

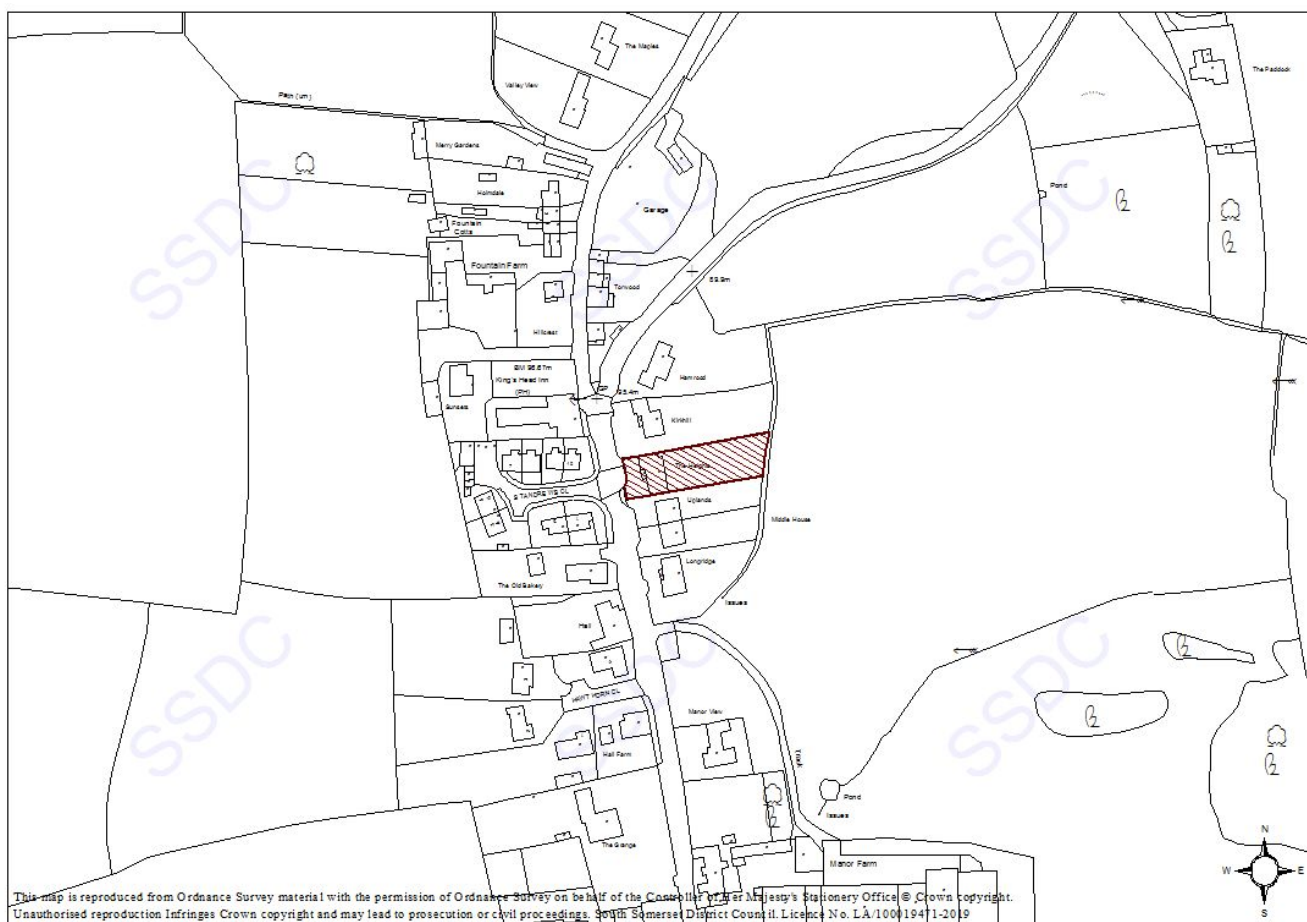
Officer Report On Planning Application: 18/02285/FUL

