

**Planning Committee:** 18 July 2023

**Item Number:** 9

**Application No:** [W 23 / 0020](#)

**Town/Parish Council:** Baginton  
**Case Officer:** Thomas Senior  
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**Registration Date:** 09/01/23  
**Expiry Date:** 06/03/23

**70 Mill Hill, Baginton, Coventry, CV8 3AG**

Erection of single storey rear extension and front porch FOR Mr T Duckham  
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This application is being presented to Planning Committee as the applicant is a former employee of Warwick District Council.

**RECOMMENDATION**

Planning Committee is recommended to grant planning permission, subject to the conditions listed at the end of this report.

**DETAILS OF THE DEVELOPMENT**

The applicant seeks planning permission for the proposed erection of a single-storey rear extension and a front porch. The scheme has been revised during the course of the application following officer feedback to resolve a breach of the 45-degree line taken from the neighbouring habitable window.

**SITE AND LOCATION**

The application site relates to a two-storey semi-detached property located on the south side of Mill Hill and is situated within Baginton's Growth Village Envelope. The application site benefits from a large driveway to the front and side of the property and also contains an existing outbuilding set well back from the property itself, with this being a common feature of the properties located on this side of Mill Hill. The streetscene itself is comprised of two storey semi-detached properties on the south side of the road, with the northern side made up of detached dwellings with large plots and various external finishes.

**PLANNING HISTORY**

W/23/0020 - The application subject of the current Committee Report was granted under delegated powers on 14 April 2023. However, this became the subject of a judicial review on two grounds: (i). that under the Council's Delegation Agreement, the application ought to have been determined by Planning Committee because the applicant was a former employee of Warwick District Council, and (ii). the Council had not discharged it's duty under Paragraph 99 of Circular 06/2005 Biodiversity and Geological Conservation – *Statutory Obligations and their impact within the Planning System*, which advises that it is essential that the presence or otherwise of protected species, and the extent to which they might be affected by the proposed development, is established before planning permission is granted, otherwise all relevant material considerations will not have

been addressed on making the decision. The planning permission was quashed by the Court on 8 June 2023.

### **RELEVANT POLICIES**

- National Planning Policy Framework
- Warwick District Local Plan 2011-2029
- BE1 - Layout and Design
- BE3 - Amenity
- NE2 - Protecting Designated Biodiversity and Geodiversity Assets
- Guidance Documents
- Residential Design Guide (Supplementary Planning Document- May 2018)
- The 45 Degree Guideline (Supplementary Planning Guidance)
- Baginton and Bubbenhall Neighbourhood Plan 2018-2029
- BAG3 - Protecting and Enhancing Baginton Village

### **SUMMARY OF REPRESENTATIONS**

**Baginton Parish Council** - No objection.

**WCC Ecology** - Photos requested to determine if bat survey required, with it recommended that a qualified bat worker is present on site to supervise the careful removal of roof features that will be impacted by the works. A request has also been made for the provision of explanatory notes in relation to nesting birds, hedgehogs, and biodiversity enhancements.

**Public Response** - Four objections have been received from four of the occupiers of the adjoining property. These objections refer to multiple different concerns, with the most relevant relating to concerns associated with the design of the rear extension, the scale of the rear extension, the 45-degree line and risks of overlooking posed by the proposed development.

### **ASSESSMENT**

#### Design

The NPPF (2021) places an increased emphasis on the importance of achieving good quality design as a key aspect of sustainable development. Paragraph 130 states that planning decisions should ensure that developments are visually attractive as a result of good architecture, layout and appropriate external facing materials.

Local Plan Policy BE1 echoes paragraph 130 of the NPPF and states that new development will be permitted where it positively contributes to the character and quality of its environment through good layout and design. Proposals are expected to demonstrate that they harmonise with, or enhance, the existing settlement in terms of physical form, patterns of movement and land use.

The Residential Design Guide SPD sets out steps which must be followed in order to achieve good design in terms of the impact on the local area; the importance

of respecting existing important features; respecting the surrounding buildings and using the right materials.

Policy BAG3 of the Baginton and Bubbenhall Neighbourhood Plan requires development proposals to be of a suitable scale, height and massing which responds to the built form of surrounding properties.

The proposed porch is considered to be an acceptable addition to the property, with it being a modest extension which both respects and enhances the existing property and its overall character.

