

## **ITEM 5**

<b>Application Reference</b>	<b>DC/087991</b>
<b>Location:</b>	46 Spath Lane East Cheadle Hulme Cheadle Stockport SK8 7NL
<b>PROPOSAL:</b>	Erection of detached double garage to replace detached single garage (retrospective)
<b>Type Of Application:</b>	Householder
<b>Registration Date:</b>	17.03.2023
<b>Expiry Date:</b>	11 <sup>th</sup> July 2023
<b>Case Officer:</b>	Sophie Anderson
<b>Applicant:</b>	Mr B & Mrs Goehler
<b>Agent:</b>	Mr P Garner

### **COMMITTEE STATUS**

Should the Bramhall and Cheadle Hulme South Area Committee be minded to grant permission under the Delegation Agreement, the application should be referred to the Planning & Highways Regulations Committee as the application relates to a Departure from the Statutory Development Plan.

### **DESCRIPTION OF DEVELOPMENT**

This application is for the erection of a detached double garage to replace a detached single garage (retrospective). The replacement garage has a pitched roof design with a maximum height of 3.53m, a maximum width of 5.28m and a maximum length of 6.17m. At the time of writing this report, the replacement garage has been built but not yet rendered and it would be ancillary to the main dwelling no. 46 Spath Lane East. It is constructed from brickwork, concrete roof tiles, have a GRP wood effect 'up and over door', a timber pedestrian door, white power coated aluminium bi-folding doors and an off-white K render finish.

Vehicular access to the replacement garage is gained via Spath Walk, this is a private residential road and the application property has right of way onto Spath Walk.

### **SITE AND SURROUNDINGS**

The application site comprises a semi-detached, two storey property, stables and the replacement detached garage (subject of this application) and is located within the Green Belt.

The residential property is constructed from brickwork and render with a slate tiled roof and black timber windows and doors. Existing stables are located to the west and the replacement detached garage (subject of this application) is located to the rear and north east of the site in the same location as the demolished detached single garage.

The property is situated to the north of Spath Lane East. Neighbouring residential properties along Spath Lane East are a mix of age and styles. The attached neighbouring property No. 44 Spath Lane East is a similar age and design to this

property whereas neighbouring properties to the rear on Spath Walk are generally more modern single storey properties.

### **POLICY BACKGROUND**

Section 38(6) of the Planning and Compulsory Purchase Act 2004 ("PCPA 2004") requires that planning applications be determined in accordance with the development plan unless material considerations indicate otherwise.

#### **The Development Plan includes-**

- Policies set out in the Stockport Unitary Development Plan Review adopted 31<sup>st</sup> May 2006 which have been saved by direction under paragraph 1(3) of Schedule 8 to the Planning and Compulsory Purchase Act 2004; &
- Policies set out in the Stockport Local Development Framework Core Strategy Development Plan Document adopted 17<sup>th</sup> March 2011.

#### **Saved policies of the SUDP Review**

LCR1.1: Landscape Character Areas

GBA1.1: Extent of Green Belt

GBA1.2: Control of development in Green Belt

GBA1.5: Residential development in Green Belt

CDH1.8: Residential extensions

#### **LDF Core Strategy/Development Management policies**

SD-2: Making improvements to existing dwellings

H-1: Design of residential development

CS8: Safeguarding and improving the environment

CS9: Transport and development

SIE-1: Quality places

SIE-3: Protecting, safeguarding and enhancing the environment

T-1: Transport and development

T-2: Parking in developments

T-3 Safety and capacity on the highway network

#### **Supplementary Planning Guidance**

Supplementary Planning Guidance does not form part of the Statutory Development Plan; nevertheless, it does provide non-statutory Council approved guidance that is a material consideration when determining planning applications.

'Extensions and Alterations to Dwellings' Supplementary Planning Document (adopted in February 2011) states that the issue of design is a highly important factor when the Council assess proposals for extensions and alterations to a dwelling. The Council require all development to be designed to a high standard in order that it makes a positive contribution to the provision of an attractive built environment.

#### **National Planning Policy Framework**

A Revised National Planning Policy Framework (NPPF) issued by the Secretary of State for Housing, Communities and Local Government (MHCLG) on 20 July 2021 replaced the previous NPPF (originally issued 2012 & revised 2018 and 2019). The NPPF has not altered the fundamental legal requirement under Section 38(6) of the Planning and Compulsory Purchase Act 2004 that decisions must be made in accordance with the Development Plan unless material considerations (such as the NPPF) indicate otherwise.