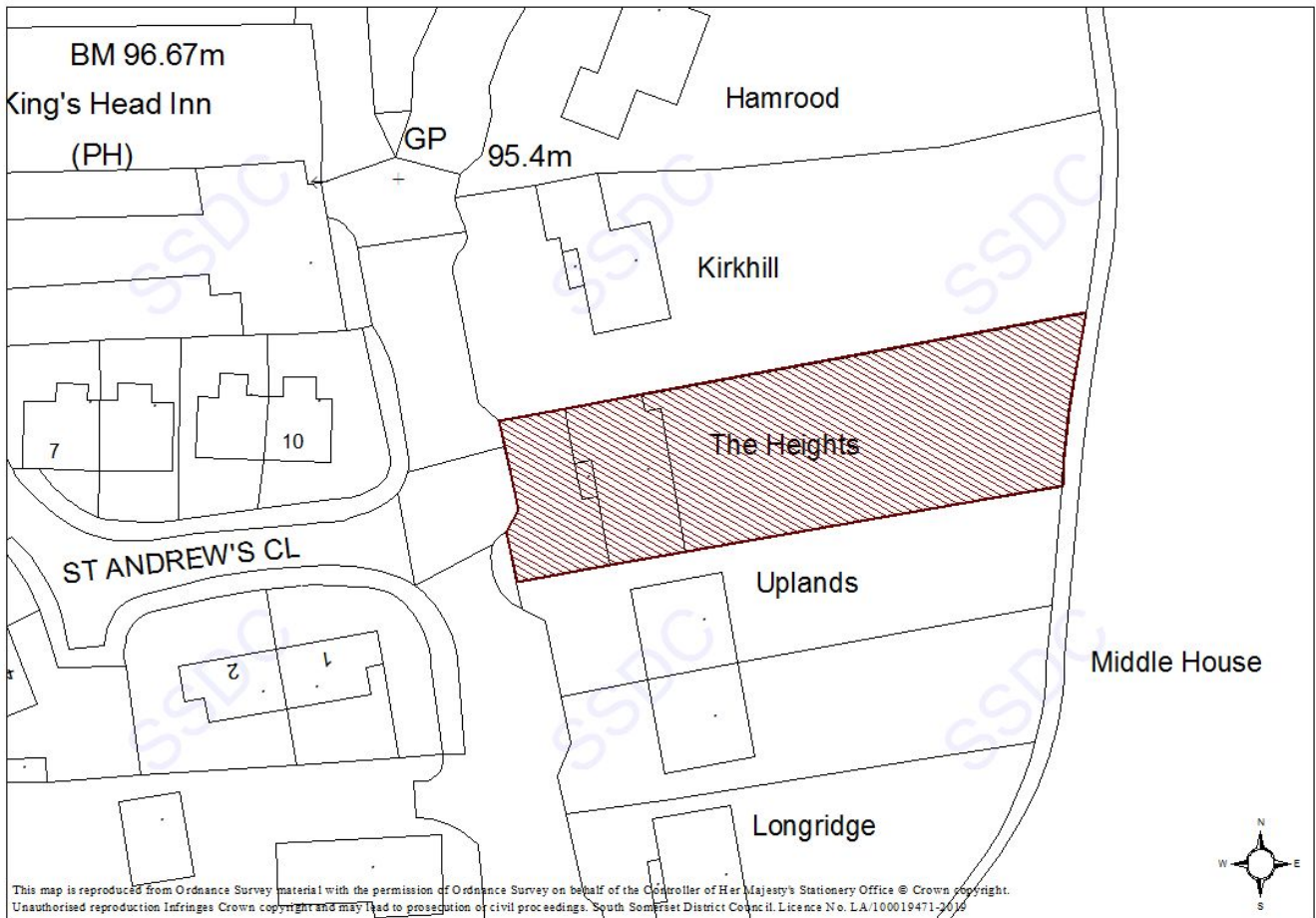
Proposal :	The carrying out of alterations and engineering works to level rear gardens, and formation of a roof terrace. (Part Retrospective)
Site Address:	The Heights, Main Road, High Ham.
Parish:	High Ham
TURN HILL Ward (SSDC Member)	Cllr Gerard Tucker
Recommending Case Officer:	John Millar Tel: (01935) 462465 Email: john.millar@southsomerset.gov.uk
Target date :	2nd November 2018
Applicant :	Mrs Lauren Keates
Agent: (no agent if blank)	
Application Type :	Other Householder - not a Change of Use

REASON FOR REFERRAL TO COMMITTEE

This application is referred to committee at request of the Ward Member with the agreement of the Area Chair to enable the issues raised to be fully debated by Members.

