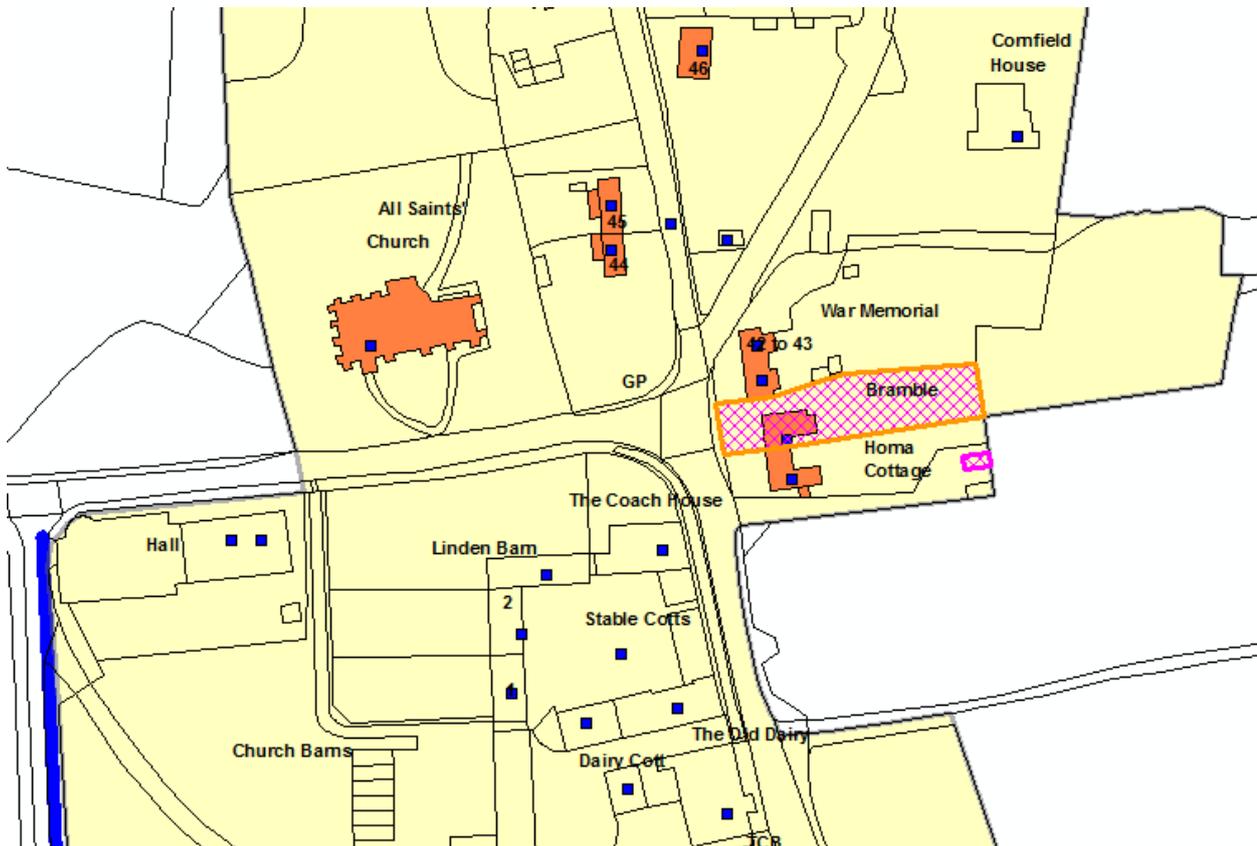


WINCHESTER CITY COUNCIL

PLANNING COMMITTEE

**Case No:** 19/01772/FUL  
**Proposal Description:** Erection of patio/barbecue area, raised planters, pergola to the rear of the building and fence to bin/log store in accordance with the amended plans received 3<sup>rd</sup> December 2019  
**Address:** Bramble Cottage 41 Stratton Lane East Stratton SO21 3DT  
**Parish, or Ward if within Winchester City:** Micheldever  
**Applicants Name:** Mr Joseph Parkin  
**Case Officer:** Verity Osmond  
**Date Valid:** 3 September 2019  
**Recommendation:** Permit

**Pre Application Advice: No**



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### **General Comments**

The application is reported to Committee as a Councillor lives next door to the application site and has submitted an objection to the application (Appendix A).

Planning Permission is required for the development, as the pergola, patio/barbeque area and raised planters fall within the definition of "building" in Section 336 (1) of the Town and Country Planning Act 1990 (TCPA) as the definition includes any structure or erection.

Planning permission is required because the development is situated within the curtilage of a listed building and does not therefore benefit from permitted development rights.