The NPPF representing the governments up-to-date planning policy which should be taken into account in dealing with applications focuses on achieving a lasting housing reform, facilitating the delivery of a greater number of homes, ensuring that we get planning for the right homes built in the right places of the right quality at the same time as protecting our environment. If decision takers choose not to follow the NPPF, then clear and convincing reasons for doing so are needed.

N.B. In respect of decision-taking the revised NPPF constitutes a “material consideration”.

Para.1 *“The National Planning Policy Framework sets out the Government’s planning policies for England and how these should be applied”.*

Para.2 *“Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise”.*

Para.7 *“The purpose of the planning system is to contribute to the achievement of sustainable development”.*

Para.8 *“Achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives):*

- a) an economic objective*
- b) a social objective*
- c) an environmental objective”*

Para.11 *“Plans and decisions should apply a presumption in favour of sustainable development.*

*For decision-taking this means:*

*c) approving development proposals that accord with an up-to-date development plan without delay; or*

*d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:*

*i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or*

*ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole”.*

Para.12 *“.....Where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed”.*

Para.38 *“Local planning authorities should approach decisions on proposed development in a positive and creative way..... Decision-makers at every level should seek to approve applications for sustainable development where possible”.*

Para.47 *“Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. Decisions on applications should be made as quickly as possible, and within statutory timescales unless a longer period has been agreed by the applicant in writing”.*

Para.126 *“The creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities”.*

Para.134 *“Development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents which use visual tools such as design guides and codes. Conversely, significant weight should be given to:*

- (a) development which reflects local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents which use visual tools such as design guides and codes; and/or*
- (b) outstanding or innovative designs which promote high levels of sustainability, or help raise the standard of design more generally in an area, so long as they fit in with the overall form and layout of their surroundings.”*

Para.137 *“The Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence”.*

Para.147 *“Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances”.*

Para.148 *“When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. “Very special circumstances” will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations”.*

Para.149 *“A local planning authority should regard the construction of new buildings as inappropriate in the Green Belt. Exceptions to this are:*

- c) the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building;*
- d) the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces”.*

Para.157 states *“In determining planning applications, local planning authorities should expect new development to:*

*a) comply with any development plan policies on local requirements for decentralised energy supply unless it can be demonstrated by the applicant, having regard to the type of development involved and its design, that this is not feasible or viable; and*

*b) take account of landform, layout, building orientation, massing and landscaping to minimise energy consumption”.*

Para.219 “existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)”.

### **Planning Practice Guidance**

The Planning Practice Guidance (NPPG) is a web-based resource which brings together planning guidance on various topics into one place (launched in March 2014) and coincided with the cancelling of the majority of Government Circulars which had previously given guidance on many aspects of planning.

### **RELEVANT PLANNING HISTORY**

DC/081292 - Replacement kitchen extension roof and open porch – Granted – 05/11/2021

DC/076547 - Outline application for the erection of 1 No detached dwelling – Refused – 01/6/2020

DC/004225 - Single storey rear extension – Granted – 18/06/2001

J/30042 - Field adjacent to Spath Lane East, Cheadle Hulme, Proposal: Stables, Granted – 07/02/1984

J/29833 - Adjacent 46 Spath Lane East, Cheadle Hulme - Proposed Stables, Planning permission required, 02/12/1983

J/18757 - 2 storey extension – Granted – 01/04/1980

### **NEIGHBOUR'S VIEWS**

The owners/occupiers of seven surrounding properties were notified in writing of the application. The neighbour notification period expired on the 15<sup>th</sup> April 2023. Due to the application being a departure from the development plan, the application has also been advertised by way of site and press notices that expired on the 19<sup>th</sup> April 2023.

Two letters of representation have been received and the main points are summarised below:

- Concerns that extra vehicles would use the small area at the end of Spath Walk;
- Concerns during construction regarding the removal of the boundary hedge between the application property and No. 44 Spath Lane East;
- The new garage does not encroach onto the neighbouring garden and the distance to the border and garage is satisfactory;
- The garage has access to Spath Walk which is a private road which the neighbours (except the applicant) have maintained and funded. Properties No. 42, 44 and 46 Spath Lane have right of way onto the end of the road.

## **CONSULTEE RESPONSES**

Highways – No objections

### **ANALYSIS**

#### Residential Amenity

Comprising an outbuilding, the development is not strictly speaking an extension to the dwelling. There are no policies in the UDP Review or Core Strategy which directly relate to the erection of outbuildings however saved policy CDH 1.8: Residential Extensions offers some general guidance. This policy advises of the need to ensure that development does not cause damage to the amenity of neighbouring properties by reason of overlooking, overshadowing, visual intrusion or loss of privacy. Core Strategy policy SIE1 also advises of the need to provide, maintain and where suitable, enhance the levels of privacy and amenity for neighbouring residents.

