

Planning and Rights of Way Panel 3rd November 2020
Planning Application Report of the Head of Planning & Economic Development

Application address: 59 Burgess Road, Southampton			
Proposed development: Application for variation of condition 3 (Drainage - retaining wall) of planning permission ref 19/01530/FUL to alter the proposed drainage system.			
Application number:	20/00631/FUL	Application type:	FUL
Case officer:	Killian Whyte	Public speaking time:	5 minutes
Last date for determination:	21.10.2020	Ward:	Bassett
Reason for Panel Referral:	Referral from Ward Councillor	Ward Councillors:	Cllr Beryl Harris Cllr Les Harris Cllr John Hannides
Referred to Panel by:	Cllr Beryl Harris	Reason:	Poor Design. Drainage Issues.
Applicant: Mr & Mrs Akbar		Agent: Toldfield Architects Ltd	

Recommendation Summary	Conditionally approve
-------------------------------	-----------------------

Community Infrastructure Levy Liable	Not applicable
---	----------------

Reason for granting Permission

The development is acceptable taking into account the policies and proposals of the Development Plan as set out below. Other material considerations have been considered and are not judged to have sufficient weight to justify a refusal of the application, and where applicable conditions have been applied in order to satisfy these matters. The scheme is therefore judged to be in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004 and thus planning permission should therefore be granted. In reaching this decision the Local Planning Authority offered a pre-application planning service and has sought to work with the applicant in a positive and proactive manner as required by paragraphs 39-42 and 46 of the National Planning Policy Framework (2019). Policy – CS13 and CS19 of the of the Local Development Framework Core Strategy Development Plan Document (Amended 2015). Policies – SDP1, SDP5, SDP7, SDP9, SDP21 and SDP23 of the City of Southampton Local Plan Review (Amended 2015). Policies – BAS1 and BAS4 of the Bassett Neighbourhood Development Plan (2016), as supported by the relevant guidance set out in the Residential Design Guide SPD (2006) and Parking Standards SPD (2011).

Appendix attached

1 Development plan policies

Recommendation in Full**Conditionally approve**

1.	<u>The site, its context and background to the scheme</u>
1.1	The application site contains a semi-detached, two storey family dwelling house. The property is located in a residential area with predominantly detached and semi-detached dwelling houses and a suburban character that is located just north of the northern end of Southampton Common.
1.2	The dwelling sits within a large garden plot with large front driveway, fronting onto the busy route of Burgess Road. The driveway provides parking for at least 3 cars. At the rear boundary of the rear garden there is a large earth bank, which has been partially excavated and altered in recent years, with trees removed. The trees were not protected by TPO, so their removal did not require planning permission.
1.3	All Saints Lodge, neighbouring the site to the rear, is set approximately 2.4m above the application site. The Lodge building itself is set back approximately 20m from the rear boundary fence. No.3 Burgess Gardens adjoins the site to the West and the dwelling itself lies approximately 3.5m from the proposed retaining wall.
1.4	This application is for the variation of condition 3 of planning permission 19/01530/FUL which granted permission for the erection of a part single storey, part first floor rear extension and 2.4m high retaining wall. This decision was taken by the Planning panel on 12 th November 2019.
1.5	Condition 3 of that permission required the following details to be submitted: <i>Prior to the commencement of development, a scheme for drainage relating to the proposed retaining wall, including full details of the location, size and design of the proposed soakaway, and the perforated drainage pipe within the wall itself, shall be submitted to and approved in writing by the Local Authority. The drainage scheme shall be implemented in accordance with these approved details and retained thereafter.</i> <i>Reason: To ensure that surface water run-off is appropriately managed within the application site itself and does not cause flooding issues for neighbouring properties.</i>
2.	<u>Proposal</u>
2.1	The applicants have reviewed their drainage strategy and are seeking the Council's approval to change it. To do this they must vary condition 3. The