Amended plans were received on 3<sup>rd</sup> December 2019 reflecting negotiations with the applicant to reduce the height of the structures.

### **Site Description**

The application site is comprised of a Grade II listed building, which is a two-storey semi-detached property set within a simple open garden with views to the countryside and fields beyond. The historic significance of Bramble Cottage lies in its small scale, vernacular; timber framed and thatched appearance and character. It was a 'two up two down' cottage then extended in the late 20<sup>th</sup> century with a two storey rear wing and single storey side extension. The extensions were considered at the time to conform to the character of the cottage. A single storey rear extension was approved in 2018.

The application site is also located within the East Stratton Conservation Area which is characterised by 17<sup>th</sup> and 18<sup>th</sup> century thatched cottages leading southwards to 19<sup>th</sup> century estate cottages.

### **Proposal**

The application seeks to regularise the pergola, patio/barbecue area, raised planters, and the fence to the bin and log store, which were constructed without planning permission. The amended plans were submitted to show agreed reductions in height for these elements, which still need to be carried out. The stepped section of the patio, including the built in barbecue area will be lowered in height by approximately 24cm and the height of the pergola is intended to be reduced by to approximately 2.1 metres. The height of the fence enclosing the bin area and log store is also shown to be reduced to approximately the height of the existing timber fence forming the boundary with Bailey's End. The raised planters remain at the same height as originally constructed within the amended plans.

### **Relevant Planning History**

18/02608/HOU (PER 25.01.2019) Single storey rear extension and internal alterations  
18/02609/LIS (PER 25.01.2019) Single storey rear extension and internal alterations  
17/02665/HOU (REF 24.05.2018) Erection of an oak framed garden room extension to rear elevation and reworking of existing side extension.

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17/02666/LIS (REF 24.05.2018) Erection of an oak framed garden room extension to rear elevation and reworking of existing side extension.

16/01583/FUL (Withdrawn 03.10.2016) Single storey rear/side extension to listed grade II domestic two storey dwelling.

16/01584/LIS (Withdrawn 03.10.2016) Single storey rear/side extension to listed grade II domestic two storey dwelling.

05/01141/LIS (PER 28.06.2005) Internal alterations for a new shower room, alterations to fireplace and re-siting of boiler

### **Consultations**

#### Service Lead for the Built Environment

Historic Environment:

Consultation response: No objection.

Comments and advice:

This application is part retrospective and seeks the retention of a barbeque area with raised planters and patio, incorporating a log store and bin area, along with a pergola, at the side and rear of Bramble Cottage, a grade II listed building located in the East Stratton Conservation Area. The patio is located at the rear of the listed building with the barbeque area and bin/log store to the northern side of the patio. The pergola is located to the north east of the cottage beyond the patio within the lawn but also accessed from the barbeque area to which it is adjacent. It has a decked area beneath. All structures are physically independent of the listed building.

#### Significance of the listed building:

Bramble Cottage is a semi-detached one and a half storey 2 bay dwelling dating from the 17th century constructed in a mix of timber framing and brick to the external walls but now covered in harling render painted white. The building has a half hipped thatched roof with flush ridge. The property has been subject to a number of alterations and extensions, particularly during the C20, when a one and a half storey extension was added to the rear at right angles to the main range, and again in the late C20 when a single storey flat roofed extension partially infilled the gap between the historic range and the rear extension. Most recently, permission has been granted for a further single storey flat roofed extension to the rear, which sits within the building line of the one and a half storey extension. The building is considered to have reached the limit to which it can be extended without irreparably harming its special architectural and historic interest.

Despite later extensions the historic form and vernacular character of Bramble Cottage is still clearly discernible, as it is historic, visual and physical relationship with its neighbour, Homa Cottage (listed as a pair). Bramble Cottage sits on higher ground than Homa cottage but they share a continuous ridge line. In contrast to Bramble Cottage, and probably due to the change in levels, Homa Cottage has eyebrow dormers beneath a thatched roof. The stack to Bramble Cottage is located between the two bays whilst that at Homa Cottage is at the southern end.

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The significance of Bramble Cottage can be summarised as; a good example of a modest 2 bay one and a half storey C17 timber framed cottage, the evolution of which, along with its adjoining neighbour Homa Cottage, remains evident from their built form, retained historic fabric, and floorplan. The buildings maintain an attractive, vernacular historic appearance which, despite being harmed to a marginal degree by the application of an inappropriate render in the C20, and despite C20 extensions to the rear, remains clearly evident and appreciable.