Four objections have been received. A key theme is reference made to the presence of a flat roof projecting out to the side of the original dwellinghouse, with the objectors arguing how this should be classed as a side extension and should therefore be comprised of a pitched roof in order to be in accordance with the design principles set out within the Residential Design Guide SPD. The SPD is a guide, and each case must be considered on its merits with regard to the individual site-specific circumstances. In this case the proposed single storey flat roof extension is set back approximately 10m from the principal elevation of the dwellinghouse and approximately 22m away from the end of the existing driveway present at the property. When you combine this set back distance with the small width of the protrusion and the fact the neighbouring property already benefits from a similarly sized flat roof garage, this element of the proposal is not considered to be out of keeping within the immediate locality.

The objection comments also highlight how a development proposal at No.66 Mill Hill was revised following officer feedback in relation to the presence of a proposed first floor flat roof extension over an existing porch. Following this feedback, a pitched roof was introduced in favour of the initial flat roof in order to respect the key design principle of not permitting the addition of a two-storey flat roof side extension to a traditional semi-detached dwelling. However, these two applications cannot be considered in the same vein owing to the fact that the proposed flat roof addition at No.66 was at first floor level and would have significantly altered the principal elevation of the existing property and thus would have had a direct impact on the streetscene. This is very different to the flat roof extension proposed in this case and is primarily due to the location of the proposed extension within the plot and how it will be perceived from the streetscene. The extension at 66 Mill Hill would have drastically altered the principal elevation of the property, whilst the proposal in question will have minimal impact on the streetscene and therefore cannot be considered to harm the established character of the area.

Comments have also been made in relation to the external finish of the proposed development, with arguments centred around the fact that extended properties along Mill Hill are all of red brick construction. However, render is already present to the rear of the property, and also on the existing garage. Due to this existing presence, under permitted development the whole of the property could be rendered without the need for planning permission. Nevertheless, the presence of rendered finishes is not alien within the streetscene, with this exemplified by a fully rendered property opposite the application site. In light of the fact that the application of this finish would constitute permitted development, along with the

fact render is already present within the streetscene, it is considered that the proposed extension would be comprised of appropriate materials and is therefore in accordance with Local Plan Policy BE1.

Objections also relate to the scale of the proposed development, with an example provided for an application which was refused planning permission at 34 Mill Hill. This application was determined in 2012, and at this time Baginton was washed over by Green Belt. Consequently, that scheme needed to adhere to the associated Green Belt policies at the time, with an emphasis placed upon the need to retain the openness of rural areas and the need to retain the visual dominance of the existing dwelling. Moreover, this policy also came with a 30% threshold, whereby any additional development to a property that surpasses this value would have been considered a disproportionate addition, which was the case at 34 Mill Hill. However, Baginton has since been taken out of the Green Belt and is therefore not subject to Green Belt policy.

Owing to the size of the plot and the presence of similar detached structures in the immediate vicinity of the application site, this proposal is not considered to constitute overdevelopment and in fact aligns with Policy BAG3 of the Baginton and Bubbenhall Neighbourhood Plan as the proposal is considered to respond to the surrounding built form, due to the similarities present with the neighbouring flat roof garage. With this in mind the proposed rear extension is considered to be acceptable in its scale and massing.

In summary, the proposal is therefore considered to comply with the NPPF, whilst also aligning with the relevant design principles which are laid out within Local Plan Policies BE1, the Residential Design Guide SPD and Policy BAG3 of the Baginton and Bubbenhall Neighbourhood Plan.

#### Impact on neighbouring properties and the current and future occupiers of the development

Warwick District Local Plan Policy BE3 requires that development must have an acceptable impact on the amenity of all neighbouring residents, in terms of light, outlook and privacy. The Council's Residential Design Guide SPD provides a design framework for Policy BE3 and states how extensions should not breach a 45-degree line taken from the nearest habitable room of the neighbouring property. This aims to prevent any unreasonable effect on the neighbouring dwelling, by reason of loss of light, unneighbourly effect or disturbance/intrusion from nearby uses. Policy BE3 also requires that all development should ensure that acceptable standards of amenity space are provided for existing and future occupiers of the development site.

As amended, the kitchen element of the proposed single storey rear extension does not breach the 45-degree line taken from 72 Mill Hill. The office element of the proposed extension does breach the 45-degree line, but the breach occurs at a distance of approximately 8m from the neighbour's window. The Residential Design Guide SPD explicitly specifies how breaches of the 45-degree line which occur at a distance of 8m or more will not be considered to result in material harm to light and outlook.

