



Report to West Area Planning Committee

Application Number:	21/08547/VCDN
Proposal:	Variation of condition 2 (plan numbers) attached to pp 21/06577/FUL (Demolition of existing dwelling and erection of replacement dwelling with parking and amenity space) to allow for alterations to approved design
Site Location:	Silver Birches Hawks Hill Bourne End Buckinghamshire SL8 5JQ
Applicant:	Mr and Mrs J and P Drayton
Case Officer:	Heather Smith
Ward(s) affected:	The Wooburns, Bourne End & Hedsor
Parish-Town Council:	Wooburn And Bourne End Parish Council
Date valid application received:	2nd December 2021
Statutory determination date:	27th January 2022
Recommendation	Application Refused

1.0 Summary & Recommendation/ Reason for Planning Committee Consideration

- 1.1 This application is made under S73 of the Town and Country Planning Act 1990 (as amended) Act for a variation of condition 2 (plan numbers) attached to pp 21/06577/FUL (Demolition of existing dwelling and erection of replacement dwelling with parking and amenity space) to allow for alterations to approved design.
- 1.2 The principle of erecting a replacement dwelling has been established under the previous planning permission,
- 1.3 This proposal will have no adverse effect upon the amenities of adjacent residents or the character of the surrounding area.
- 1.4 This application has been referred to the Planning Committee, as the applicant is Cllr Penelope Drayton – Ward Councillor for The Wooburns, Bourne End and Hedsor.

2.0 Description of Proposed Development

- 2.1 This application is made under S73 to vary the condition specifying the approved plans. Permission was granted on 13th October 2021 (21/06577/FUL) for the demolition of the existing dwelling and erection of replacement dwelling with parking and amenity space.

- 2.2 It is now proposed to vary planning permission 21/06577/FUL as follows:
- a) North Elevation - Alterations to first floor fenestration
 - b) East Elevation – Glazed screens either side of main entrance door(s) widened ∅
Windows to kitchen reduced to a single opening
 - c) South Elevation – Additional window in ground floor to double office
 - d) South Elevation – principal window serving the office amended to a floor-ceiling height window
- 2.3 Amended plans have been received which show that the windows in the first floor western elevation, previously proposed have been omitted from this scheme.
- 2.4 This application is made under Section 73 of the Planning Act. Although often referred to as an application to vary or remove a condition an application under this section of the Act actually has no effect on the original permission it is not an amendment to the earlier permission. It is a separate freestanding permission that the applicant is entitled to implement or ignore. This application must therefore be capable of being implemented in its own right and therefore all appropriate conditions and obligations must be imposed.
- 2.5 The merits of the condition(s) must be assessed against an up to date development plan. As any permission granted would in effect be a free standing planning permission all conditions to which the planning permission should adhere must be reattached. Section 73 of the Town and Country Planning Act 1990 (as amended) states:
- “Determination of applications to develop land without compliance with conditions previously attached.
1. This section applies, subject to subsection (4), to applications for planning permission for the development of land without complying with conditions subject to which a previous planning permission was granted.
 2. On such an application the local planning authority shall consider only the question of the conditions subject to which planning permission should be granted, and—
 - a) if they decide that planning permission should be granted subject to conditions differing from those subject to which the previous permission was granted, or that it should be granted unconditionally, they shall grant planning permission accordingly, and
 - b) if they decide that planning permission should be granted subject to the same conditions as those subject to which the previous permission was granted, they shall refuse the application.
- 2.6 The application is accompanied by:
- a) Covering letter

3.0 Relevant Planning History

3.1

Reference	Development	Decision	Decision Date
21/05002/FUL	Demolition of existing dwelling and construction of replacement dwelling with	WDN	11 February 2021

retaining wall, alterations to existing driveway and turning point

21/06577/FUL	Demolition of existing dwelling and erection of replacement dwelling with parking and amenity space	PER	13 October 2021
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4.0 Policy Considerations and Evaluation

Principle and Location of Development

Wycombe District Local Plan (August 2019): CP1 (Sustainable Development), CP3 (Settlement Strategy), CP4 (Delivering Homes), DM33 (Managing Carbon Emissions, Transport and Energy Generation)

DSA: DM1 (Presumption in favour of sustainable development)

- 4.1 The principle of this development has been assessed under the previous approved application. Therefore it is only the changes that need to be assessed. The proposal does not have any implications in terms of affordable housing, transport issues, ecology/biodiversity, the environment, flooding or building sustainability.
- 4.2 The only matters for consideration include a) the impact of this development on the character and appearance of the surrounding area and b) the impact of this development on the amenities of adjacent residents.

