed two storey rear extension would detrimentally impact the amenity of the neighbouring property by virtue of blocking natural light, having an overshadowing effect, contrary to Policy SD1 of the CS, H7 of the NDP, Chapter 12 of the NPPF and paragraph 70 of the National Design Guide.

Although the proposal introduces a number of window openings it is not considered that the proposal would harm the amenity of neighbouring properties with regards to overlooking due to the positioning of the windows on only the rear and west elevations and not on the western elevation which would form the boundary with Holly Cottage. Therefore no conflict with Policy SD1 of the CS is found.

I am also aware of a boundary dispute on the site, however this a civil matter and not something that constitutes the refusal of planning permission. That said, should the red line of

this application be proved to be incorrect, a new permission would need to be applied for demonstrating the correct ownership boundary.

Conclusion

The National Planning Policy Framework has at its heart a presumption in-favour of sustainable development, this is detailed at Chapter Two of the framework. Sustainable development is considered to consist of three key elements, those being the Economic, Social and Environmental objectives. Development proposals that are considered to meet these objectives (when taken as a whole) meet the first test and are considered to be sustainable development, thus benefiting from a presumption in favour of the development. The second half of Paragraph 11 of the NPPF applies the presumption in-favour of sustainable development for decision-making; 11 c) outlines that development proposals in accordance with an up-to-date development plan should be approved without delay. Or 11 d) outlines that where the development plan is silent or the policies most relevant for the determination of the application are out-of-date, permission should be granted unless either of the following criteria are met:

- i. the proposed development will impact on protected areas or assets and the policies of the framework give a clear reason for refusal as set out at 11 d) i.
- ii. any adverse impact of granting permission would significantly and demonstrably outweigh the benefits when assessed against the framework as a whole, as set out at 11 d) ii.

To conclude, the development plan has a statutory presumption in its favour and determination must be made in accordance with the plan unless material considerations indicate otherwise, in this case the Core Strategy review has not been initiated nor completed, with the policies most important for determining the application being out of date (as per paragraph 11 d of the framework). However policies are not disregarded and due weight should be given to them according to their degree of consistency with the framework, in this case the most important policies SD1 and LD1 of the Core Strategy are considered to be wholly consistent with the provisions of the framework and officers consider them to attract substantial weight in decision-making.

The public benefits from the proposal are considered to be limited, the NDP area; Winforton, Eardisley and Whitney on Wye already benefit from a diverse housing stock including larger dwellings and additional habitable space in the dwelling could be provided without causing the levels of harm identified above, making any harm avoidable. The harm identified is considered to be significant, as a result of poor design, specifically scale which is contrary to paragraph 130 of the framework. It follows that the harm identified is considered to significantly and demonstrably outweigh the benefits of the proposal and the application should be refused, as it is contrary to the development plan, the framework and the National Design Guide.

RECOMMENDATION: PERMIT ☐ REFUSE ☒


CONDITION(S) & REASON(S) / REASON(S) FOR REFUSAL:
(please note any variations to standard conditions)

1. By virtue of the scale, mass and design, the proposal represents an unacceptable and overbearing form of development on the site, which would be disproportionate to the original dwelling and is therefore in conflict with Herefordshire Local Plan – Core Strategy Policy SD1, Policy H7 of the Eardisley Group Neighbourhood Development Plan and the requirements of the National Planning Policy Framework.
2. The proposal would have an overbearing / overshadowing effect on neighbouring properties and would diminish the natural light to their habitable rooms; thus detrimentally impacting the amenity of adjoining dwellings. As such the proposal is contrary to the Herefordshire Local Plan Core Strategy Policy SD1 and the relevant design policies of the National Planning Policy Framework.

Informatives

1. IP5

Signed:



Dated: 08/07/2021

TEAM LEADER'S COMMENTS:

DECISION:

PERMIT

☐

REFUSE

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Signed:



..... Dated: 12/7/2021

Is any redaction required before publication? No