	retaining wall at the rear itself is 2.4m in height and approx. 14m in width, 0.35m in depth.
2.2	The drainage scheme, indicated on the previous proposals, was to use a soakaway system and perforated drainage pipe within the wall to drain excess water. This application seeks to change this strategy to provide weep holes within the wall at 75mm apart which would allow slow and controlled drainage within the existing site.
3.	<u>Relevant Planning Policy</u>
3.1	The Development Plan for Southampton currently comprises the “saved” policies of the City of Southampton Local Plan Review (as amended 2015), the City of Southampton Core Strategy (as amended 2015) and the City Centre Action Plan (adopted 2015). Also of relevance to this application are policies within the Bassett Neighbourhood Development Plan (adopted 2016). The most relevant policies are set out at Appendix 1 .
3.2	Saved Policy SDP1 (Quality of development) of the Local Plan Review seeks development that would not unacceptably affect the health, safety and amenity of the city and its citizens. Policies SDP7 (Context), SDP9 (Scale, massing and appearance) and SDP 21 (Water Quality and Drainage) of the Local Plan Review, policy CS13 (Fundamentals of Design) of the Core Strategy, and Part 6 (Environmental sustainability) and 20 (Drainage) of the Bassett Neighbourhood Plan, assesses the development against the principles of good design and seek development which respects the character and appearance of the local area. These policies are supplemented by design guidance and standards set out in the Residential Design Guide SPD, which seeks high quality housing, maintaining the character and amenity of the local area.
3.3	The National Planning Policy Framework (NPPF) was revised in 2019. Paragraph 213 confirms that, where existing local policies are consistent with the NPPF, they can be afforded due weight in the decision-making process. The Council has reviewed the Development Plan to ensure that it is in compliance with the NPPF and are satisfied that the vast majority of policies accord with the aims of the NPPF and therefore retain their full material weight for decision making purposes, unless otherwise indicated.
4.	<u>Relevant Planning History</u>
4.1	The most relevant planning history is the previously mentioned full application (19/01530/FUL) approved on the 13 th of November 2019 by the Planning and Rights of Way Panel for the Erection of a part single storey, part first floor rear extension and 2.4m high retaining wall. The proposals the subject of this application relate purely to the drainage treatment for the retaining wall. The proposals for the extensions and retaining wall shouldn't be reconsidered as part of this application. It is only the acceptability of the revised drainage strategy for the retaining wall that should be considered.

5.	<u>Consultation Responses and Notification Representations</u>
5.1	<p>Following the receipt of this planning application, a publicity exercise in line with department procedures was undertaken which included notifying adjoining and nearby landowners. At the time of writing the report <u>6 representations</u>.</p> <p>The following is a summary of the points raised:</p>
5.1.1	<p>'Our concern is that our garden already suffers from flooding and we want to make sure that any proposed building work will not make the situation worse'.</p> <p><u>Response:</u> Impact of the revised drainage strategy will be discussed in the Planning Considerations below.</p>
5.1.2	<p>The updated proposal has 75mm diameter weep holes situated 1 metre apart. This is much more suitable to allow the water to equally disperse into the rear garden of 59 Burgess Road, similar to the way that it naturally drain and this would avoid diverting all the water into the corner point between the properties as the original application. However, the height of 2.4 metres could be stepped down to meet the new 1.8 metre fence erected along the property boundaries as per the original and current proposal'.</p> <p><u>Response:</u> This is discussed in the Planning Considerations below.</p>
5.1.3	<p>The plan shows 75mm weep holes at 1.25m and 200mm but does not show any perforated drainage pipe. Our objection is that it appears to have only one drainage escape point, in close proximity to our property. If provision has been made to spread the drainage across the whole of the full retaining wall this would be acceptable. A clearer drawing showing more details of any proposed weep holes/ perforation pipe would have helped to clarify the situation.</p> <p><u>Response:</u> Building Control and Southern Water have reviewed the detailed drainage drawings. The acceptability of the proposals will be discussed below.</p>
	<u>Consultation Responses</u>
5.2	Building Control: <i>'From my experience, the construction of the retaining wall looks quite robust and appears adequate'.</i>
5.3	Environmental Health: <i>'I can now confirm that we are supportive of the comments made by Southern Water and we would also recommend a condition that the developer must advise the Local Authority directly of the measures which will be undertaken to protect a private sewer if one is found during construction works'.</i>
5.4	Southern Water: <i>'Having considered the above proposal[s] submitted with the signed declaration of the self-certification document, Southern Water</i>