Raising the quality of place making and design

Wycombe District Local Plan (August 2019): CP9 (Sense of place), DM34 (Delivering Green Infrastructure and Biodiversity in Development), DM34 (Delivering Green Infrastructure and Biodiversity in Development), DM35 (Placemaking and Design Quality)

DSA: DM11 (Green networks and infrastructure), Housing intensification SPD, Householder Planning and Design Guide SPD.

- 4.3 The revised proposals involve alterations to the design and position of individual windows for the replacement dwelling.
- 4.4 The windows now proposed are considered to be in keeping with the style of the approved development and will not detract from the character and appearance of the host structure.
- 4.5 With regard the character of the surrounding area, the proposed alterations will have no adverse effect.

Amenity of existing and future residents

Wycombe District Local Plan (August 2019): DM35 (Placemaking and Design Quality), DM40 (Internal space standards)

Housing intensification SPD

- 4.6 This application, as originally submitted, proposed to add first floor habitable room windows in the west elevation of the new dwelling. However, these new windows would have overlooked the private amenity space and habitable room windows to both the adjacent properties at The Chalet and Samarra, resulting in an unacceptable loss of privacy to the adjacent residents.
- 4.7 Following objections from an adjacent resident, the applicant agreed to amend the application by omitting the first floor windows from the scheme. The scheme now

proposed will have no adverse effect upon the privacy or any other amenity enjoyed by neighbouring residents.

- 4.8 Concerns have been raised regarding an inadequate access, increased noise and disturbance and surface water drainage. However, these matters were addressed under the previous application and do not apply to this current application.

Infrastructure and Developer Contributions

- 4.9 The development is a type of development where CIL would be chargeable].

Consideration of Previously Imposed Conditions

- 4.10 Condition 1 – Time Limit: A new time limit condition specifying development to be begun by 13.10.2024 is appropriate – a S73 application cannot extend the time period for implementation beyond that of the original permission
- 4.11 Condition 2 – Plans – a new condition is required
- 4.12 Condition 3 – Surfacing materials – to be re-imposed
- 4.13 Condition 4 – Building materials – to be re-imposed
- 4.14 Condition 5 – Surface water Drainage – to be re-imposed
- 4.15 Condition 6 – Electric car charging points – to be re-imposed
- 4.16 Condition 7 – Water Efficiency – to be re-imposed
- 4.17 Condition 8 – Ecology – to be re-imposed
- 4.18 Condition 9 – Levels – to be re-imposed
- 4.19 Condition 10 – Removal of permitted development rights – to be re-imposed
- 4.20 Informative 1 – Working with the applicant/agent – to be varied to reflect current application.

5.0 Weighing and balancing of issues / Overall Assessment

- 5.1 This section brings together the assessment that has so far been set out in order to weigh and balance relevant planning considerations in order to reach a conclusion on the application.
- 5.2 In determining the planning application, section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise. In addition, Section 143 of the Localism Act amends Section 70 of the Town and Country Planning Act relating to the determination of planning applications and states that in dealing with planning applications, the authority shall have regard to:
- a. Provision of the development plan insofar as they are material,
 - b. Any local finance considerations, so far as they are material to the application (such as CIL if applicable), and,
 - c. Any other material considerations.
- 5.3 As set out above it is considered that the proposed development would accord with the development plan policies.

- 5.4 Local Planning Authorities, when making decisions of a strategic nature, must have due regard, through the Equalities Act, to reducing the inequalities which may result from socio-economic disadvantage. In this instance, it is not considered that this proposal would disadvantage any sector of society to a harmful extent].
- 5.5 The Human Rights Act 1998 Article 1 the protection of property and the peaceful enjoyment of possessions and Article 8 the right to respect for private and family life, have been taken into account in considering any impact of the development on residential amenity and the measures to avoid and mitigate impacts. It is not considered that the development would infringe these rights.

6.0 Working with the applicant / agent

- 6.1 In accordance with paragraph 38 of the NPPF (2019) the Council approach decision-taking in a positive and creative way taking a proactive approach to development proposals focused on solutions and work proactively with applicants to secure developments.
- 6.2 The Council work with the applicants/agents in a positive and proactive manner by offering a pre-application advice service, and as appropriate updating applications/agents of any issues that may arise in the processing of their application.
- In this instance, the applicant/agent was updated of any issues after the initial site visit and was requested to remove the first floor windows in the west elevation of the proposed dwelling due to a loss of privacy with neighbouring residents. The applicant/agent complied and the application was referred to the Planning Committee with a recommendation for approval.

