



## Report to East Area Planning Committee

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<b>Application Number:</b>	PL/22/2881/VRC
<b>Proposal:</b>	Variation of Condition 2 (Approved Plans) of Planning Appeal Ref: APP/X0415/W/19/3219988 (Demolition of an existing dwelling and erection of two new semi-detached family dwellings with associated amenity space and car parking) to allow for amendments to the scheme including increase in depth to ground floor level single-storey rear projections and new dormer at rear roof level in line with Permitted Development Rights available to the completed development.
<b>Site location:</b>	Kerns 11 Woodlands Drive Knotty Green Buckinghamshire HP9 1JY
<b>Applicant:</b>	4 Lee's Ltd
<b>Case Officer:</b>	Melanie Beech
<b>Ward affected:</b>	Penn Wood & Old Amersham
<b>Parish-Town Council:</b>	Penn Parish Council
<b>Valid date:</b>	11 August 2022
<b>Determination date:</b>	8 December 2022
<b>Recommendation:</b>	Refuse Permission

### 1.0 Summary & Recommendation/ Reason for Planning Committee Consideration

- 1.1 Planning permission for development on this site was previously refused by the Planning Committee but subsequently allowed on appeal for “redevelopment of site to provide a pair of semi-detached dwellings, served by new access, gates, associated amenity space and car parking (reference CH/2018/0825/FA) dated 24<sup>th</sup> September 2019. Condition 2 of that permission requires the development to be built in accordance with the approved plans.
- 1.2 This application is submitted under Section 73 of the Town and Country Planning Act 1990 which allows conditions of an existing planning permission to be varied or removed. The application seeks to vary condition 2 of the original permission to substitute the approved plans with a new set of plans showing various amendments.

The proposed amendments include an increase in depth at ground floor level, alterations to the ground floor side windows, the conversion of the garages to studies, and the addition of a flat roof rear dormer window.

- 1.3 The principle of erecting two semi-detached dwellings on this site has already been established by the appeal decision and therefore the only issues to consider in determining this application are whether the effects of the proposed variations on material planning matters are acceptable.
- 1.4 Councillor Waters has called the application to Committee because he has concerns that the expansion of the properties and the proposed loss of garages means that both properties fall below the parking standards by one space (a loss of 2 spaces against the original planning permission).
- 1.5 The following report sets out the officer's assessment which determines that the proposed ground floor extensions and conversion of garages comply with the relevant Development Plan policies. However, it is considered that the proposed dormer window dominates the roof form and creates a bulkier development which has an adverse impact on the character of the new dwellings and surrounding area.
- 1.6 The site is within the Zone of Influence of the Burnham Beeches Special Area of Conservation (SAC) which means that, based on advice from Natural England, developers will need to make a financial contribution towards the Council's Strategic Access Management and Monitoring Strategy (SAMMS) which seeks to mitigate the potential adverse impact of the development on the SAC. Although the applicant is willing to enter into a legal agreement to secure such a financial contribution, none has been completed. This will only be pursued in the event of an appeal or if Committee Members are minded to approve the application.
- 1.7 Based on the officer's assessment, it is considered that the proposal is contrary to Policies GC1 and H18 of the Local Plan and Policy CS20 of the Core Strategy, and is therefore recommended for refusal. The application is brought to Committee because the officers have not included a reason for refusal based on Cllr Waters' original concern relating to parking.

## **2.0 Description of Proposed Development**

- 2.1 The application site is located on the southern side of Woodlands Drive within the built up area of Knotty Green, surrounded by residential development. The house which previously occupied the site has been demolished and work has commenced on the development which was allowed at appeal (dated 24<sup>th</sup> September 2019) for "redevelopment of site to provide a pair of semi-detached dwellings, served by new access, gates, associated amenity space and car parking" (reference CH/2018/0825/FA).
- 2.2 Condition 2 of that permission requires the development to be carried out in accordance with the approved plans. This application is submitted under Section 73 of the Town and Country Planning Act 1990 and seeks to vary condition 2 by submitting revised plans which will substitute the approved plans. The revised plans show the following alterations to the approved scheme:
  - An increase in depth to the ground floor of 1.5m
  - An increase in depth to the single storey rear projections of 3m
  - The addition of two ground floor windows on the side elevations

- The proposed integral garages are now studies
- The addition of a flat roof rear dormer window measuring 2m high, 7.1m wide and a maximum of 3.3m deep.