5.5	<p><i>finds the plan erection of a part single storey, part two storey rear extension is acceptable.</i></p> <p><i>The granted approval is based on the information provided by you on the self-certification document and any changes on site will require a further submission of details for approval:</i></p> <p><i>1. No structure (footings, walls etc.) running within 500mm from the existing public foul sewers/manholes will be permitted. Any proposed structure within 3.00 meters of the public sewers, must have foundations to a depth of at least 150mm below the invert level of the sewers/manholes. Care must be taken when working in the area of the public sewer to ensure no damage is caused. Any damages will be repaired at the client's expense.</i></p> <p><i>2. Any new connections to the public sewerage system will require a Section 106 connection application to be submitted and approved by Southern Water Services'.</i></p> <p>Sustainability (Flood Risk): <i>'No comments from Flood Risk Management. Drainage for the purpose of a retaining wall falls outside of the scope of Flood Risk Management may warrant consultation with Building Control'.</i></p>
5.6	<p>Cllr Beryl Harris (Ward Councillor, Bassett): <i>'Panel Referral 59 Burgess Road Bassett SO16 7AL.</i></p> <p><i>Should officers be of a mind to grant this application will you please pass it to the planning panel as there are many issues to discuss, which have been highlighted by The Bassett Neighbourhood Forum in a letter to you'.</i></p>
5.7	<p>Cllr John Hannides (Ward Councillor, Bassett): <i>'Residents have expressed serious concern about this application and feel there will be an adverse impact on neighbouring properties'.</i></p>
5.8	<p>PCC of the Parish of North Stoneham and Bassett: Objection:</p> <p><i>'The calculations assume that the water table will only be 200mm above the bottom of the toe which is not reasonable as the minimum that should be considered for the water table should be the level of the new proposed weep holes, which we believe would be 1250mm above the base of the toe. A reinforced concrete wall of this nature generally requires steel reinforcement in each face of walls and slabs to stop hydrostatic pressure which would result in the wall failing in sliding under this pressure'.</i></p> <p>Response: Further detail regarding the depth and type of foundations has been submitted by the applicant and these will be discussed below.</p>
5.9	<p>Bassett Neighbourhood Forum Planning Group: Objection-</p> <p><i>'In summary, it is felt that this proposal means that the applicants seek to do away with these 2 soakaways and to (i) Have water from behind the retaining wall emerge across the back of the garden onto the rear of #59 Burgess</i></p>

	<i>Road's garden. (ii) Have rainfall from extension roof be sent to an existing 4-inch foul water sewer which runs across the back of the properties on Burgess Road.</i>
	<i>We also have concerns that the cutting down trees could also cause significant problems: for years following the clearing of a site in which clay soils can gradually expand and absorbing the moisture no longer taken by the trees which could result in short term heave and possible longer-term contraction.</i>
	<i>Whilst we do welcome details of a planting scheme but reiterate our concerns as to how the plantings at the top of the wall can safely be maintained given that this would be "work at height".'</i> <u>Comments following submission of amended plans</u>
	<i>In terms of the updated plans, we restate our objection to the application as the concerns of the owners of no.3 Burgess Road regarding flood and diversion surface water run off to a foul sewer have not been addressed in these plans.</i>
	<i>There are no soakaways present in the most recent site plan. This site plan shows it will come through the holes in the wall onto their garden of No.59, where it won't drain and thus risks flooding garden and adjacent properties. There is also no obvious information about drainage from the western return and where this will be directed t'.</i>
	<i>The "up to date retaining wall elevation" drawing submitted is unclear. It suggests that the turn of the retaining wall at its western end against #3 Burgess Gardens has been removed to be replaced with an unsupported, single skin 1.8m high block wall (no piers so surely structurally unacceptable). This appears to conflict with the "up to date site plan" which suggests that this side wall is double skinned, like the rear wall. There is further clarification is requested for this'.</i>
	<i>'No information addresses how the backfill behind this return will be contained as it will be lying between the retaining wall and the timber fence of #3 Burgess Gardens! The plan clearly shows planting along the top of this wall, so it must be being backfilled to a height against a timber fence. This needs clarification / addressing'.</i>
	<i>The "up to date site plan" and wall elevation" both show an unsupported, single skin 1.8m high block wall at the eastern return against #27 Pointout Close. No supporting piers are shown, so surely this is structurally unacceptable and needs addressing'.</i> Response: This application can only be considered in terms of the changes to the drainage strategy. The removal of trees does not require planning permission. The principle of the retaining wall, its physical design does not fall for consideration. In addition, matters relating to the proposed