#### Contribution of setting to significance:

Historic England's guidance 'The Setting of Heritage Assets: Historic Environment Good Practice Advice in Planning Note 3 (Second Edition)', gives guidance on how to understand setting and how it may contribute to an asset significance.

Setting is defined in the NPPF as ; *The surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral (NPPF, Annex 2: Glossary).*

The guidance states that; *'A thorough assessment of the impact on setting needs to take into account, and be proportionate to, the significance of the heritage asset under consideration and the degree to which proposed changes enhance or detract from that significance and the ability to appreciate it.'* (Pg. 2).

The guidance is clear that ; *'Setting is not itself a heritage asset, nor a heritage designation, although land comprising a setting may itself be designated. Its importance lies in what it contributes to the significance of the heritage asset or to the ability to appreciate that significance'*.(Pg. 4).

The setting of Bramble Cottage is not solely confined to its domestic garden and this is only a small part of how the building is experienced and is an area that is largely experienced by occupiers of and visitors to the building only. The building is widely experienced from within the public domain, in particular from Church Bank Road, in which it is prominent in views approaching from the west, and from Stratton Lane. The ability to clearly view the front elevation of the building from the public domain along with glimpsed views along its northern side, and wider views of the property within the street scene and from glimpsed views between adjacent dwellings from slightly further afield, means it can be clearly appreciated as an historic dwelling of modest vernacular scale and picturesque appearance.

The steps set out in the above guidance have been used in assessing current proposals.

#### Impact on the setting of the listed building:

##### Barbeque and log/bin store:

The proposed barbeque and log/bin store is somewhat incongruous and alien within the context of the garden to a vernacular building by virtue of its sprawling footprint and the use of painted render, which, while matching the house, is not a traditional finish for  
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ancillary garden structures which are normally expected to be of timber. The impact of the form and materials is compounded by the use of raised planters which add to the degree of perceived solidity and mass of the structure, although it is appreciated that once matured these planters would have the effect of visually softening the structure. The reduction in the height of the structure proposed would be welcomed as any reduction in size or mass would help to reduce the impact on the setting of the listed building.

The proposed structures would have the greatest impact on setting when viewed from the side (north) and rear (east) of Bramble Cottage within the garden which was both historically, and remains, private amenity space associated with the habitation of the cottage. They would be largely screened from view from the public domain to the north and south by adjoining development, and a glimpse of the log/bin store view may be obtained from the east from the narrow gap between Bramble Cottage and Bailey's End, the adjacent property to the north. When viewed from within the garden the barbeque and stores would be read in the context of the modern rear extensions to the property and as part of the domestic garden, the majority of which would retain its soft landscaping and 'cottagey' appearance.

These structures have a very localised impact on the surroundings in which the building is experienced, predominantly from the garden, and do not detract from the ability to appreciate the significance of the listed building. Neither do they detract from the ability to clearly appreciate the building's wider setting or historic context as a modest timber framed cottage in a rural village location. They are clearly subservient to the listed building and their form very much reflects their function as a modern garden structure. Whilst the structures may be slightly incongruous due to the extent of their footprint and the use of materials, which create a stark appearance at present, the harm to the setting of the listed building (that is the surroundings in which the asset is experienced) that results, is so minimal and localised as to be at the negligible.

The structure would be entirely reversible without any legacy of harm. It is questioned whether removing some elements to be stand alone, such as the bin/log store, or the planters, would result in the stricter being defined as a building and therefore requiring planning permission.

Notwithstanding this, the negligible degree of harm identified to the setting of Bramble Cottage in terms of the incongruous appearance of the barbeque structure when experienced from within the garden, does not translate as harm to the significance of the listed building. It is considered that no harm to the significance of the listed building, as identified above, would result from proposals.

#### Pergola:

The pergola is a lightweight, visually permeable garden structure, the proportions and size of which would not be harmful in the proposed location. The pergola would be sited a sufficient distance from the rear extension to allow for clear visual separation between the house and garden structure and to avoid a sense of overcrowding or a cramped relationship. It is therefore considered that the pergola would not harm the setting of the listed building.

#### Impact on the character and appearance of the conservation area;

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Bramble Cottage is one of a series of vernacular, predominantly thatched, dwellings of modest size that positively contribute to the character and appearance of East Stratton Conservation Area. As noted above it is visually prominent in views from the west along Church Bank Road and to a lesser extent in views along Stretton Lane, where it has a much more localised presence due to the curve of the road in relation to the building lines and the set back of Bramble Cottage from the carriageway.

