

Planning and Rights of Way Panel 12th March 2024
Planning Application Report of the Head of Transport and Planning

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| Application address: 35 Gurney Road, Southampton | | | |
| Proposed development: Erection of a single storey outbuilding at rear of garden. | | | |
| Application number: | 24/00090/FUL | Application type: | FUL |
| Case officer: | Mark Taylor | Public speaking time: | 5 minutes |
| Last date for determination: | 25.03.2024 | Ward: | Shirley |
| Reason for Panel Referral: | SCC Employee known to the Planning Department | Ward Councillors: | CLlr Satvir Kaur CLlr Alexander Winning CLlr Razwana Quadir |
| Applicant: Roland Fugh | | | |

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| Recommendation Summary | Conditionally Approve |
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| Community Infrastructure Levy Liable | Not applicable |
| Biodiversity Net Gain Applicable | 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 (revised 2023). Policy CS13 (Fundamentals of Design) of the of the Local Development Framework Core Strategy Development Plan Document (Amended 2015). Policies SDP1 (Quality of Development) SDP7 (Context) SDP9 (Scale, Massing and Appearance) of the City of Southampton Local Plan Review (Amended 2015).

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| Appendix attached | | | |
| 1 | Development Plan Policies | 2 | Relevant Planning History |
| 3 | Previous Appeal Decision | 4 | Previously Refused Plans |

Recommendation in Full
Conditionally approve

1. The site and its context

1.1 The application site is located on the northwest side of Gurney Road. The site contains a two storey, brick built, semi-detached residential property. The property has a brick plinth at ground floor with pebble dash above. Works to the rear of the property to implement consent 22/01273/PAH (single storey rear extension) have commenced.

1.2 Views of the rear of the site are not readily available from the public realm due to the tall side gate access. The rear of the site contains several smaller outbuildings.

1.3 The predominate character of Gurney Road is of a residential nature formed of two storey symmetrical pairs of dwellings. A number of properties in the vicinity have been altered, including extensions and outbuildings at the rear. Both properties either side of the application site (No.33 and 37) have sizeable summer house style outbuildings to the rear of the site.

1.4 Land levels at the rear of the site are notably higher at the rear boundary than they are of the front boundary of the site.

2. Proposal

2.1 The proposal is a revised scheme following the dismissed appeal of the previous proposal (22/01230/FUL) for an outbuilding.

2.2 The application seeks to erect a single storey, dual pitch roof outbuilding at the rear of the site. The footprint measures 6.5m in width and 9m in length. The height of the building from its base to roof ridge will be 3.6m.

2.3 The proposed external facing materials will be felt roof shingles, Hardie plank cladding to the elevations, white PVCu windows and doors.

2.4 The applicant has advised that the outbuilding will be used for martial arts training by friends and family members. However, the consent being sought is an outbuilding as future occupiers of the host dwelling may wish to use the outbuilding for a different use.

3. Relevant Planning Policy

3.1 The Development Plan for Southampton currently comprises the “saved” policies of the City of Southampton Local Plan Review (as amended 2015) and the City of Southampton Core Strategy (as amended 2015) and the City Centre Action Plan (adopted 2015). The most relevant policies to these proposals are set out at **Appendix 1**.

4. Relevant Planning History

- 4.1 A schedule of the relevant planning history for the site is set out in **Appendix 2** of this report.
- 4.2 Of particular note is the previously refused application for an outbuilding referenced 22/01230/FUL. This decision was the subject of an dismissed appeal. A summary of the Inspectors findings is provided later in this report. A full copy of the Inspectors decision can be found in **Appendix 3**. The previously refused plans can be found in **Appendix 4**.