	landscaping, loss of trees and structural capability are not relevant considerations for this specific application. A decision has been taken to grant permission for the works and this application is simply to review an amendment to the proposed drainage strategy.
6.0	<u>Planning Consideration Key Issues</u>
6.1	The key issues for consideration in determining this planning application are: <ul style="list-style-type: none"> - Background/reason for imposing previous condition - Details of the new proposals - Impact on drainage network - Other Conditions
6.2	<u>Background/reason for imposing previous condition</u>
6.2.1	<p>This application is for the variation of condition 3 of planning permission 19/01530/FUL which granted permission for the erection of a part single storey, part first floor rear extension and 2.4m high retaining wall. Condition 3 of that permission required the following details to be submitted:</p> <p><i>Prior to the commencement of development, a scheme for drainage relating to the proposed retaining wall, including full details of the location, size and design of the proposed soakaway, and the perforated drainage pipe within the wall itself, shall be submitted to and approved in writing by the Local Authority. The drainage scheme shall be implemented in accordance with these approved details and retained thereafter.</i></p> <p><i>Reason: To ensure that surface water run-off is appropriately managed within the application site itself and does not cause flooding issues for neighbouring properties.</i></p>
6.2.2	The condition was imposed following review of the proposed retaining wall and drainage schemes by a Building Control officer, who was satisfied that the design has been drafted by a qualified engineer with recognised structural calculation software. The condition however required approval of further details of the drainage pipe and soakaway conditions. It was stated within the previous Panel Report (November 2019) that the proposals were considered to be acceptable in terms of land stability and drainage requirements subject to these conditions.
6.2.3	The previous proposals relied on a perforated drainage pipe built within the retaining wall, which drained excess water away from the retaining wall to a soakaway within the garden. There was also an additional soakaway to the rear of the property for collating excess surface water from the existing property. This application seeks an alternative drainage strategy.
6.3	<u>Details of the new proposals</u>