7.0 Recommendation

7.1 Grant Planning Permission, subject to the following conditions and reasons:-

1. The development hereby permitted shall be begun before the expiration of 13th October 2024.
Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 (As amended).
2. The development hereby permitted shall be built in accordance with the details contained in the planning application hereby approved and plan numbers 01; 01A; P100; 21-9164-001-00-ELE-REV and 21/9164-001-GF01-DT1-REV E; unless the Local Planning Authority otherwise first agrees in writing.
Reason: In the interest of proper planning and to ensure a satisfactory development of the site.
3. Notwithstanding any indication of materials which may have been given in the application, a schedule and/or samples of all surfacing materials shall be submitted to and approved in writing by the Local Planning Authority before any work to the finished surfaces of the development takes place. Thereafter, the development shall not be carried out other than in accordance with the approved details.
Reason: To secure a satisfactory appearance.

4. Notwithstanding any indication of materials which may have been given in the application, a schedule and/or samples of the materials and finishes for the development shall be submitted to and approved in writing by the Local Planning Authority before any work to the external finish of the development takes place. Thereafter, the development shall not be carried out other than in accordance with the approved details.

Reason: To secure a satisfactory external appearance.

5. The development hereby approved shall store all additional run-off within the site and either re-use it or release it into the ground through infiltration. Where the additional run-off is not to be re-used or on-site infiltration methods are not proposed, details of how the risk of flooding elsewhere will not be increased shall be submitted to and approved in writing by the local planning authority prior to any development taking place. The approved details shall thereafter be implemented prior to the development being brought into use and thereafter managed and maintained for the lifetime of the development.

Reason: To ensure that the development does not increase the risk of flooding elsewhere.

6. Prior to the occupation of the development hereby permitted, 1 electric vehicle 32 amp charging point must be installed. Thereafter the electric vehicle charging points must be maintained in full working order for the lifetime of the development

Reason: To assist in the reduction of air pollution from vehicular traffic by facilitating the use of electric vehicles to reduce the negative impact on the health of residents living within the Air Quality Management Area and to meet the requirements of Policies CP12 and DM33 in the adopted Wycombe District Local Plan (2019).

7. The development, hereby permitted, shall be designed and constructed to meet a water efficiency standard of 110 litres per head per day.

Reason: In the interests of water efficiency as required by Policy DM41 (Optional Technical Standards for Building Regulations Approval) of the Local Plan.

8. A scheme to mitigate against potential harm to protected species and compensate for the loss of features of ecological value on the site and to provide ecological enhancement shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of any development on the site. The details can be based on the recommendations of the submitted Cherryfield Ecology reports but must be specific about proposals including a plan showing locations of features. All works shall then proceed in accordance with the approved scheme with any amendments agreed in writing by the Local Planning Authority. The measures contained within the scheme shall thereafter be retained on site unless otherwise approved in writing by the Local Planning Authority.

Reason: To ensure that the development safeguards protected wildlife and achieves a net gain in biodiversity. Approval is required prior to commencement because if works start, this could prejudice the ability to achieve the required enhancements.

9. The levels of the development hereby permitted, shall adhere to the following;

a) That the finished floor level of the dwelling hereby permitted shall be 37.21 AoD(N)

b) Prior to the commencement of development, details of any changes to the existing ground levels from those shown on the Topographic Plan 01A (Groundsurveys Ltd dated December 2014), together with any retaining walls, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall only be carried out in accordance with the approved details.

Reason: To reduce the impact of the development upon the character and appearance of the area.

10 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended) (or any Order revoking and re-enacting that Order), no development falling within Classes A, D and E of Part 1 of Schedule 2 shall be carried out without the prior, express planning permission of the Local Planning Authority.

Reason: In order that the Local Planning Authority can properly consider the effect of any future proposals on the character and amenity of the locality.

INFORMATIVE(S)

- 1 In accordance with paragraph 38 of the NPPF2 Buckinghamshire Council approach decision-taking in a positive and creative way taking a proactive approach to development proposals focused on solutions and work proactively with applicants to secure developments. Buckinghamshire Council work with the applicants/agents in a positive and proactive manner by offering a pre-application advice service, and as appropriate updating applications/agents of any issues that may arise in the processing of their application.

In this instance, the applicant/agent was updated of any issues after the initial site visit and was requested to remove the first floor windows in the west elevation of the proposed dwelling due to a loss of privacy with neighbouring residents. The applicant/agent complied and the application was referred to the Planning Committee with a recommendation for approval.