SITE DESCRIPTION AND PROPOSAL





The property is a detached house located on the east side of Ham Hill towards the northern edge of High Ham. It is constructed from reconstructed stone, with a rendered front, and double roman tiles. It has been subject to various internal and external alterations recently, some of which require planning permission. A 6m deep rear extension has been constructed following approval through the 'Larger Home Extension' prior notification procedure of Part 1 Class A.1(g) of the Town and Country (General Permitted Development) (England) Order 2015 (GPDO), as has an outbuilding housing a swimming pool. Other works carried out recently include the provision of a roof terrace above part of the single storey extension, the excavation/remodelling of the land to the rear of the property to provide level surfaces, and the addition of a set of steps with raised platform to access the single storey extension.

This application is made to regularise these works that require planning permission, which are the provision of the roof terrace, and associated balustrading, the remodelling works to the rear garden, and the provision of steps and raised platform to the rear of the new single storey extension. The submitted plans include details of the full range of works carried out, including the single storey extension and pool house, works that are considered to have been carried out under permitted development rights.

During the course of the application, the plans were amended to increase the depth of proposed privacy screens to the side of the roof terrace, and to reduce the size of the roof terrace area overall by bringing the balustrading closer to the rear of the house than shown on the originally submitted plans.

HISTORY

18/01136/PDE: Proposed rear extension (i) the projection of the proposed rear extension beyond the rear wall is 6m (ii) the maximum height of the proposed extension is 3.36m (iii) the height at the eaves

of the proposed extension is 2.99m - Prior approval not required 09/05/2018.
781510: Erection of first floor extension - Permitted 03/10/1978.

POLICY

The South Somerset Local Plan (2006 - 2028) was adopted on the 5th March 2015. In accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004 (as amended) and Section 70(2) of the Town and Country Planning Act 1990 (as amended), the adopted local plan now forms part of the development plan. As such, decisions on the award of planning permission should be made in accordance with this development plan, unless material considerations indicate otherwise. Legislation and national policy are clear that the starting point for decision-making is the development plan, where development that accords with an up-to-date local plan should be approved, and proposed development that conflicts should be refused, unless other material considerations indicate otherwise.

Policies of the South Somerset Local Plan (2006-2028)
SD1, TA5, TA6, EQ2

National Planning Policy Framework
Chapters 2, 4, 5, 8, 9, 12, 14, 15

National Planning Practice Guidance
Design

Policy-related Material Considerations
Somerset County Council Parking Strategy (September 2013)
Somerset County Council Highways Development Control - Standing Advice (June 2017)

CONSULTATIONS

Parish Council: 23rd October 2018 Following full and careful consideration of this application the Parish Council felt unable to offer its support to this proposal for the following reasons:

- 1) Five objections have been lodged with the Planning Authority from close neighbours to the site. Many of the concerns expressed are deemed material planning considerations and supported by the Parish Council due to their significant impact on the residential amenity of the neighbouring occupiers, particularly in respect of privacy considerations due to the roof terrace in situ.
- 2) The Parish Council strongly recommends that the Planning Authority fully considers the concerns raised in item 1) above by close neighbours to the site during this consultation phase and acts accordingly to address these concerns. If this is not the case then the Planning Authority demonstrates a total lack of engagement with a consultation process that has no purpose or merit;
- 3) There is insufficient detail provided within the application documentation to inform the Parish Council as to what areas of development fall under, and constitute, 'Permitted Development' and what areas are 'Part Retrospective'?

This needs to be made clear to ensure all interested parties have an informed understanding in terms of overall expectations;

- 4) The Parish Council would be grateful for confirmation from the Planning Authority as to what

areas/footprint of a proposed development are taken into account when it determines the extent of 'Permitted Development' allowed? For instance, The Heights has already been the subject of significant extension works in the past far beyond the original property footprint. Does this mean that the potential to increase the size of the existing property decreases as a consequence? It would appear to the Parish Council that common sense would dictate that there is a limit to the amount a property could be extended due to the impact on neighbouring properties and its general fit within the local vernacular/street scene?