Whilst a glimpsed view of the proposed development may be obtained from the east in the gap between Bailey's End and Bramble Cottage, the distance at which the barbecue structure is set back from the road and the degree of verdant screening between the structure and the road results in the development being largely obscured from view. This glimpsed view is the area where development would be most readily appreciable from, and have the greatest impact on, the character and appearance of the conservation area. It is considered that the negligible visual impact of proposals would meet the statutory test of preserving the character and appearance of the conservation area.

### Summary:

For the above reasons proposals are considered to comply with national and local planning policy and guidance and sections 66 and 72 of the 1990 Act.

### **Representations:**

Micheldever Parish Council

- Some residents of East Stratton have also expressed concern at the extent of works being carried out at Bramble Cottage as large quantities of building materials have apparently been delivered. Please could you confirm that all the works carried out at Bramble Cottage are in accordance with the specifications noted in the above planning application, as seen and reviewed by the Parish Council. In particular that the overall height of the pergola and the dimensions of the posts are as described.

In addition, please could you confirm whether the raised platform, bin store and bbq area have been lowered or whether an additional retrospective application is to be submitted. The Parish Council felt that they would have no grounds to object to the pergola application as submitted. However, a taller or more substantial structure is likely to have been objected to, as would the raising of the level of different areas of the garden and I feel that this needs to be made clear when the application goes before the Planning Committee.

2 letters received objecting to the application for the following reasons:

- Visual impact of patio and pergola on neighbouring amenity
- View from outside of kitchen window of pergola and of the open back of the bin store, both with significant impact on amenity, as the view of the garden from the

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kitchen sink is frequently accessed during the day.

- Concentrated smell of the bins.
- Property being advertised on Air BnB with property and large outdoor terrace to be used as a party venue.
- Original level of garden area was appreciably below the level of the central area of the garden.
- Dumping of soil and alterations to the existing ground level
- The works, are contrary to the advice expressed by the historic environment officers in relation to previous applications on this site.
- Precedent and potentially cause harm to the whole village.
- Significantly more overlooking than before.
- Impact of the development on the setting of the host dwelling and adjacent listed buildings.
- Impact of the development on the East Stratton Conservation Area conflicting with the objectives
- Labelling of Plans and lack of clarity about 'existing' or original situation.
- Unauthorised works to be enforced and result of the revisions made will still have and impact on amenity, only acceptable way is to completely remove the pergola and unauthorised works.
- It is against the property boundary, beside, above and in view of 'Bailey's End', the adjoining property and will have an impact on the residents here.
- Pergola is under a mature tree

Reasons aside not material to planning and therefore not addressed in this report

- Fire safety of the barbecue area
- Threat of fire to thatched roofs

0 letters of support received.

#### **Relevant Planning Policy:**

#### Winchester District Local Plan Part 1 – Joint Core Strategy

Policy DS1 – Development Strategy and Principles

Policy MTRA 3 – Other Settlements in the Market Towns and Rural Area

Policy CP13 – High Quality Design

Policy CP19 – South Downs National Park

Policy CP20 – Heritage and Landscape Character

#### Winchester District Local Plan Part 2 – Development Management and Site Allocations

Policy DM3 – Small Dwellings in the Countryside

Policy DM15 – Local Distinctiveness

Policy DM16 – Site Design Criteria

Policy DM17 – Site Development Principles

Policy DM23 – Rural Character

Policy DM27 – Development in Conservation Areas

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Policy DM28 – Demolition in Conservation Areas

Policy DM29 – Heritage Assets

### National Planning Policy Guidance/Statements:

Section 4 of National Planning Policy Framework 2019

Section 16 of the National Planning Policy Framework 2019

Section 66 of Planning (Listed Building and Conservation Areas) Act 1990

Section 72 of Planning (Listed Building and Conservation Areas) Act 1990

Planning Practice Guidance – Historic Environment section.

### Supplementary Planning Guidance

Micheldever Parish Village Design Statement 2002.

East Stratton Conservation Area Technical Assessment 1986

High Quality Places SPD 2015

## **Planning Considerations**

### Principle of development

Paragraph 47 of the NPPF requires that applications for planning permission be determined in accordance with the Development Plan unless material considerations indicate otherwise. The application site is not located within a defined settlement boundary, however the principle of development within the residential curtilage of the property is accepted under Policy MTRA 3 of Winchester District Local Plan Part 1 (LPP1) provided the development is proportionate in scale and in design and conserves the settlement's identity.

The development site is outside of a defined settlement boundary and is within the countryside. In this area, Policy DM3 of the LPP1 seeks to retain small dwellings to restrict the loss of such dwelling types across the district. The policy achieves this by restricting dwellings with a floor space below 120sq.m to a 25% expansion. The existing dwelling has a floor space in excess of 120sqm and a size restraint does not apply to alterations. Therefore this policy is not applicable to this application.