5. Consultation Responses and Notification Representations

- 5.1 Following the receipt of the planning application a publicity exercise in line with department procedures was undertaken which included notifying adjoining and nearby landowners. The application requires a Panel decision as the applicant is an employee of SCC and is known to the Planning Department. At the time of writing the report **1 representation** has been received from surrounding residents. The following is a summary of the points raised:

- 5.2 ***We have concerns regarding noise and disturbance to local residents. Judo is a very noisy sport with shouting, grunting and thudding noises. We are not satisfied that the measures put in place in the proposed plans would stop several properties from enjoying their gardens. We fear that the peace and quiet of our private space will be ruined by noise.***

Response

Outbuildings in rear gardens can be used for a wide number of uses from hobbies, gyms, workshops, offices to entertaining and relaxing in summer houses. Many 'conventional' outbuilding uses have the potential for noise and disturbance.

Whilst the applicant has advised that the outbuilding would be used for martial art training, given the nature of martial arts and the physical exertion required the use of the outbuilding for martial arts can be expected for limited durations.

Noise disturbance did form part of the considerations of the previously refused scheme 22/01230/FUL. In their consideration of the appeal the Inspector concluded:

'I note objections submitted from neighbouring properties raised concerns over the potential noise that would arise from the use of the outbuilding for training purposes, concerns which are also referred in the Council's officer report. However, I give some weight to the appellant's view that this could be controlled through the construction of the building and controlled by conditions if the appeal were acceptable in all other respects.' (Paragraph 13)

In order to prevent the noise emission escaping from the outbuilding the

applicant has incorporated the following into the design of the proposal: There are limited openings (such as windows) on the property. Both side elevations contain two narrow windows, the same on the rear elevation. The building is accessed via the front elevation through PVCu glazed door.

Drawing 2201-06 provides a cross section of the building construction. It demonstrates the roof and walls will be insulated with 100mm polyisocyanurate (PIR) insulation. Whilst this is more for thematic insulation it is also noted that the walls are to be covered with 40mm thick vinyl foam matting that will help dampen noise within the outbuilding particularly knocks.

It is also noted that the applicant is very keen to practice martial arts at the property. This is the second application for such a use on the site following the undertaking of an unsuccessful appeal. An alternative to training in the proposed outbuilding would be to train in the open air. Whilst this may not be desirable for the applicant in the winter months, during the better weather, when people can be expected to be enjoying their gardens the applicant would be free to train in the open air without the need for express planning consent.

6.0 Planning Consideration Key Issues

6.1 The key issues for consideration in the determination of this planning application are:

- Design and effect on character
- Residential amenity

6.2 Design and effect on character

6.2.1 In their consideration of the previously refused scheme the inspector concluded:

- *‘Due to the size of the proposal I consider it would appear as an overly dominant and incongruous feature when viewed from neighbouring properties.’ (Paragraph 6)*
- *‘The proposal would also take up a significant proportion of the rear garden that combined with the existing outbuilding and extension under construction would result in an over development of the plot.’ (Paragraph 7)*
- *‘The proposed building would be considerably larger than existing outbuildings near to the appeal site along this part of Gurney Road.’ (Paragraph 7)*
- *‘The size of the outbuilding to be out of character with the general pattern of development in the area where outbuildings mainly appear as subservient features within rear gardens.’ (Paragraph 7)*

6.2.2 In order to overcome these concerns the applicant has made a number of amendments to the revised scheme. The original outbuilding measured 12m in depth, up to 6.4m in width, and a maximum height of 4.2m (with eaves at

2.6m) within 1m and 0.6m of the side boundaries of No.33 and 37 Gurney Road. The guest bedroom and ensuite have been removed from this revised scheme.