### **3.0 Relevant Planning History**

- 3.1 CH/2018/0825/FA - Redevelopment of site to provide a pair of semi-detached dwellings, served by new access, gates, associated amenity space and car parking – refused permission but allowed on appeal, 24<sup>th</sup> September 2019.
- 3.2 PL/22/2163/CONDA - Application for approval of Condition 3 (detailed plans including cross section) and 9 (ecological enhancements) of Planning Application CH/2018/0825/FA, Appeal Approval Ref. APP/X0415/W/19/3219988 – Conditions accepted 2<sup>nd</sup> August 2022.
- 3.3 PL/22/2892/CONDA - Application for approval of condition 4 (external facing and roofing materials) of planning application CH/2018/0825/FA, Appeal Approval Ref. APP/X0415/W/19/3219988 – Condition accepted 3<sup>rd</sup> November 2022.
- 3.4 PL/22/2882/VRC - Variation of Condition 2 (Approved Plans) of Planning Appeal Ref: APP/X0415/W/19/3219988 (Demolition of an existing dwelling and erection of two new semi-detached family dwellings with associated amenity space and car parking) to allow for amendments to the scheme including increase in depth to ground floor level single-storey rear projections in line with Permitted Development Rights available to the completed development – Pending Decision.

### **4.0 Summary of Representations**

- 4.1 At the time of drafting this report, 15 representations have been made on the application. A summary of these comments is set out in Appendix A.
- 4.2 Penn Parish Council raise a strong objection to the application as there is an increase in scale and bulk to the rear form, and parking provision is inadequate. They also consider that the proposed dormer window creates overlooking, loss of privacy and loss of light to neighbouring properties. They consider that the changes do not fall within permitted development rights as the property is yet to be built. Changes should be the subject of a new application, otherwise the properties should be built in accordance with the approved plans and to do otherwise would be a breach of planning conditions.
- 4.3 The Highway Authority raise no objection to the proposed variation. They note that in accordance with the Buckinghamshire County Wide Parking Guidance, the standard is for three car parking spaces per dwelling. Two spaces per dwelling are provided on the hardstanding to the front of the properties which therefore results in a shortfall of one space per dwelling. However, given the location of the site within a 10-minute walk of Beaconsfield Town Centre and railway station, and the absence of parking restrictions on Woodlands Drive, the Highway Authority are not in a position to recommend refusal on this matter, as the slight shortfall would not result in a highway safety issue.
- 4.4 It is understood that a parking review is currently taking place in the area but at the present time, there is no guarantee that parking restrictions will be implemented in future, or indeed what type of restrictions they may be.

## 5.0 Policy Considerations and Evaluation

- National Planning Policy Framework (NPPF), February 2019
- National Design Guide, October 2019
- Core Strategy for Chiltern District - Adopted November 2011
- Chiltern District Local Plan adopted 1 September 1997 (including alterations adopted 29 May 2001), consolidated September 2007 and November 2011
- Chiltern and South Bucks Community Infrastructure Levy (CIL) Charging Schedule
- Chiltern District Council Residential Extensions and Householder Development SPD, Adopted September 2013
- Chiltern and South Bucks Townscape Character Study, November 2017
- Buckinghamshire Countywide Parking Guidance September 2015

### Principle and Location of Development

Core Strategy Policies:

CS1 (The spatial strategy),

CS2 (Amount and distribution of residential development 2006-2026)

Local Plan Saved Policies:

H3 (Provision of new dwellings in the built-up areas excluded from the Green Belt (other than in accordance with Policies H2, H4 & H7)),