Policy DM23 of Winchester District Local Plan Part 2 (LPP2) deals with development outside defined settlement boundaries and proposals which accord with the Development Plan will be permitted where they do not have an unacceptable effect on the rural character of the area, by means of visual intrusion, the introduction of incongruous features, the destruction of locally characteristic rural assets, or by impacts on the tranquillity of the environment. This policy is relevant to this application and follows on from Policy MTRA 3 which allows this type of development in principle.

Policy DM27 of LPP2 establishes the principle of development within the District's Conservation Areas and allows for development proposals which conserve or enhance the character, appearance or special architectural/historic interest of the area in accordance with the Development.

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The development is located within the curtilage of a Grade II listed building. The principle of alterations to a listed building is accepted under Policy DM29 of WDLPP2 provided that any alterations, additions or other works affecting the special interest of a heritage asset:

- retain the historic plan form and structural integrity of the building
- retain the architectural and historic features forming part of the special interest of the building
- reinforce the intrinsic character of the building through the use of appropriate materials and details;
- not harm the special interest of the buildings or structures forming part of the curtilage of the heritage asset.

The development does not fall under Schedule I or Schedule II of the EIA Regulations, therefore an Environmental Impact Assessment is not required. Due to the nature of the development and the distance between the application site and the European Protected Site of the Solent SAC and SPA and the River Itchen SAC, an appropriate assessment under the Habitats & Species (Amendment) Regulations 2011 is not required.

The assessment of the application in relation to the Development Plan policies is set out below.

#### Impact on Listed Building and Character of Conservation and Rural Area.

A planning application was submitted for the erection of a pergola to the rear of the dwellinghouse which was approximately 2.4 metres in height. At the time of submitting the planning application, the timber posts of the pergola had been partly constructed, but the pergola had not been completed. Building continued on the site through the course of the application. In the amended plans, the proposal is to reduce the height of the pergola to approx. 2.1 metres. The amended plans also seek to regularise the patio and barbecue area which have been constructed without planning permission

As noted above, the development is within the curtilage of a Grade II listed building which is located within the East Stratton Conservation Area with the following legislation and policies taken into account in the assessment and determination of this planning application.

The preservation of the special architectural/historic interest of the listed building and its setting (S.66 P(LBCA) Act 1990; Policy DM29 of the Winchester District Local Plan Part 2 Adopted 2017; Policy CP20 Winchester District Joint Core Strategy; NPPF (2019) Section 16.

The preservation or enhancement of the character or appearance of the conservation area (S.72 P(LBCA) Act 1990; Policies DM27 & DM28 of the Winchester District Local Plan Part 2 Adopted 2017; Policy CP20 Winchester District Joint Core Strategy; NPPF (2019) Section 16.

Of pertinence to this application proposal in the context of the surroundings are matters pertaining to heritage noting that the proposed development is located within the curtilage of a Grade II listed building. As such due regard has been given to Section 66 of the Planning (Listed Buildings and Conservation Areas Act 1990) which confirms that “special  
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attention shall be paid to the desirability of preserving or enhancing the character or appearance of the Listed Building/Structure. Case law has established that where an authority finds that a development proposal would harm the setting of a listed building, it must give that harm “considerable importance and weight”. The historic environment section of the Planning Practice Guidance further outlines the role of the Local Planning Authority in considering the effects of new development that are in the vicinity of or affect the setting of listing buildings and heritage assets. Paragraph 193 of the NPPF advises that great weight should be given to the conservation of a heritage asset in considering the impact of a proposal on its significance (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. Paragraph 194 states that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification. Policy CP20 of WDLPP1 and Policy DM29 of WDLPP2 ensure that development conserves and enhances heritage assets and their settings.

The historic significance of Bramble Cottage lies in its small scale, vernacular, timber framed and thatched appearance and it is important that any development does not have an unacceptable impact on what is significant regarding the setting and historic interest of the listed building. The setting of Bramble Cottage is not solely confined to its domestic garden and this is only a small part of how the building is experienced and is an area that is largely experienced by occupiers of and visitors to the building only. The building is widely experienced from within the public domain, in particular from Church Bank Road, in which it is prominent in views approaching from the west, and from Stratton Lane. The ability to clearly view the front elevation of the building from the public domain along with glimpsed views along its northern side, and wider views of the property within the street scene and from glimpsed views between adjacent dwellings from slightly further afield, means it can be clearly appreciated as an historic dwelling of modest vernacular scale and picturesque appearance.