As a consequence of the above points raised, the Parish Council recommends that this application be REFUSED by the Planning Authority.

After consideration of the amended plans, the following comments were made:

Following full and careful consideration of the amendments/additional information the Parish Council felt unable to offer its support to this proposal for the following reasons:

- 1) Close neighbours to the site continue to raise concerns and the case officer will be aware that two objection letters have been submitted from them with regards to the amendments/additional information received. The Parish Council continues to support the concerns expressed due to the significant impact on the residential amenity of neighbours to the site, particularly in respect of privacy considerations due to the roof terrace arrangements.
- 2) Once again, the Parish Council strongly recommends that the Planning Authority fully considers the concerns raised in item 1) above by close neighbours to the site during this consultation phase and acts accordingly to address these concerns to provide reassurance that the consultation phase has merit.
- 3) The Parish Council still awaits confirmation from the Planning Authority as to what areas/footprint of this development are taken into account when it determines the extent of 'Permitted Development' allowed? It would appear to the Parish Council that the fact that this property has already been the subject of significant extension works in the past, far beyond the original property footprint, has not been taken into account. This situation significantly impacts on the residential amenity of the immediate neighbours on either side and must be taken into account when making a determination on this application.
- 4) Should the case officer be minded to recommend approval of this application, the Parish Council would expect the application being put before the District Council's 'Area North Committee' for a decision to be made. This will allow all interested parties to have an opportunity to make their views known. The Parish Council is confident that the Ward Member will support this route being taken.
- 5) The Parish Council further believes that the 'Transformation' programme undertaken by SSDC has had a very adverse impact relating to the management of this application which has most certainly affected 'all' parties involved in equal measure! This is something the Planning Authority must take on board in the future to ensure that a change in management operating procedures is not allowed to negatively impinge on the planning process.

As a consequence of the above points raised, the Parish Council recommends that this application be REFUSED by the Planning Authority and must be referred to the Area North Committee for a decision to be made.

SCC Highway Authority: Standing advice applies.

SSDC Highway Consultant: From the submitted plans, it would appear that part of the proposal

appears to enlarge the on-site parking area to create three parking spaces. This is acceptable and therefore no highways objection is raised to the development proposal.

REPRESENTATIONS

7 letters of objection have been received from 5 local residents. The main points made are as follows:

- The size of the terraces and the pool structure are out of keeping with the village setting on this prominent hillside.
- Concerned that the ground is made up of clay soil and whether this was taken into account when considering the depth of footings and excavation of soil.
- Potential noise impact from swimming pool pumps.
- Concerns about where swimming pool water will be drained to.
- The roof terraces will unacceptably overlook neighbouring gardens and windows.
- Proposed privacy screens to the side of the roof terraces will lead to overshadowing and the sense of a two-storey building rather than a single storey extension.
- Lots of lighting has been provided which is out of keeping in a village with no street lights.
- Concerns that the works have been done before applying for planning permission. Approval may set a precedent for others to carry out works and then apply for planning permission retrospectively.
- The works will reduce the value of adjoining properties.
- Pavements outside of the property have been damaged during construction works.
- Concerns about lack of action following reports that the works, including the roof terrace, had started.

CONSIDERATIONS

Principle of Development

The application seeks to regularise elements of the redevelopment of the application property, The Heights, which do not benefit from permitted development rights. These are the formation of a roof terrace with balustrading, the remodelling/excavation of part of the garden and provision of a raised platform and steps up to a single storey extension approved under permitted development rights, following the submission of a 'Larger Home Extension' prior notification application. Works that have been carried out under permitted development rights include the aforementioned single storey extension, and the provision of a swimming pool and pool building.

In assessing the works that require planning permission, there are no objections in principle to the carrying out of householder alterations, however careful consideration must be given to the impact of those works, particularly in respect to impact on the residential amenity of nearby occupiers, and overall visual impact. In this case, it is noted that several objections have been received by local residents, and the Parish Council.