- 5.1 This application is submitted under Section 73 of the Town and Country Planning Act 1990 which allows conditions of an existing planning permission to be varied or removed. If the application is approved, the effect is the issue of a new planning permission, sitting alongside the original permission, which remains intact and unamended. It is then up to the applicant to decide whether to implement the new permission or the one originally granted.
- 5.2 The National Planning Practice Guidance states that when assessing these types of application, Local Planning Authorities should focus their attention on national or local policies or other material considerations which may have changed significantly since the original permission. In this instance, the relevant Development Plan policies have not changed and therefore the application will be assessed within the same policy framework as the previous application.
- 5.3 In this regard, the site is within the built up area of Knotty Green where, in accordance with Policy H3 of the Local Plan, new dwellings are acceptable in principle, provided there is no conflict with any other policy in the Development Plan and provided the proposed development is compatible with the character of the area by respecting the general density, scale, siting, height and character of buildings in the locality and the presence of trees, shrubs, lawns and verges.
- 5.4 The principle of erecting two dwellings on this site has already been accepted by the appeal decision and therefore the assessment of this application should focus on the effect of the proposed variations on material planning matters.
- 5.5 It is noted that the applicant has referred to Permitted Development rights in the description of the proposed development. It is stated that the proposed variations would be of such a scale that once completed, the occupiers of the new dwellings could implement them without the need for planning permission. Although that may be the case for some of the alterations, the dwellings are far from complete and therefore the proposed variations should be assessed on their own merits, although the potential for

some of the changes to be subsequently built anyway, as permitted development, is a material consideration.

### **Raising the quality of place making and design**

Core Strategy Policies:

CS4 (Ensuring that the development is sustainable)

CS20 (Design and environmental quality)

Local Plan Saved Policies:

GC1 (Design of development)

GC4 (Landscaping)

H11 (Distance between flank elevation(s) of a proposed multi-storey dwelling and boundary of dwelling's curtilage)

- 5.6 As stated above, the principle of erecting a pair of semi-detached houses on this plot has already been established and the applicant can continue to implement that permission in accordance with the approved plans.
- 5.7 The proposed variations at ground floor level are considered to be acceptable because they are located to the rear of the property and are set in from the plot boundaries, still leaving a large sized rear garden. It is noted these could be carried out as permitted development once the dwellings were complete. As such, it is not considered that the development will appear cramped in its plot.
- 5.8 However, it is considered that the proposed dormer windows would dominate the roof form and be disproportionate to the rest of the building. Although they are situated to the rear of the properties, given their height and depth they would be visible from Woodlands Drive and surrounding properties, making the new dwellings appear bulkier. There are no other examples of dormer windows in the area and as such, this element would create a discordant feature within the street scene. Furthermore, it is not agreed that these dormers could be built as permitted development once the dwellings were complete. As such the dormer structure is contrary to Policies GC1 and H18 of the Local Plan and Policy CS20 of the Core Strategy.
- 5.9 Furthermore, paragraph 134 of the NPPF states that 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. In this regard, the design would also be contrary to advice contained within the Chiltern District Council Residential Extensions and Householder Development SPD which states that dormer windows should respect the scale and proportions of the roof and should not dominate the roof. It goes on to state that large flat roof dormers are not encouraged because they often result in a window which appears bulky and overly dominating in a roof slope.

### **Amenity of existing and future residents**

Local Plan Saved Policies:

GC3 (Protection of amenities)

H12 (Private residential garden areas)

- 5.10 Local Plan Policy GC3 refers to the protection of amenities. It states that the Council will seek to achieve good standards of amenity for the future occupiers of that development and to protect the amenities enjoyed by the occupants of existing adjoining and neighbouring properties. Where amenities are impaired to a significant degree, planning permission should be refused.