The pergola is located towards the northern boundary of the application site and does not have any physical connection to the listed building. The pergola is a lightweight, visually permeable garden structure, the proportions and size of which would not be harmful in the proposed location. The pergola would be sited a sufficient distance from the rear extension to allow for clear visual separation between the house and garden structure and to avoid a sense of overcrowding or a cramped relationship. It is therefore considered that the pergola would not harm the setting of the listed building. It is noted that the pergola is located near to an existing maple tree, however this tree is not protected and the foundations of the pergola are very shallow meaning there is no detrimental impact to the tree roots.

Similarly, the patio and barbecue area are not physically connected to the historic part of the listed building. The raised planters are constructed on top of the patio area. The proposed barbecue and log/bin store is considered to be slightly alien by virtue of its sprawling footprint and painted render which is not considered to be a traditional finish in addition to the additional mass of the raised planters constructed on top of the patio. The reduction in the height is however considered to help reduce the impact on the setting of the listed building. The proposed structures would have the greatest impact on setting when viewed from the side (north) and rear (east) of Bramble Cottage within the garden which was both historically, and remains, private amenity space associated with the

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habitation of the cottage. They would be largely screened from view from the public domain to the north and south by adjoining development and a glimpse of the log/bin store view may be obtained from the east from the narrow gap between Bramble Cottage and Bailey's End, the adjacent property to the north. When viewed from within the garden the barbeque and stores would be read in the context of the modern rear extensions to the property and as part of the domestic garden, the majority of which would retain its soft landscaping and 'cottagey' appearance.

These structures have a very localised impact on the surroundings in which the building is experienced, predominantly from the garden, and do not detract from the ability to appreciate the significance of the listed building. Neither do they detract from the ability to clearly appreciate the building's wider setting or historic context as a modest timber framed cottage in a rural village location. They are clearly subservient to the listed building and their form very much reflects their function as a modern garden structure. Whilst the structures may be slightly incongruous due to the extent of their footprint and the use of materials, which create a stark appearance at present, the harm to the setting of the listed building, that is the surroundings in which the asset is experienced, that results, is so minimal and localised as to be at the negligible. Notwithstanding this, the negligible degree of harm identified to the setting of Bramble Cottage in terms of the incongruous appearance of the barbeque structure when experienced from within the garden, this does not translate as harm to the significance of the listed building.

In summary, the pergola is seen together with the listed building when standing in the rear garden, however given the degree of separation between the rear elevation of the listed building and the pergola and the visual permeability of its structure, it is considered that it will result in less than substantial harm to the significance of the setting and historic interest of the listed building, in accordance with Section 16 para 193 of the NPPF, S.66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and Policy CP20 of WDLPP1 and DM29 of WDLPP2 and the historic environment section of the Planning Practice Guidance. In addition, the patio/barbecue area, bin/log store and raised planters have such a minimal and localised impact on the listed building and result in less than substantial harm to the significance of the setting and historic interest of the Listed Building in accordance with Section 16 para 193 of the NPPF, S.66 of the Planning (Listed Buildings and Conservation Areas) Act and Policy CP20 of WDLPP1 and DM29 of WDLPP2.

Whilst the development is situated within the curtilage of a Grade II listed building, it is also adjoined by listed buildings on either side. In accordance with S.66 of the Planning (Listed Building and Conservation Areas Act) 1990 and Section 16 of the NPPF great weight should be given to development proposals that would harm the setting of a listed building. There will be some views of the pergola from the neighbouring properties, however given the distance between the pergola and these listed buildings and its open structure it is considered to result in less than substantial harm to the setting of the surrounding listed buildings. Furthermore, whilst there may be some views of the patio/barbecue area from the rear of these listed buildings, it is not considered to detract from their historic interest which lies in their roof thatch, symmetrical fenestration, casement windows, eyebrow dormers and ridge stacks or their setting in accordance with S.66 of the Planning (Listed Buildings and Conservation Area Act)1990.

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The site lies within the Conservation Area of East Stratton. Under Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, special attention should be paid to the desirability of preserving or enhancing the character or appearance of that area. Bramble Cottage is one of a series of vernacular, predominantly thatched, dwellings of modest size that positively contribute to the character and appearance of East Stratton Conservation Area. As noted above it is visually prominent in views from the west along Church Bank Road and to a lesser extent in views along Stretton Lane, where it has a much more localised presence due to the curve of the road in relation to the building lines and the set back of Bramble Cottage from the carriageway.