6.3.1	<p>In producing a drainage strategy for the retaining wall and extensions, the applicant commissioned Ground Conditions Consultants to undertake infiltration testing within the site to assess the suitability of a soakaway system. Two locations were identified, one in close proximity to the proposed retaining wall and one closer to the application property. According to the infiltration testing results:</p> <p><i>‘Standard BRE DG365, 2016 states that for an accurate infiltration rate to be obtained, a soakage pit needs to be filled three times in quick succession. Each test is completed once 75% of the water present has drained away....The infiltration rate in these 2 trial-pit was very slow and did not complete within the working day. The water level in SA2 (the trial hole near the retaining wall) dropped initially by 23% as the voids in the surrounding soil filled than remained static for one hour before dropping 33% in the subsequent four hours.’</i></p>
6.3.2	<p>These results were passed on to the applicant’s Engineers and subsequently recommended that:</p> <p><i>‘With regards to the drainage related to the rear retaining wall, we would recommend min. 75mm diameter weep holes to the retaining wall at 1m spacings, this would discharge the water behind the wall and any water would then discharge into the ground.’</i></p>
6.3.5	<p>The drainage strategy for the retaining wall has therefore been revised in view of this advice to avoid draining to a specific soakaway. The revised strategy incorporates, whereby the wall would contain 75mm diameter weep holes at 1m spacings, which would discharge excess water behind the wall into the ground, as per the existing situation. The benefit of this strategy is that excess water would not be concentrated in one place and lead to flooding. It would disperse the water around various points of the site and thereby represent a no worse situation than existing for surface drainage in this part of the garden.</p>
6.4	<p><u>Impact on drainage network</u></p>
6.4.1	<p>Part 6.6 on Environmental sustainability of the 2016 Bassett Neighbourhood Plan states that where there is new development or re-development every effort must be made to ensure the drainage is capable of coping with extra and peak flows. Furthermore, part 20 of the 2016 Bassett Neighbourhood Plan acknowledges that there is poor drainage in a few areas of Bassett due to poor drainage pipework. Part SDP 21 on the Local Plan on Water Quality and Drainage says that in ensuring that adequate surface water and foul sewage drainage/ treatment is available prior to development commencing.</p>
6.4.2	<p>As can be observed from the policies within the Bassett Neighbourhood Plan, and the comments made by the Bassett Neighbourhood Forum Planning Group and neighbouring properties, there is known to be high levels of ground water within Bassett and in such areas the Development Plan policies require full potential for the use of sustainable drainage options such as</p>

	<p>green roofs, porous pavements, and other measures to minimise surface water should be explored. The infiltration and percolation tests undertaken by the applicant confirmed that surface water would have increased through the soakaway system, with the perforated drainage pipe directing surface water to a specific point within the garden. This would have led to an increase flooding issues across the site. The revised strategy seeks to replicate the existing arrangement whereby rainwater would be dispersed evenly across the site. Weep holes are introduced within the retaining wall at even spacings which replicate that existing drainage arrangement in allowing water to drain into the ground from where it falls. The use of permeable material such as the use of free draining pea shingle and gravel within the backfill area between the wall and the rear boundary, also supports this revised drainage strategy. As well providing an acceptable drainage solution within the site, this approach would also not worsen the existing situation to neighbouring properties.</p>
6.4.3	<p>The Council's Building Control Officers have reviewed the revised drainage proposals and have confirmed that they are acceptable and represent an improvement on the previous scheme. Southern Water do not comment on the retaining wall drainage scheme, however they have confirmed that the proposals to discharge into the existing foul and surface water system are acceptable in this instance. On the above basis it is considered that the revised drainage strategy represents a suitable and acceptable drainage solution for the retaining wall and complies with the requirements of the Bassett Neighbourhood Plan and the relevant Local Plan policies.</p>
6.5	<p><u>Other Conditions</u></p>
6.5.1	<p>In determining planning applications under Section 73 of the Town and Country Planning Act 1990 (as amended), the effect of issuing permission is that a new consent for the whole development. However only the condition the subject of the S73 application and its associated material impacts should be considered. When issuing planning permission under 19/01530/FUL 13 conditions were attached, including several pre commencement conditions which required further details to be submitted relating to a construction method statement (Condition 4), Materials - retaining wall (5), Replacement planting scheme (6) and Retaining wall implementation timetable (8). These details were submitted and approved under discharge of condition application 20/00206/DIS. Therefore the details approved under the discharge of condition application will be applied and referenced within the conditions of this S73 application (20/00631/FUL).</p>
7.	<p><u>Summary</u></p>
7.1	<p>In summary, the proposed drainage strategy amended under this S73 application is considered to be acceptable and would not result in an increase of flooding and surface water within the site or neighbouring properties above the existing situation. This view has been reinforced b by the Council's Building Control Officers. Therefore the proposals would</p>

	comply with the relevant Development Plan policies and the application is recommended favourably.
8.	<u>Conclusion</u>
8.1	It is recommended that planning permission be granted subject to the conditions set out below.