- 6.2.3 The footprint now measures 9m in depth, and 6.5m in width. Furthermore, the height of the building has been reduced by approximately 60cm (to 3.6m), and it is also proposed to level the ground levels at the rear of the site to allow the outbuilding floor to be located at a lower height sunken into the existing ground levels.
- 6.2.4 The reduction in depth creates a greater level of separation from the host property; retaining a more spacious amenity space at the rear. It is noted that as part of the assessment for permitted development up to 50% of the site (excluding the original dwelling) can be covered by an outbuilding/s. In this instance the revised scheme will cover far less than 50% of the rear garden let alone the site as a whole.
- 6.2.5 As a result of this reduction of depth, height and through setting the building on lower ground levels than previously proposed the revised scheme reduces the level of proposed development on site and will allow the proposal to appear more subservient to the host property and the wider area.
- 6.2.6 It is noted that many of the neighbouring properties have outbuildings many of a summer house design. Whilst these are not of the scale of that currently proposed, it is noted that such outbuildings are being used to make use of the land available and make further use of the amenity areas particularly as the outbuildings face in southeast direction to take advantage of the natural light available.
- 6.2.7 The proposal will be constructed of materials that reflect the spectrum of materials used in the outbuildings within the vicinity. The proposal will not be in any conflict with any trees or landscape features of particular amenity to the area. As such the revised design has addressed the previous reasons for refusal, the concerns of the Planning Inspector and now accords with saved Local Plan policy SDP1(i) and our adopted guidance in respect of householder design

6.3 Residential amenity

- 6.3.1 There are standards set out in section 2.2 of the adopted Residential Design Guide (2006) to protect the living conditions of the existing and future occupiers to safeguard privacy, natural light and outlook in relation to habitable areas.
- 6.3.2 In their consideration of the previously refused scheme the inspector concluded:
- *'The size of the proposal is too large for the plot and would harm the outlook of neighbouring properties from their garden areas.'* (Paragraph 11)

- 6.3.3 The Inspector's concerns with regard to neighbour amenity were limited to scale of the proposed building and the proximity of the outbuilding to the shared boundaries resulting overbearing impact.
- 6.3.4 The revised scheme is much smaller than that previously considered with a reduction in depth of 3 metres. This will reduce the footprint of the building by 25% and locate the proposed outbuilding further away from the host property and habitable areas of the neighbouring properties either side.
- 6.3.5 The scale of the built form has also been reduced by lowering the ridge height of the outbuilding. The height of the building has been reduced by approximately 60cm. A further reduction in height is achieved through a reduction in ground levels at the rear of the site. As a result, the proposal would be set on ground levels much lower than previously considered.
- 6.3.6 Whilst the proposal will retain a similar proximity to the shared boundaries, the reduction in depth and height of the proposal will significantly reduce any overbearing impact to the amenities of the neighbouring occupiers. The revised scheme will have an eaves height that will be set lower than the boundary treatments with those neighbouring properties, with a dual pitch roof that slopes as shallow 20° up from the shared boundary.
- 6.3.7 As a result in the reduction in ground levels the side and rear facing windows of the building will look out onto the boundary treatments between the application site and the neighbouring properties. These boundary treatments are approximately 1.8m above existing ground levels screening views from these windows. To further mitigate any overlooking from these windows it is noted from the construction detail drawing 2201-06 that these windows are to be obscure glazed. Obscure glazing of these side facing windows can be secured via a planning condition.
- 6.3.8 The proposal will have double access doors facing towards the host property, it is noted that the outbuilding located on neighbouring properties either side have a similar arrangement. As such any overlooking would be reciprocal.
- 6.3.9 The previous proposal was not considered to result in any material harm to the light or privacy currently enjoyed by the occupiers of the neighbouring dwelling. This reduced scheme is, therefore, also considered to preserve those amenities. The potential for noise disturbance is covered in section 5.2 above. As such given the significant reduction in scale of the proposed building, both in footprint, roof pitch and ridge height the proposal is no longer considered to result in an overbearing impact to the occupiers of the neighbouring dwellings.

7. **Summary**

- 7.1 This application is for an outbuilding for incidental use to the main dwelling. Whilst the applicant intends to practice martial arts in the building the Panel

will be aware that domestic outbuildings are free to be used for a wide range of activities providing they remain 'incidental'. The proposal has been significantly reduced in scale from the previously refused scheme. The bedroom and ensuite have been removed from the proposal. This results in a reduction in length from 12m to 9m reducing the footprint of the building by some 25% from the scheme previously considered.