The pergola and patio area, including the raised barbecue, planters and fence to bin/log store, as proposed are considered to remain subservient to the host dwellinghouse and would have a limited localised impact on the character, appearance or historic interest of the East Stratton Conservation Area in accordance with DM27 of LPP2 and CP20 of LPP1. There may be some very glimpsed views of the pergola from Stratton Lane to the south of the site and from the east in the gap between Bailey's End and the application site, however the views afforded of the rear of the building from the public domain are extremely limited. This glimpsed view is the area where development would be most readily appreciable from, and have the greatest impact on, the character and appearance of the conservation area. It is considered that the negligible visual impact of proposals would meet the statutory test of preserving the character and appearance of the conservation area.

The proposals in their appearance, size, siting, detailing and the materials used are considered not to involve the erosion of character of the Conservation Area. Based upon the above assessment it is considered that the proposed development would conserve the character, appearance and historic interest of the Conservation Area in accordance with Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and in compliance with DM27 of LPP2, CP20 of LPP1 and para 16 of the NPPF and the historic environment section of the Planning Practice Guidance.

The application site is not located within a defined settlement boundary, so countryside policies apply to any development. Given the scale of the development and its location within the rear garden of a residential property it is not considered to result in significant visual intrusion to the wider rural area. There is a Public Right of Way (PROW) (Footpath 18 and 19) which runs along Church Bank Road and New Farm Road to the south west of the application site. There is another PROW (Footpath 20) to the south of the site running eastwards past The Old Post Office. The views of the rear garden of the application site are limited from both rights of way, there may be glimpses of the rear of the site from footpath 20, however the site is approx. 300 metres away from this footpath and in the context of the rear gardens of the neighbouring properties also seen from the PROW the development is not considered to harm its enjoyment or appreciation.

The application site is located over 4km away from the South Downs National Park, therefore the development will not affect any land within the National Park and is in accordance with Section 11a of the National Parks and Access to the Countryside Act 1949.

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The proposal is therefore not considered to result in significant harm to the rural character or appearance of the area in accordance with Policy DM15, DM16 and DM23 of WDLPP2 and also policies SB26, SB28, SB30 of the Micheldever Village Design Statement 2002.

#### Impact on Residential Amenity

Objection has been expressed in relation to how the development affects the levels of the rear garden and in relation to the impact of the patio and barbecue area on the amenities of the neighbouring rear garden, particularly to the north of the site. The proposed patio area is higher than the ground level as originally existed and there are steps proposed up from the patio to the rear garden. The rear garden of the application site as originally existed sloped down from the rear of the site towards the listed building, with a retaining wall leading down to an area of patio/hard surfacing. The development proposed in the amendments contains steps down to a patio area; and these steps are in a similar location to the original retaining wall, therefore whilst there is a material change in levels on site it is not considered to be significant. The height of the constructed patio, as built, is approx. 2 brick courses higher than the original ground level. The constructed patio contains a stepped section leading to the barbecue area towards the northern boundary of the site with Bailey's End, this section of the patio area is proposed to be reduced by approx. 24cm which is shown in the amended plans and will be approx. 20cm above the main patio level. The planters which have been constructed on the patio remain at the same height in the amended plans.

The existing fence which forms the boundary treatment between the application site and the neighbouring property at Bailey's End is low, with views across and into neighbouring properties historically being able to be achieved and hence a certain degree of overlooking between the application site and Bailey's End. Given the levels of the development that are now proposed in the amended plans and the expected intensity of use for the amenity area created, the original use as a garden and existing situation, the proposal, including the fence to the log/bin store, is not considered to result in level of harm to the privacy and amenities of the neighbouring properties of such an extent that would be significantly worse than the existing situation and demonstrably to the harmful detriment of the users of Bailey's End and Homa Cottage.

Objections have also been expressed in relation to the pergola and its visual intrusiveness on the neighbouring properties. In the amended plans, it is proposed to reduce the height of the pergola by 30cm and it is screened by the existing hedging which forms the rear part of the northern boundary. The structure comprises 4 timber posts, an open slatted roof, is visually permeable and is not considered to result in significant overbearing, harm to outlook from garden areas loss of light or overshadowing, harmfully detrimental to neighbouring amenity.

Condition 01 is recommended to ensure that works are carried out on site to implement the amended plans.

The proposal therefore accords with Policy DM17 of LPP2 and Micheldever Parish Village Design Statement policies SB26, SB28, SB30.

#### Other Matters

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The future use of the property, potentially as an Air B&B is not a material consideration in the assessment of the proposal.

An objection has been received relating to the quality of the plans accepted to validate the planning application. In line with the Communities and Local Government 'Guidance on the information requirements and validation', it is considered that the applicant had taken reasonable steps to fulfil the information requirements set out on the local list and it was not considered appropriate to delay validation. A particular objection has been received in regards to the amended plans which stated 'draft not for issue', however the amended plans were to scale, easily readable and were considered sufficient to re-publicise the application. In accordance with paragraphs 34 and 35 of the above document, the same plans were requested and submitted during the re-publication period which removed 'draft not for issue'.