- 5.11 The proposed rear extensions (including the additional side windows) are at ground floor level and are no closer to the neighbouring properties than the dwellings which were allowed on appeal. Although the depth of the dwellings has increased slightly at ground floor level, they remain set in from the boundaries by the same distance as the appeal scheme and would not have an adverse impact on the amenity of the neighbouring properties. It is noted that the rear single storey projections will now be 3 metres closer to the neighbouring property to the rear but this is set over 50 metres away and the garden is of a sufficient length that this relationship is still acceptable. Furthermore, the rear garden for the new dwellings is also still of a sufficient size (well over 15 metres depth) for future occupiers of the development.
- 5.12 With regard to the proposed dormer windows, the comments from the neighbouring properties and the Parish Council are noted with regard to concern over a loss of light and privacy. However, in this instance it is considered that the proposed dormer windows would not result in a materially different impact to the first floor windows which have already been approved under the previous application. The dormer window would also be set in a sufficient distance from neighbouring properties such that it would not cause a material loss of light.
- 5.13 As such, no objections are raised to the proposed variations in terms of the impact on residential amenity.

#### **Transport matters and parking**

Core Strategy Policies:

CS25 (Dealing with the impact of new development on the transport network)

CS26 (Requirements of new development)

Local Plan Saved Policies:

TR2 (Highway aspects of planning applications)

TR3 (Access and road layout)

TR11 (Provision of off-street parking for developments)

TR15 (Design of parking areas).

Buckinghamshire Countywide Parking Guidance September 2015

- 5.14 Access to the development is from Woodlands Drive and is unaltered from the original permission. The proposed increase in depth to the rear of the new dwellings, the proposed dormer windows and the alterations to the ground floor windows do not have any implications for highway matters.
- 5.15 However, the conversion of the garage into a study results in the loss of one car parking space per dwelling. In accordance with the Buckinghamshire Countywide Parking Guidance, the standard is for three car parking spaces per dwelling in this location. Two spaces per dwelling are provided on the hardstanding to the front of the properties which therefore results in a shortfall of one space per dwelling (two in total for the whole development).
- 5.16 In consultation with the Highway Authority, this shortfall is considered to be acceptable in this instance given that Beaconsfield Town Centre and railway station is within a 10-minute walk, and there are no restrictions on the road which enables residents to safely park on the highway. As the Highway Authority confirms there would be no highway safety issues arising from the slight shortfall, in the event of an appeal it would be difficult to defend a reason for refusal based on parking.

5.17 It is understood that a parking review is currently taking place in the area but at the present time, there is no guarantee that parking restrictions will be implemented in future, or indeed what type of restrictions they may be. As such, no objections are raised with regard to the proposed variation on the impact on highway safety.

#### **Environmental issues**

Core Strategy Policies:

CS4 (Ensuring that development is sustainable)

CS24 (Biodiversity)

Local Plan Saved Policies:

NC1 (Safeguarding of nature conservation interests)

5.18 The site is within the Zone of Influence of the Burnham Beeches Special Area of Conservation (SAC). Natural England has advised the Council that due to increased recreational pressure from occupiers of new houses, there could be a serious potential conflict between new housing development in this area and the conservation objectives for the protected features of the SAC.

5.19 In light of new evidence relating to recreation impacts, Natural England has advised that planning authorities must apply the requirements of The Conservation of Habitats and Species Regulations 2017 (as amended) to new housing within 5.6km of the SAC. Based on this advice, the Council has carried out an Appropriate Assessment for the proposed development, which concludes that the proposed development is likely to have a significant impact upon the integrity of the SAC.

5.20 In order to mitigate such impacts, the Council has adopted a Strategic Access Management and Monitoring Strategy (SAMMS) and the Council's approach is set out in the Burnham Beeches Special Area of Conservation Mitigation Strategy Supplementary Planning Document (SPD) which was adopted in March 2020.

5.21 The Council considers that the SAMMS, which is supported by Natural England, is robust and capable of mitigating the likely significant effects of the development, provided a financial contribution is made by the developer towards the SAMMS.

5.22 The applicant has agreed that they are willing to enter into a planning obligation to secure the contribution. However, given that the application is recommended for refusal, this will not be pursued at the current time and, as there is no mechanism in place to secure the contribution, this will form a second reason for refusal.

5.23 However, if Members are minded to overturn the recommendation to refuse the application, it is recommended that it is deferred for approval subject to the completion of a planning obligation to secure the appropriate contribution towards mitigation for the SAC.