The Councils 'Extensions and Alterations' SPD states that outbuildings can have a similar effect on the amenities of neighbours as other extensions. Where planning permission is required for this form of development, detached buildings should in general:

- Be sited so as not to affect neighbouring amenity; and
- Be of an appropriate scale and appear clearly subordinate in relation to the main house.

The closest neighbours to the replacement garage are the adjoining neighbouring property no. 44 Spath Lane East and no. 12 Spath Walk which is located to the north of the garage. The garage is approximately 1.45m from the property boundary with No. 44 Spath Lane East and approximately 2.5m away from this neighbouring property and it is located approximately 1.08m from the property boundary with no. 12 Spath Walk and approximately 6m away from this neighbouring property. These distances are considered sufficient to provide adequate separation and avoid any undue loss of light, outlook or general amenity to these neighbouring properties. Timber fencing approximately 1.8m high is erected on the party boundary with No. 44 Spath Lane East and mature leylandii hedging is planted on the property boundary with No. 12 Spath Walk which help ensure the garage does not have an overbearing impact. There is also an existing privet hedge on the party boundary with No. 44 Spath Lane, a section of this had been removed during construction, however, it is understood that the hedging is to be retained as shown on the current plans.

The garage is well separated from other residential properties.

As such, it is considered that the replacement garage does not unduly impact on the residential privacy or amenity of any surrounding property in accordance with UDP policy CDH1.8 and Core Strategy policy SIE-1.

#### Design

Policy SIE-1: Quality Place of the Core Strategy recognises that specific regard should be had to the sites' context in relation to surrounding buildings and spaces.

The Council require all development to be designed to a high standard in order that it makes a positive contribution to the provision of an attractive built environment. This

does not mean that a new development has to exactly replicate the style and character of the existing building or its locality, but it should be harmonious with what is already there. The character of an area is reflected in the layout, massing, scale, height, style and materials of buildings and the spaces around them.

The Councils 'Extensions and Alterations' SPD advises that detached buildings should in general:

- Be sited as so as not to affect the street scene. Buildings between a house and a road in most cases are likely to appear as prominent features and should generally be avoided.
- Be of an appropriate scale and appear clearly subordinate in relation to the main house.
- Be appropriately designed, pitched roofs will be encouraged on all buildings, flat roofs should generally be avoided, an exception to this may be the provision of a green roof.
- Respect the type, colour and texture of materials used in the original house.

The replacement garage is sited in roughly the same position as the previous garage which was demolished. It is sited in the rear north east corner of the garden of the property and is to the rear of No. 44 Spath Lane East. The garage is visible from Spath Walk, however, it is set back approximately 4.9m from Spath Walk and given its size and design does not appear overly prominent in the street scene. The garage is screened to the rear by existing boundary treatments.

The garage is larger than the previous garage it replaced. The previous garage had a maximum height of approximately 3.6m, a width of 3.0m and a length of 5.2m. The replacement garage has a maximum height of approximately 3.53m, a maximum width of 5.28m and a maximum length of 6.17m. Despite its larger size, the replacement garage is an appropriate scale and is clearly subordinate in relation to the main house. Furthermore, permitted development would allow for an outbuilding up to 2.5 metres in height within 2 metres of the boundary and up to 4m in height at least 2m away from the boundary of the curtilage of the house (Schedule 2, Part 1, Class E). These "fall-back" options are a material consideration in the determination of the application and lend support to the proposal.

The garage has an acceptable design; noting the use of a pitched roof. The materials of construction including brickwork, concrete roof tiles, a GRP wood effect 'up and over door', a timber pedestrian door, white power coated aluminium bi-folding doors and off-white K render finish are considered suitable for the structure and its location.

In view of the above, it is considered that the replacement garage respects the design, scale, materials, character, appearance and proportions of the existing dwelling and surrounding area and does not result in harm to the character of the street scene or the visual amenity of the area in accordance with UDP policy CDH1.8 and Core Strategy policy SIE-1.

#### Highway Safety & Parking

Comments are noted regarding concerns that extra vehicles would use the small area at the end of Spath Walk. Comments are also noted that Spath Walk is a private road which is privately maintained and funded and that the application property has right of way onto Spath Walk.