Local Government (Access to Information) Act 1985

Documents used in the preparation of this report Background Papers

1. (a) (b) (c) (d) 2. (b) (d) (g) 4.(f) (vv) 6. (a) (b)

KW for 03/11/2020 PROW Panel

Conditions:

01. Full Permission Timing Condition (Performance)

The development hereby permitted shall begin no later than 14th November 2022.

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

02. Approved Plans

The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule attached below, unless otherwise agreed in writing with the Local Planning Authority.

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

03. Details of building materials - Retaining Wall – AMENDED BY THIS PERMISSION

The development hereby approved shall be carried out in accordance with approved Retaining Wall Landscape Plan, Ref: 190602, Date: 26.05.2020 submitted under application 20/00206/DIS and no variation shall be made without prior written consent of the Local Planning Authority.

Reason: To enable the Local Planning Authority to control the development in detail in the interests of amenity by endeavouring to achieve a building of visual quality.

04. Construction Method Statement

The development hereby approved shall be carried out in accordance with approved Construction Method Statement submitted and approved under Ref: 19602, Date: 16.07.2020 submitted under application 20/00206/DIS and no variation shall be made without prior written consent of the Local Planning Authority.

Reason: To protect the amenity of neighbouring residents.

05. Replacement planting scheme (Pre-Commencement)

The development hereby approved shall be carried out in accordance with approved Retaining Wall Landscape Plan, Ref: 190602, Date: 26.05.2020 under application 20/00206/DIS and no variation shall be made without prior written consent of the Local Planning Authority.

Reason: To improve the appearance of the site and enhance the character of the development in the interests of visual amenity, to ensure that the development makes a positive contribution to the local environment and, in accordance with the duty required of the Local Planning Authority by Section 197 of the Town and Country Planning Act 1990

06. Implementation Timetable - Retaining Wall

The development hereby approved shall be carried out in accordance with approved Retaining Wall Implementation Plan REV A 16/07/2020 submitted under application 20/00206/DIS and no variation shall be made without prior written consent of the Local Planning Authority.

Reason: To ensure a timely resolution to the current unauthorised works on site and to ensure existing land stability issues are addressed in a timely manner.

07. Obscure Glazing (Performance Condition)

All windows in the side elevations, located at first floor level and above of the hereby approved development, shall be obscurely glazed and fixed shut up to a height of 1.7 metres from the internal floor level before the development is first occupied. The windows shall be thereafter retained in this manner.

Reason: To protect the amenity and privacy of the adjoining property.

08. Materials as specified and to match (Performance Condition)

The materials and finishes to be used for the external walls, windows (including recesses), drainage goods and roof relating specifically to the construction of the extensions to the main dwelling hereby permitted, shall be as specified on the approved plans. Where there is no materials specification on the approved plans, the materials shall match in all respects the type, size, colour, texture, form, composition, manufacture and finish of those on the existing building.

Reason: To enable the Local Planning Authority to control the development in detail in the interest of the visual amenities of the locality and to endeavour to achieve a building of high visual quality and satisfactory visual relationship of the new development to the existing.

09. Use of uncontaminated soils and fill (Performance)

Clean, uncontaminated soil, subsoil, rock, aggregate, brick rubble, crushed concrete and ceramic shall only be permitted for infilling and landscaping on the site. Any such materials imported on to the site must be accompanied by documentation to validate their quality and be submitted to the Local Planning Authority for approval prior to the occupancy of the site.

Reason: To ensure imported materials are suitable and do not introduce any land contamination risks onto the development.

10. Hours of work for Demolition / Clearance / Construction (Performance)

All works relating to the demolition, clearance and construction of the development hereby granted shall only take place between the hours of:

Monday to Friday 08:00 to 18:00 hours

Saturdays 09:00 to 13:00 hours

And at no time on Sundays and recognised public holidays.

Any works outside the permitted hours shall be confined to the internal preparations of the buildings without audible noise from outside the building, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To protect the amenities of the occupiers of existing nearby residential properties.