CASE OFFICER'S REPORT

Application Reference:	PL/2023/05918
Application Type:	Householder planning permission
Site Inspection:	
Consultation ends:	19 October 2023
Case officer:	Helena Carney

Site Address:	16 FEROZESHAH ROAD, DEVIZES, SN10 2JQ
Proposal:	Proposed rear extension to facilitate an annexe.
Recommendation:	Approve with Conditions

POLICIES

Wiltshire Core Strategy (adopted January 2015):
Core Policy 57: Ensuring High Quality Design & Place Shaping
Core Policy 64: Demand Management

The Wiltshire Local Transport Plan 2016-2026: Car Parking Strategy (March 2015)

Devizes Area Neighbourhood Plan – July 2015

The National Planning Policy Framework (NPPF) 2023

Planning Practice Guidance (PPG)

ISSUES

- Impact upon amenity of occupiers of neighbouring properties
- Impact upon the character and appearance of the area
- Impact upon highway safety and parking provision

RELEVANT PLANNING HISTORY

- E/2012/0285/FUL - Proposed single storey extension and single garage, approved 24/04/2012
- PL/2023/03034 - Build Annex for my Elderly parents at bottom of garden, withdrawn

REPRESENTATIONS

Original Plans/documents:
Bishops Cannings Parish Council: no objection

Third Party representations: comments were received from occupiers of neighbouring properties (No.s 17, 19 and 21) as follows:

Occupiers of No.17: No objections to the project at No.16 but you should be aware that someone has erected locked gates halfway up the shared access pathway which limits access to the rear of No 16, plus the rear access four other properties. We don't know who has put them up but they are brand new and always locked so there is no longer access to the full length of the lane and the rear of No.16's property. We weren't consulted so don't know who has installed them or why.

Occupiers of No.19: No objection to the application. But I must state that the shared access is legally between numbers 17,19,20,21,23 not number 16, this is clearly shown in any land registry and the property owners documentation, the gate has been discussed and agreed to be installed for more security to the rear of the properties and with families with young children to be made a safe area with a gated access, rather than an open access. This is the decision of the land owners involved. I hope this clears any queries.

Occupiers of No.21:

• In reference to the application of number 16, Ferozeshah Road. Land Registry title WT293313;
• When the Ferozeshah Road properties were first built there was no road leading past number 19 Ferozeshah Road into the cul-de-sac;
• A drive was built to provide access to garages at the rear of number 19, 20 and 21 Ferozeshah Road;
• Before our family purchased number 21, an access gate had been put on to the drive, without consent of the respective owners being numbers 17, 19, 20 and 21 this was done by the previous owners of number 23. Ferozeshah Road;
• However, I have seen the solicitors paperwork showing that number 23 has access only. I have been unable to verify this with official Land Registry records. There is no historical or current record allowing access to number 16;
• According to Land Registry records, each property owns their respective access, namely numbers 17, 19, 20, 21 all of which own right up to the garden fence of number 16. Number 16 has no legal access to the drive in any of the Land Registry records.
Number 17 title number WT165524 property owns to the opposite fence and bushes of number 16 and level with its rear garden onto the access;
• The access drive, however, must allow numbers 19, 20, 21 and 23 access and to pass. Number 16 has no right of access across the land of number 17. It is noted that number 16 currently drives his/her car across this land to get access to his drive because he/she hasn't paid to have a drop curb in front of his/her house;
• We are presumptuous that number 17 allows number 16 to do this, however we have never been asked permission;
• Number 19, title number WT459707 owns across the drive to the fence of number 16;
• Number 19 must allow access to number 20, 21 and 23. Number 16 has no right of access to the drive;
• However, number 16 has put in place a hidden gate, to attempt to gain access to drive without the permission of numbers 19, 20, 21 and 23;
• I note reviewing the plans for this new extension, the drawing demonstrates clearly the new extension would result in going across the drive belonging to number 19 without permission;

• As building a wall needs footings and footings extend further than a wall this would encroach on number 19s property;
• Number 20, title number WT203047 owns across the drive to the fence of number 16 and must allow access to access to numbers 21 and 23;
• The erection of the new extension would result in the footings going across number 20s land;
• Number 21, title number WT269622 owns across the drive to the fence of number 16 and to the boundary of number 23;
• Due to the historic events number 21 allows access to number 23;
• Number 18 has no access to the drive;
• Number 22 has no access to the drive;
• The access gate on the drive was erected as a joint project between numbers 19, 20, 21 and 23;
• Each of which has respective accesses as shown in the Land Registry documents;
• The access gate was put in place for security, for example stopping criminal activities and fly tipping on the drive and breaching of the peace of the owners at 19, 20, 21 and 23.
• As stated, number 16 has no right of access to the drive, and therefore needs to remove the hidden gate that they have put into the drive without consent;
• Any extension should be on their own property and not overlap onto other people's property;
• Therefore, we respectfully object to the current application until it is amended for the extension to only be on the property of number 16 and the current hidden gate removed.