- 7.2 Furthermore, the height of the building has been reduced by approximately 0.6m. A further reduction in ridge height will be achieved through the levelling of ground levels at the rear of the site. As such, the proposal will be set on ground levels notably lower than previously considered reducing the ridge height of the building when viewed from neighbouring dwellings.
- 7.3 The revised scheme has been revised to limit any views towards the neighbouring properties and measures taken to reduce any noise and disturbance during its use.
- 7.4 Whilst still sizeable the revised scheme retains sufficient rear amenity space for use by the occupiers of the host property with sufficient space for leisure, relaxing and functions such as drying washing. Outbuildings of a variety of designs and scales form part of the established character of the vicinity.

8. Conclusion

- 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) (c) (d) (e) (f) (g) 4.(f) (g) (vv) 6. (a) (b) 7. (a)

Case Officer **Mark Taylor** PROW Panel 12.03.2024

PLANNING CONDITIONS

1. Full Permission Timing (Performance)
The development hereby permitted shall begin no later than three years from the date on which this planning permission was granted.
Reason: To comply with Section 91 of the Town and Country Planning Act 1990 (as amended).
2. Approved Plans (Performance)
The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule attached below.
Reason: For the avoidance of doubt and in the interests of proper planning
3. Materials in accordance with submission (Performance)
The materials and finishes to be used for the external walls, windows (including recesses), drainage goods and roof in the construction of the building hereby

permitted shall be in accordance with the submitted plans and information hereby approved.

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.

4. Incidental Use Only (Performance)

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 as amended (or any order revoking, re-enacting or modifying that Order) the building hereby permitted shall be used only for purposes incidental to the enjoyment of the dwelling house and for no other purpose including any business use, and shall not be sold, leased or rented separately to the main dwelling.

Reason: To maintain planning control in the interests of amenity of the site.

5. Obscure Glazing (Performance)

All windows in the side and rear elevations shall be obscurely glazed to Pilkingtons level 3 or above before the development is first brought into use. The windows shall be thereafter retained in this manner.

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

6. No Other Windows or Doors (Performance)

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 as amended or any order amending, revoking or re-enacting that Order), no windows, doors or other openings, other than those expressly authorised by this permission, shall be inserted into the development hereby permitted without the prior written consent of the Local Planning Authority.

Reason: To protect the amenities of the adjoining residential properties.

Note to Applicant

Note to Applicant: This planning permission does not convey the right for the development to encroach over, under or on land which is not within your ownership, without the consent of the landowner.

Note to applicant: You are reminded of your duties under the Party Wall Act 1996. This requires a building owner to notify and obtain formal agreement from adjoining occupier(s) where the building owner intends to carry out work which involves: 1. Work involving an existing shared wall with another property; 2. Building on the boundary with a neighbouring property; 3. Excavating near a neighbouring building, and that work falls within the scope of the Act. Procedures under this Act are separate from the need for planning permission and building regulations approval. 'The Party Wall etc. Act 1996: explanatory booklet' is available at www.communities.gov.uk.

POLICY CONTEXT

Core Strategy - (as amended 2015)

CS13 Fundamentals of Design

City of Southampton Local Plan Review – (as amended 2015)

SDP1 Quality of Development

SDP7 Urban Design Context

SDP9 Scale, Massing & Appearance

Supplementary Planning Guidance

Residential Design Guide (Approved - September 2006)

Other Relevant Guidance

The National Planning Policy Framework (2023)

Relevant Planning History

| Case Ref | Proposal | Decision | Date |
|-----------------|---|--|-------------|
| 22/01230/FUL | Erection of a detached outbuilding to provide a guest bedroom and personal martial arts training room | Application Refused – Appeal dismissed | 27.10.2022 |
| 22/01273/PAH | Erection of a single storey rear extension (Max Depth 3.6m, Max Height 3.2m, Eaves Height 3m) | Prior Approval Not Required | 19.10.2022 |