#### **Recommendation**

Approve subject to the following condition(s):

01 Within 3 months from the date of this decision, the height of the patio/barbecue area, pergola and the fence forming the bin and log store area shall be reduced in accordance with approved drawing: Proposed Pergola and Barbecue Area Drawing no. 01 A dated November 2019. Should the height not be reduced within this timeframe, the use of the patio / barbecue area and pergola shall cease until the works have been undertaken.

Reason: In order to protect the occupiers of neighbouring properties from unacceptable overlooking and the overbearing impact of the unauthorised development in accordance with Policy DM17 of Winchester District Local Plan Part 2.

#### **Informatives:**

01 This permission is granted for the following reasons:

The development is in accordance with the Policies and Proposals of the Development Plan set out below, and other material considerations do not have sufficient weight to justify a refusal of the application. In accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004, planning permission should therefore be granted.

02 The Local Planning Authority has taken account of the following development plan policies and proposals:-

Winchester District Local Plan Part 1 (2013): DS1, CP13, CP19, CP20, MTRA 3

Winchester District Local Plan Part 2 (2017): DM3, DM15, DM16, DM17, DM23, DM27, DM28, DM29

Winchester District High Quality Places Supplementary Planning Document

Section 66 and Section 72 Listed Building and Conservation Area Act 1990

East Stratton Conservation Area Technical Assessment 1986

Micheldever Parish Village Design Statement 2002

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03 In accordance with paragraph 38 of the NPPF (July 2019), Winchester City Council (WCC) take a positive and proactive approach to development proposals, working with applicants and agents to achieve the best solution. To this end WCC:

- offer a pre-application advice service and,
- update applicants/agents of any issues that may arise in the processing of their application, where possible suggesting alternative solutions.

04 All building works including demolition, construction and machinery or plant operation should only be carried out between the hours of 0800 and 1800 hrs Monday to Friday and 0800 and 1300 hrs Saturday and at no time on Sundays or recognised public holidays. Where allegations of noise from such works are substantiated by the Environmental Protection Team, a Notice limiting the hours of operation under The Control of Pollution Act 1974 may be served.

05 During Construction, no materials should be burnt on site. Where allegations of statutory nuisance are substantiated by the Environmental Protection Team, an Abatement Notice may be served under The Environmental Protection Act 1990. The applicant is reminded that the emission of dark smoke through the burning of materials is a direct offence under The Clean Air Act 1993.

06 Please be respectful to your neighbours and the environment when carrying out your development. Ensure that the site is well organised, clean and tidy and that facilities, stored materials, vehicles and plant are located to minimise disruption. Please consider the impact on your neighbours by informing them of the works and minimising air, light and noise pollution and minimising the impact of deliveries, parking and working on public or private roads. Any damage to these areas should be remediated as soon as is practically possible.

For further advice on this please refer the Construction Code of Practice <http://www.ccscheme.org.uk/index.php/ccs-ltd/what-is-the-ccs/code-of-considerate-practice>

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**APPENDIX A**

Main objection from Councillor Gottlieb in relation to the amended planning application. Further emails have also been received from Councillor Gottlieb and these are available online to view.

**From:** Kim Gottlieb  
**Sent:** Wed, 4 Dec 2019 18:25:03 +0000  
**To:** Verity Osmond  
**Cc:** Gill Cooper; Julie Pinnock  
**Subject:** 19/01772/FUL - Bramble Cottage, East Stratton

Dear Verity

I have seen the drawing that was posted online yesterday. I don't understand how a drawing marked "DRAFT, NOT FOR ISSUE" could be accepted as part of any application.

Otherwise, the application is disingenuous in almost every respect. It is not a "part retrospective" application; it is entirely retrospective. What it describes as the "existing" situation is particularly misleading as all the works undertaken were unauthorised, and the drawing misrepresents what should be regarded as the starting position. It incorrectly indicates the existing garden level as what it shows is the level after they raised it.

The result of the revisions made is still wholly unacceptable and will still have a significant adverse impact on the amenity of my house. The proposed BBQ still presents a significant fire risk. The proposal still conflicts with the objectives of the Conservation Area and, as such, the application should be refused. The enforcement action commenced in respect of the unauthorised works should be pursued with some vigour. This situation has been the cause of much distress over the last six months, and it unreasonable for us to have to endure it any longer.

Regards Kim

Kim A Gottlieb