Revised plans/documents:
Bishops Cannings Parish Council: no objection

Third Party representations: two representations were received from the occupier of No.21. A summary of the comments received is as follows (full comments are available on the council's website):

A summary of the first representation received is as follows:
• Suggest applicants should have contacted neighbours prior to applying for planning permission;
• Documentation provided by applicant has missing information on it and should not be relied upon;
• No right of access over other people's land to build the extension;
• Rights benefitting the property / Access to Neighbouring Land Act 1992;
• Rights accessing third party land / exceptions to granting access;
• Applicants' rights and covenants; There is nothing in this document that expressly refers to the application using neighbouring property to build a new extension. I would like to see the full document;
• Land the other side of the gate is privately owned however to be clear,
• The plan document supplied by the applicant does not show a gate or entry onto the private drive. from the applicants address.
• Further the applicant has never stated that they will remove this hidden gate.
• We have never been asked permission for a gate to be added giving number 16 access to the drive.
• This hidden gate was only revealed to us in 2023 when it was left open. I would suggest that this is usage onto the private land.
• I also note on the plans provided in the first application stated that the private drive is "Shared Access". It is shared as previously stated on the first application with 17, 19, 20, 21 and 23 with number 19, 20, and 21 owning their respective parts, but not with number 16.

• The drive is now gated on the land at the start of number 19 with agreement of 19, 20, 21 and 23 for security and safety reasons.
• The applicants' email now agrees that the drive is privately owned.
• The applicants' have never requested access to the private land owners for it to be opened up for their usage to build such an extension.
• We need 24-hour access to the rear of the property on the private drive. You would have thought it in the best interest for the applicant to discuss the project openly with a view to getting agreements in place, rather than assuming that getting a planning application approved gives the applicant right to enter private property to complete the works.
• Building line up to boundary / encroachment on private land;
• Blocking access during construction;
• Different site levels / loss of privacy;
• Right to exercise legal action if required as well as right to comment on application;
• Concerns reiterated as follows:
• The applicant has not agreed to remove the hidden gate onto private property.
• The applicant has not asked for written permission of property owners to build the new extension from the actual property owners land.
• The applicant has not agreed that full 24 hour access to the drive is not impeded while works are ongoing.
• The applicant has not agreed that any damage to neigboring properties due to the works is rectified at the applicants expense
• We object to the ammended plans and the application PL/2023/05918 until there is an agreement in place to the above bullet points.

A summary of the second representation from the occupier of No.21 is as follows, removing their objection to the proposals:
In relation to the planning application PL/2023/05918, the applicant has asked for permission to use the drive to build the extension.

I note the following,
• The extension does not reach as far as number 21 at the rear.
• Gary has stated that he will remove the hidden gate, and not install a further gate.
• He stated that he will advise us of working times when there is a possibility that the private drive will be used.
• In relation to the last point, he also advised that if access is needed all construction items such as trestles will be removed so that access can be maintained.
• That any damage to the private drive is repaired at his expense.
We are now happy to remove our objection to the planning application.

ASSESSMENT

The application site relates to 16 Ferozeshah Road, Devizes. It is a semi-detached, red brick built dwelling, under a tiled hipped roof. There is a single storey lean-to adjacent the southern, side elevation, set back from the front elevation, which extends the depth of the house and slightly projects beyond the rear elevation. The property benefits from a large, gravelled driveway to the front. It is enclosed by trees along the northern boundary and hedging along the southern

boundary to the front of the house. There is a layby directly in front of the driveway, which fronts onto an unclassified road.

Access onto the driveway from the highway is over the dropped kerb in front of the private way adjacent to the southern boundary of the application property. The applicants have a right of access over this land, but it is outside of their ownership.

The Proposals:

This application is seeking planning permission for the construction of a single-storey rear extension to provide an annexe. The proposed extension will be constructed with a pitched roof and will measure approximately 4m wide x 9m deep, 2.2m to the eaves and 3m to the ridge. The proposed extension will be constructed of materials to match the host dwelling.