Within one of the objection comments received, it is questioned how the amended proposal and its angled wall can be considered to be an integral part of the design, as required by the SPD. Officers consider that the proposal is not a crude or contrived design merely to overcome the breach of the 45-degree line. The Residential Design Guide SPD illustrates examples which could be considered contrived and therefore unacceptable, with these cases including proposals which cut off small corners to the end of an extension, or those which are angled in a way in which the extension runs directly along the 45-degree line taken from the nearest habitable window. Neither of these cases are reflected within the amended plans and as such the addition of an angled bi-fold door is not considered to be a contrived design and is therefore judged as being an integral part of this revised modern extension.

Concerns have also been raised about how the proposed single storey rear extension will lead to increased overlooking and loss of privacy for the adjoining occupiers. In Officer's opinion, there is a low risk of overlooking from ground floor windows owing to the presence of existing residential boundary treatments. It is also noted that windows can be installed at ground floor in side elevations under permitted without the need for planning permission for this reason.

The impact the proposal will have on the amenity of current and future occupiers is considered acceptable, with adequate private amenity space present and in accordance with the requirements set out within the Residential Design Guide SPD.

Overall, with mind to the above noted considerations, it is considered that the proposal would not result in material harm to neighbouring amenity by reason of loss of light, outlook, or privacy and as such is in accordance with Local Plan Policy BE3.

#### Ecology

Local Plan Policy NE2 states that development will not be permitted that will destroy or adversely affect protected, rare, endangered or priority species unless it can be demonstrated that the benefits of the development clearly outweigh the nature conservation value or scientific interest of the site and its contribution to the wider biodiversity objectives and connectivity. Policy NE2 goes on to state that all proposals likely to impact on these assets will be subject to an ecological assessment.

The County Ecologist requested clear photographs of the application property so that an assessment could be made as to whether the proposed works should be carried out under the supervision of an ecologist. Upon receipt of photos of the application site, the County Ecologist has recommended that a condition should be applied to the decision notice which ensures that a qualified bat worker will be present on site to supervise the careful removal of the roof features that will be impacted by the works, and in the case that any bats may be found, works should be stopped.

The County Ecologist has also requested the inclusion of explanatory notes in relation to nesting birds, hedgehogs, and the need for biodiversity enhancements on site. Through the provision of these explanatory notes and the aforementioned condition involving the requirement of a bat worker to be on site during works, the proposal is considered to be in accordance with Local Plan Policy NE2.

## Other Matters

Concerns have also been raised in relation to drainage issues and the impact that the proposed plans may have upon the presence of a soakaway within the neighbouring garden. Whilst this has been noted, this is a civil matter between the applicant and the neighbour.

## **CONCLUSION**

The proposal is considered to constitute good quality design, does not result in material harm to amenity and impact on protected species is suitably mitigated by a condition. As such, the proposal is in accordance with the aforementioned policies, and it is therefore recommended for approval.

## **CONDITIONS**

- 1 The development hereby permitted shall begin not later than three years from the date of this permission. **Reason:** To comply with Section 91 of the Town and Country Planning Act 1990 (as amended).
  - 2 The development hereby permitted shall be carried out strictly in accordance with the details shown on the site location plan and approved drawing(s) 70MH16, 70MH17, 70MH18 & 70MH20, and specification contained therein, submitted on 20/03/2023 and 14/04/2023. **Reason:** For the avoidance of doubt and to secure a satisfactory form of development in accordance with Policies BE1 and BE3 of the Warwick District Local Plan 2011-2029.
  - 3 The development hereby permitted shall not commence unless and until two weeks' notice in writing prior to the commencement of the development works has been given to a suitably qualified bat worker appointed by the applicant to supervise all destructive works to the roof. All roofing material is to be removed carefully by hand. Should bats be found during this operation, then work must cease immediately while Natural England are consulted for advice and no further works shall be undertaken at the site unless and until full details of measures for bat migration and conservation have been submitted to and approved in writing by the local planning authority. The development shall then proceed in full accordance with the approved details and any required mitigation works shall be completed in full accordance with the approved details. Notwithstanding any requirement for remedial work or otherwise, the qualified bat worker's report shall be submitted to the local planning authority within 1 month following completion of the supervised works to summarise the findings. **REASON:** To safeguard the presence and population of a protected species in line with UK and European Law, the National Planning Policy Framework and Policy NE2 of the Warwick District Local Plan 2011-2029.
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