The Applicant's Case

- Neither the pool house nor the single storey extension require planning permission due to being in compliance with permitted development rights. It is noted that overhanging eaves do not form

part of the building for the purposes of calculating permitted development.

- The levelling of the garden was carried out to create a flat playing surface/safe garden suitable for pre-school children. The resulting garden is not considered to be objectionable.
- Planning permission has been granted at Hamrood, a property to the north (15/01059/FUL) for the replacement of a dormer window, which included a balcony and double doors. This was considered to be appropriate and there were no objections. The proposed application at The Heights is for a narrow roof terrace off the 3 bedrooms. Some of the objections are from neighbours who wanted similar roof terraces/balconies. The privacy concerns have now been addressed by the inclusion of enlarged privacy screens to prevent overlooking.
- No objections have been received from the neighbour to the north; only to the south.
- The applicant initially had concerns about impact on their own privacy, as a window on the side elevation of the property to the south looks directly up towards the first floor bedrooms of The Heights. The proposed privacy screens will stop this happening. Without these screens the privacy for both properties would be worse. As such, the applicant doesn't understand the objections. Without the privacy screens, there are concerns about how to remedy the existing privacy issue without providing screens to the top of the extension.

Parish Council Comments

The Parish Council have raised several questions, which are addressed immediately below, or in the following considerations:

Objections have been lodged by close neighbours to the site. Many of these concerns are considered to be material planning considerations, and are supported by the Parish Council, due to the significant impact on neighbouring residential amenity, particularly due to the roof terrace that is now in place. It is requested that these concerns are fully taken into account during the consultation phase, and that action is taken to address those concerns. In order to provide reassurance that the consultation phase has merit.

The comments of the immediate neighbours have been properly considered in full. Following receipt of the application, the planning officer visited three neighbouring properties, meeting the occupiers. This enabled the officer to have a clear understanding of the elements of the development that would be likely to cause unacceptable harm to residential amenity. Following a formal visit to the application site, unacceptable harm was identified in respect to potential overlooking from the roof terrace, with recommendations made to address this harm. The application has been amended accordingly. This will be discussed in more detail below.

There is a lack of clarification as to which parts of the development fall under permitted development rights, and which areas are 'part-retrospective'. The Parish Council have asked what areas/footprint of a proposed development are taken into account when it determines the extent of 'Permitted Development' allowed. For instance, The Heights has already been the subject of significant extension works in the past far beyond the original property footprint. Does this mean that the potential to increase the size of the existing property decreases as a consequence? It would appear to the Parish Council that the fact that this property has already been the subject of significant extension works in the past, far beyond the original property footprint, has not been taken into account. This situation significantly impacts on the residential amenity of the immediate neighbours on either side and must be taken into account when making a determination on this application.

The application has been submitted with plans showing all the work that has taken place, however only some elements actually require planning permission. These are identified as being the roof terrace, and

associated balustrading, the provision of a set of steps and raised platform providing access to the single storey extension, and the excavation and remodelling of the garden area to replace the original heavily sloping garden with three distinct flat areas. The single storey extension are permitted development (PD), with the former permitted through the 'Larger Home Extension' PD procedure, and the latter complying with the requirements of Part 1 Class E of the GPDO (the provision of buildings, enclosures, pools and containers within the curtilage of a dwellinghouse).

There may be some confusion in the fact that the extension as constructed, does not fully accord with the plans submitted under approval 18/01136/PDE, due to some alteration to the indicated windows, and the inclusion of an enlarged overhanging eaves to the rear eastern elevation. This is however not relevant to this procedure, which does not require detailed drawings to be submitted but just written details of the proposed extension depth, height (to eaves and maximum height), and a plan indicating the position of the proposed development. Technical advice published by the Government (*Permitted Development Rights for Householders: Technical Guidance* - updated April 2017), makes it clear that when measuring the size of an extension, for the purposes of calculating compliance with permitted development rights, the measurement should be taken from the base of the rear wall of the original house to the outer edge of the wall of the extension. Overhanging elements, such as eaves, guttering and barge boards are not included within the measurements. This matter has been further confirmed by a recent appeal decision, considering this matter. For this reason, the single storey extension still complies with the essential details submitted when assessing the prior notification application.