Comments received from local residents that the applicants are crossing land outside of their ownership in order to access their own driveway have been duly noted. In response to these concerns the applicant provided documentation to show that that they have a right of access over this land. The applicants provided an amended red line location plan to reflect this and an amended application form as the requisite notice was given to the owners of the land in question. As a result of this, the 8-week target date was re-set and the Parish Council and occupiers of neighbouring properties were re-consulted.

Impact upon amenity of occupiers of neighbouring properties:

Due to the position of the proposal, adjacent to the southern side boundary of the application site, sufficiently distant to the adjoining neighbour and adjacent to a private way separating it from the neighbouring properties on the opposite side of it, this, together with its single storey design, it will not materially impact upon neighbour amenity as a consequence of overshadowing, overlooking or overbearing impact.

The applicant has confirmed that the footings and the development as a whole, will be built within the boundaries of the application property and that the development will not take place on land outside of the applicant's ownership (a point raised by a local resident).

Impact upon the character and appearance of the area:

The adopted Wiltshire Core Strategy (WCS) Core Policy 57 requires a high standard of design in any new developments including alterations or extensions to a dwelling. Development is to create a strong sense of place through drawing on local context and being complementary to the locality. The policy seeks for any new development to positively respond to the existing townscape and landscape and effectively integrate into its settings.

The proposed annexe is 9m long and 3m to ridge. On the southern side elevation plan this building appears very long in relation to the main dwelling, but on the floor plan, the accommodation provided does not appear overly dominant. Its single storey design and sufficient separation distance to the shared boundary with the adjoining neighbour, further minimises its visual appearance and massing. Therefore, on balance, its length is offset by its single storey design; the spacious garden remaining; and the fact that the southern, side boundary of the application site is bounded by a private way, sufficiently separating it from the neighbouring properties on the other side of it. Therefore, it will be an acceptable design, built of appropriate

matching materials and is not considered to cause any harm to the character and appearance of the area.

Impact upon highway safety and parking provision:
The existing dwelling has two bedrooms and this number will not increase within the main dwelling house, as a result of the proposal. However, the proposed rear extension will serve as an annexe, adding an additional bedroom.

The Wiltshire Local Transport Plan 2016-2026: Car Parking Strategy (March 2015) requires 2-3 bedroom properties to have a minimum of 2 car parking spaces, each space measuring a minimum of 2.4m x 4.8m. The existing driveway scales at approximately, 19m x 8.7m and as such complies with and exceeds these parking standards. The existing driveway is therefore considered to be of a sufficient size to accommodate the required number of off-street parking spaces for the host dwelling and annexe.

Other Issues:
Comments received from occupiers of neighbouring properties regarding the erection of a gate on the private access road to the side of the application site have been duly noted. However, as the gate is erected on land outside of the application site, it is not relevant to this planning application and is therefore a civil matter between interested parties.

Comments relating to rights of access, rectifying any damage caused to neighbouring properties and not inhibiting access to the private road have also been duly noted but these issues are also civil matters and not material planning considerations in this instance.

Conclusion:
In conclusion the proposals seem fitting with regards to scale, design and materials. The proposal is considered acceptable in the context of its surroundings and is in accordance with the general criteria set out in the aforementioned policies of the local development plan.

RECOMMENDATION:
Approve subject to conditions

Conditions: (4)

1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

REASON: To comply with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

2 The development hereby permitted shall be carried out in accordance with the following

approved plans and documents:

Application Form
Applicant email dated 10/11/2023 confirming materials

Plans:
Location plan, received 25/09/2023
Existing & proposed end elevations
Existing & proposed ground floor plans
Existing & proposed rear elevations
Existing & proposed side elevations
Proposed site plan

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

3 Any bricks and roof tiles to be used in the construction of the external surfaces of the development hereby permitted shall match in material, colour and texture those used in the existing building.

REASON: In the interests of visual amenity and the character and appearance of the area.

4 The extension hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the main dwelling, known as 16 Ferozeshah Road, Devizes, SN10 2JQ and it shall remain within the same planning unit as the main dwelling.

REASON: The additional accommodation is sited in a position where the Local Planning Authority, having regard to the reasonable standards of residential amenity, access, and planning policies pertaining to the area, would not permit a wholly separate dwelling.

Informatives: (1)

5 The applicant is requested to note that this permission does not affect any private property rights and therefore does not authorise the carrying out of any work on land outside their control. If such works are required it will be necessary for the applicant to obtain the landowners consent before such works commence.

If you intend carrying out works in the vicinity of the site boundary, you are also advised that it may be expedient to seek your own advice with regard to the requirements of the Party Wall Act 1996.