In response, it is understood that the replacement of a single garage with a double garage has meant that the applicant can accommodate both their cars under cover and it would not lead to any increase in traffic or worsening of the road condition. The maintenance and funding of Spath Walk is not a planning matter and as such it cannot be considered as part of this application.

The following comments were received from the Council's Highway Safety Officer:

*"New double garage replaces an existing single garage and re-uses same access onto Spath Walk. The development raises no highway concerns in principle as it will not result in any increase in traffic.*

*The previous impermeable drive has been replaced with permeable sub-base and stone topping which would support sustainable drainage policies.*

*The increased width of drive where meeting Spath Walk affords better visibility between users of the drive and Spath Walk than the previous arrangement.*

*No objections."*

Given the above, the replacement garage is considered acceptable in relation to highway safety and parking provision and therefore accords with policy CS9, T-1, T-2 and T-3 of the adopted Stockport Core Strategy DPD the guidelines set out in the 'Extensions and Alterations to Dwellings' SPD and the National Planning Policy Framework.

#### Green Belt/Landscape Character Area

Saved UDP Policy GBA1.2 states that there is a presumption against the construction of new buildings within the Green Belt unless it is for certain purposes, including limited extension and alterations to existing dwellings. Saved UDP policy GBA1.5 states that proposals relating to existing residential uses may be permitted in certain cases, including alterations and extensions where the scale, character and appearance of the property would not be significantly changed.

The NPPF confirms that inappropriate development is harmful to the Green Belt and should not be approved other than in 'very special circumstances' (para 147). A local planning authority should regard the construction of new buildings as 'inappropriate' in the Green Belt; exceptions to this are set out at para 149 and 150.

The erection of a garage fails to fall within any of the excepted forms of development set out in saved policies GBA1.2 and GBA1.5 nor para's 149 and 150 of the NPPF. As the garage is materially larger than the previous garage it replaces, it does not comply with exception d) of para 149 i.e. *"the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces"*. As such the development is considered to be inappropriate in the Green Belt and in accordance with para 147 of the NPPF can only be approved in very special circumstances.

Para 148 confirms that in considering any planning application, substantial weight should be given to any harm to the Green Belt. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of its inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

Information has been submitted by the agent to accompany the application to support very special circumstances. The information highlights:

- The applicant replaced the original single garage in the belief that the replacement outbuilding complied with Class E and was therefore permitted development. This was on the basis that the eaves height is 2.375 metres and the ridge height is 3.530 metres, thereby complying with the primary limitations of paragraphs (e) and (f) of Class E.
- However, as the garage stands 1.1 metres from the northern boundary of the property, the applicant accepts limits the maximum height of the garage should not be more than 2.5 metres.
- The agent considers that this minor oversight which dictates that permission is needed does not represent a basis to refuse planning permission, as a simple re-positioning of the garage or the replacement of the pitched roof with a flat roof would ensure that the outbuilding would fall within permitted development limits.

As explained previously, the detached double garage replaces a previous detached single garage. Although, the garage subject of this application is larger in size than the previous garage, it is clearly subordinate in scale to the existing house and is only slightly larger than what would be allowed under permitted development.

It is considered that the siting of the garage is appropriate. It is screened from neighbouring properties by fencing and hedging and it is not overly prominent when viewed from Spath Walk. The design and materials are considered appropriate. As such, it is considered that the proposal does not result in any detrimental impact on the openness of the Green Belt.

For the reasons stated above, it is considered that 'very special circumstances' can be demonstrated.

### **SUMMARY**

The general design of the replacement garage is considered acceptable in terms of its relationship to the existing dwelling, the character of the street scene and the visual amenity of the area in accordance with UDP policy CDH1.8 and Core Strategy policy SIE-1.

The proposal does not unduly impact on the residential amenity of the surrounding properties or prejudice a similar development by a neighbour, in accordance with UDP policy CDH1.8 and Core Strategy policy SIE-1.

The proposal is acceptable in relation to highway safety and parking provision and therefore accords with policy CS9, T-1, T-2 and T-3 of the adopted Stockport Core Strategy DPD the guidelines set out in the 'Extensions and Alterations to Dwellings' SPD and the National Planning Policy Framework.

Other material considerations such as the Extensions and Alterations to Dwellings SPD and the NPPF have also been considered and it is judged the proposal also complies with the content of these documents.

By definition the proposal constitutes inappropriate development, however, it is considered that the case for very special circumstances is sufficient to outweigh harm by reason of inappropriateness. On balance the proposal amounts to Sustainable Development, consequently it is recommended that permission be granted subject to appropriate planning conditions.

**RECOMMENDATION**

Grant subject to conditions.