The swimming pool building, is permitted on the basis that it is further than 2m from the boundary of the application site, and less than 3m in height. The eaves do extend closer to the boundary than 2m, however again this should be discounted, with the relevant measurement taken to the outer wall of the building.

In response to the question in relation to how much a building can be extended, it is noted that the property has been extended significantly in the past, most notably under planning permission 781510 (1978), in which a large side extension, the full depth of the property was constructed. Prior to 2008 permitted development rights limited all extensions to a dwellinghouse to a maximum of 115 cubic metres above the size of the original dwellinghouse, no matter which part of the property was extended. The change to the GPDO, which came into force in April 2008, included major changes to the way in which householder permitted development rights were considered. These included the removal of calculating extensions by an increase in cumulative cubic content, replacing this with clear measured amounts., such as extension to the side of a property by up to half the width of the original dwellinghouse, and extension to the rear of by up to 4m from the original rear wall, and up to 8m with the 'Larger Home Extension' prior notification procedure. As such, despite the very large extension to the property around 1978, full permitted development rights remained to extend the property to the rear.

Should the case officer be minded to recommend approval of this application, the Parish Council would expect the application being put before the District Council's 'Area North Committee' for a decision to be made, in order to allow all interested parties to have an opportunity to make their views known.

The recommendation will be referred to the Ward Member in full accordance with the Council's adopted Scheme of Delegation. The application will be referred to committee if both the Ward Member and Area Chair agree that this is the appropriate course of action.

The Parish Council further believes that the 'Transformation' programme undertaken by SSDC has had a very adverse impact relating to the management of this application which has most certainly affected 'all' parties involved in equal measure! This is something the Planning Authority must take on board in the future to ensure that a change in management operating procedures is not allowed to negatively impinge on the planning process.

This is largely irrelevant to the consideration of this application. Prior to the submission of the application,

an enforcement investigation took place, with the relevant officer requesting that a planning application was made to regularise works that had taken place that required planning permission. It was some time before the application was received, after which it was made invalid. At the time there were delays as a result of an existing backlog in the registration process. Notwithstanding this, following receipt of the initial application, the planning officer remained in contact with several neighbouring residents, with the visits to these properties made in advance of formal consultation process taking place. It is not considered that any delays have prejudiced the ability of any interested party to have their comments heard, or resulted in the application being handled in a proper manner.

Scale and Appearance

As established above, the works that have taken place that do not benefit from householder permitted development rights, and therefore require the express grant of planning permission, are the construction of the roof terrace and balustrading, the remodelling of the garden, provision of steps/raised platform up to the rear of the single storey extension.

Each of these elements are considered to be acceptable from a visual point of view. The roof terrace and the steps will be viewed only in the context of the rear of the house and are of scale that relates to the other works that have taken place. The remodelling of the rear garden is also of a domestic scale and appearance and considered to be acceptable.

Residential Amenity

Covering first the provision of the steps and garden works, these do not alter the levels or introduce additional opportunities for overlooking that would be considered unacceptably harmful to the residential amenity of occupiers of neighbouring properties.

The most contentious element of the proposal appears to be the provision of the roof terrace, which is the full width of the single storey extension, and projects 2m to the rear of the dwelling, providing a large useable area outside of the first floor bedrooms. A privacy screen to either end of the roof terrace was initially proposed. These screens would have been 2m in height, and would project 2m outward, level with the balustrading. On visiting the application site, and having taken into account neighbour objections, the planning officer did have concerns that this would be insufficient to prevent unacceptable overlooking towards a private seating area to the rear of the property to the north, Kirk hill, and towards a window in the ground floor side elevation of Uplands, the property to the south. While these views would be obscured for the most part, there would remain overlooking opportunities, particularly where users of the roof terrace would be close to the balustrading at the edge. As a result of the concerns raised the application has been amended to increase the depth of the privacy screen by a further 1m at the full 2m height, and by an additional 1m at a height of 0.5m. This would take the privacy screens well beyond the edge of the balustrading, which is considered to remove the opportunities for overlooking of the identified private amenity areas, and would satisfactorily overcome the objections, preventing unacceptable harm to the residential amenity of neighbouring residents by way of overlooking. Concerns have been raised that the extended privacy screens will cause overshadowing of the neighbouring window, however it is considered that they are of sufficient distance to avoid such harm. For clarity, the privacy screens are proposed to be rendered in a white finish, which will be more solid and hardwearing than say timber panelling, which has the potential to become dilapidated over a period of time.