APPENDIX A: Consultation Responses and Representations

Councillor Comments

None received

Parish/Town Council Comments

Comments: No objection.

Consultation Responses

Environmental Health Officer:

Comments: No objection.

Highway Authority:

Comments: No Objection

Representations

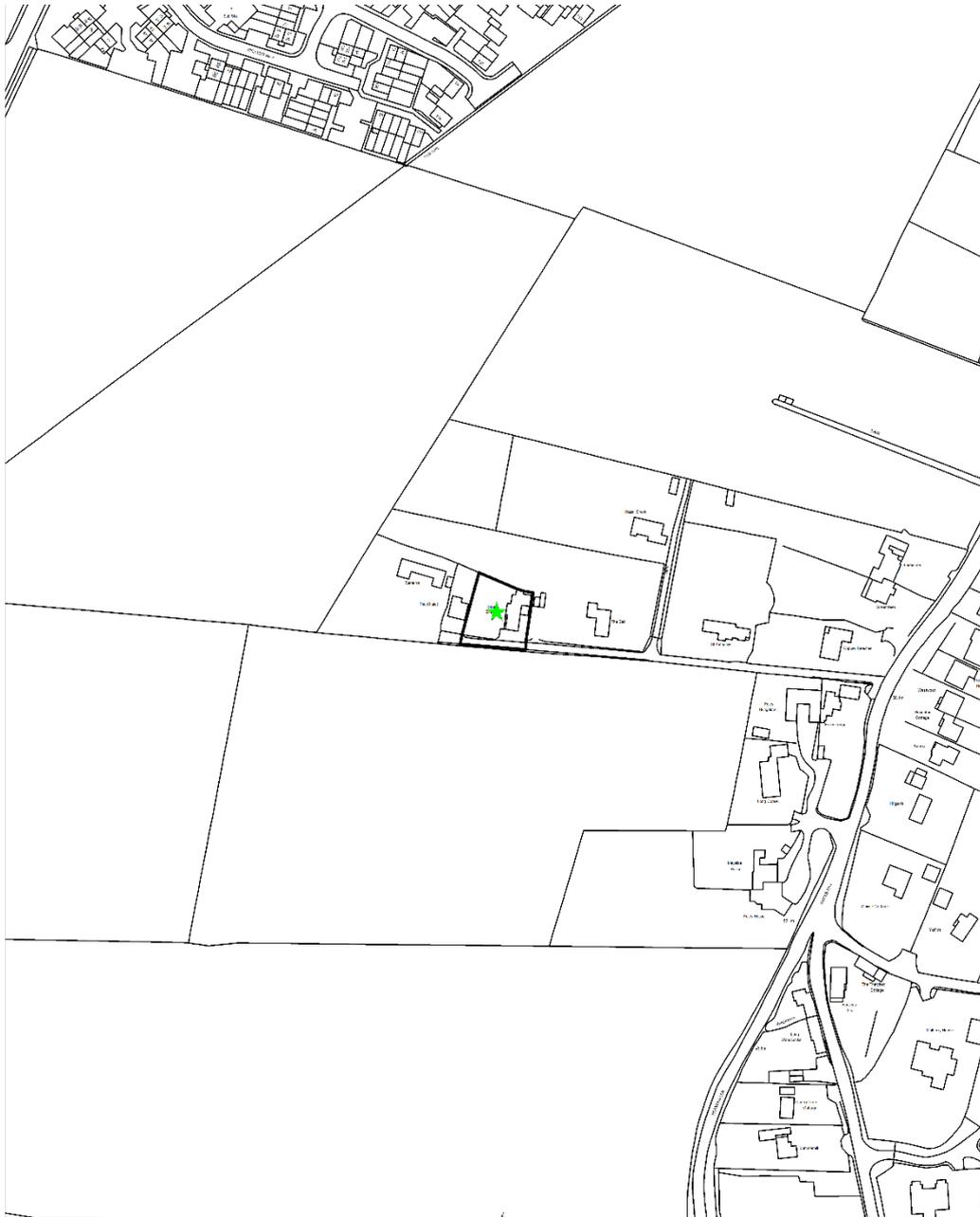
Objections have been received from an adjacent resident. The grounds of objection include:

- Loss of privacy from first floor windows in west elevation
- Inadequate access
- Increased noise and disturbance
- Problems with surface water drainage

APPENDIX B: Site Location Plan

21/08547/VCDN

Scale 1/2500



Planning Committee
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