Further concerns relate to areas such as the structural integrity of the earthworks, the potential for noise disturbance from swimming pool pumps, and provision of bright lighting. Regarding the garden excavations and remodelling, consideration of the structural elements strictly goes beyond what would be considered under planning consideration, however there is no reason to assume that there would be any issues as a result of these works. For the most part however, the land immediately either side of the neighbouring boundaries is largely unaltered.

The applicant has provided further information relating to the proposed pool equipment, which advises that this will be quiet during operation. Notwithstanding this, it should be noted that the pool and associated equipment do not require planning permission, therefore there are no controls over this under planning legislation. For similar reasons, any lighting that has been attached to the pool building and extension does not require planning permission, and cannot be reasonably considered in the assessment of this planning application. It has been pointed out that High Ham is a village with no street lighting and that the lighting is harmful to local amenity, however there are no planning controls that would prevent any householder installing external lighting. Should it become apparent that any lighting that has been installed, or other domestic equipment, are so bright or noisy, that they constitute a statutory nuisance, this can be investigated, and acted on where appropriate, under the relevant Environmental Protection legislation, however this would be separate to consideration under planning law.

Overall, notwithstanding the objections that have been raised, it is not considered that the development requiring planning permission would cause any unacceptable harm to the residential amenity of the occupiers of nearby properties. Where unacceptable harm has been identified, such as overlooking from the roof terrace, this has been addressed by revisions to the scheme and can be conditioned to ensure that those alterations are carried out and maintained going forward.

Highway Safety

The proposal will have no impact on highway safety. It is noted however that alterations have taken place to the front of the house that have led to the provision of additional parking space.

Conclusion

Notwithstanding the objections and concerns raised, the development is considered to be of an appropriate scale, design and appearance to satisfactorily relate to its surroundings, without having an unacceptable impact in terms of residential amenity.

RECOMMENDATION

Grant approval with conditions

01. The proposal, by reason of its size, scale and materials, has no adverse impact on the character and appearance of the area and will cause no unacceptable harm to residential amenity, in accordance with the aims and objectives of policies SD1 and EQ2 of the South Somerset Local Plan (2006-2028) and the aims and objectives of the National Planning Policy Framework.

SUBJECT TO THE FOLLOWING:

01. The development hereby permitted shall be carried out in complete accordance with the following approved plans: 'RDS_HH_SP - Existing and Proposed Site Plan', received 7th September 2018 and 'RDS_HH_P2 - Proposed Plans' (Ground and First Floor), 'RDS_HH_E2 - Proposed Elevations' (East and West Elevations), and 'RDS_HH_E2 - Proposed Plans' (North and South Elevations), received 26th October 2018.

Reason: For the avoidance of doubt and in the interests of proper planning, and in the interests of visual amenity, in accordance policies SD1 and EQ2 of the South Somerset Local Plan (2006-2028) and the aims and objectives of the National Planning Policy Framework.

02. The privacy screens shall be constructed in full accordance with the details identified on the approved plans, and shall be provided prior to the roof terrace hereby permitted being first brought into use. Following their provision, the approved privacy screens shall be permanently retained and maintained thereafter.

Reason: In the interests of residential amenity in accordance with policy EQ2 of the South Somerset Local Plan and the aims and objectives of the National Planning Policy Framework.

03. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification), the area to be used as a roof terrace shall be limited to that shown on the approved plans, and no further part of the roof of the existing single storey extension shall be used as a roof terrace, or as any other area of domestic amenity space, without the prior express grant of planning permission.

Reason: In the interests of residential amenity in accordance with policy EQ2 of the South Somerset Local Plan and the aims and objectives of the National Planning Policy Framework.