### **6.0 Weighing and balancing of issues / Overall Assessment**

6.1 The principle of erecting a pair of semi-detached dwellings on this site has already been established and therefore the only consideration to be made in assessing this application is the effect of the proposed variations on material planning matters.

6.2 The proposed increase in depth at ground floor level is considered to be acceptable because it is situated to the rear of the properties, the dwellings are no closer to the side boundaries of the plot and are still a significant distance to the rear boundary.

- 6.3 The proposed dormer windows however, are considered to be disproportionate to the roof, creating a poor design which results in a discordant feature within the street scene, where there are no other examples of dormer windows.
- 6.4 With regard to the loss of the garages, it is acknowledged that this results in a shortfall of one car parking space per dwelling in comparison to the parking standards (a total of two for the whole development). However, in consultation with the Highway Authority, it is not considered that this should form a reason for refusal because the site is close to Beaconsfield Town Centre and railway station, and there is opportunity for residents to park safely on the road.
- 6.5 It is noted that the site is within the Zone of Influence of the Burnham Beeches SAC and that the developer is willing to enter into a legal agreement to secure a financial contribution to mitigate the potential adverse impacts of the development. This will only be pursued in the event of an appeal, or if Committee are minded to approve the application.
- 6.6 Based on the above assessment, it is considered that although some of the proposed variations are considered to be acceptable, the proposed dormer window fails to comply with Policies GC1 and H18 of the Local Plan, Policy CS20 of the Core Strategy and Section 12 of the NPPF. This harm to the character of the area attracts significant weight.
- 6.7 It must be noted that the Council does not have a five-year housing land supply. As such, the relevant policies for the supply of housing should not be considered up-to-date and paragraph 11(d) of the NPPF is engaged which states, “where the policies which are the most important for determining the application are out-of-date, granting planning 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 as a whole”.

The first point above does not apply, as the site is not located within a specified area. The provision of one additional dwelling weighs in favour of the proposal and would make a contribution to the delivery of housing in the area and the Government’s objective of significantly boosting the supply of new homes. The proposal would also provide some economic benefits in the form of short-term employment through the construction of the development and additional support to the local community from future occupiers using local facilities and services. However, the fallback position of completing the development allowed at appeal also provides the same benefits. Accordingly, the benefits attract little weight in favour of the scheme.

Against this is the harm that would be caused to the character and appearance of the area. This matter attracts significant weight given the harm identified would be contrary to the design and local distinctiveness objectives of both the development plan and the NPPF.

Consequently, the adverse impacts of the proposed development would significantly and demonstrably outweigh the benefits, when assessed against the policies in the



NPPF when taken as a whole. As such the proposal would not represent a sustainable form of development and it is therefore recommended for refusal.

## **7.0 Working with the applicant / agent**

7.1 In accordance with Section 4 of the National Planning Policy Framework, the Council, in dealing with this application, has worked in a positive and proactive way with the applicant and was focused on seeking solutions to the issues arising from the development proposal. However, in this case, the proposal did not accord with the Development Plan, and no material considerations were apparent to outweigh these matters. It was not considered that any changes during the course of the application would have reasonably overcome these issues, so the application was recommended for refusal on the basis of the submitted plans.

7.2 The following recommendation is made having regard to the above and also to the content of the Human Rights Act 1998.

## **8.0 Recommendation: Refuse Permission**

For the following reasons:-

1. The proposed dormer window is of a disproportionate scale to the host dwellings and dominates the roof form, resulting in a poor design. Given the height and depth of the dormer, it would be visible from Woodlands Drive and would result in the dwellings have a bulkier appearance. As there are no other examples of dormer windows in the area, this will be a discordant and unattractive feature within the street scene. It constitutes poor design and is contrary to Policies GC1 and H18 of The Chiltern Local Plan adopted 1 September 1997 (including alterations adopted 29 May 2001), consolidated September 2007 and November 2011, Policy CS20 of the Core Strategy for Chiltern District, Adopted November 2011, and Section 12 of the National Planning Policy Framework, 2021.
2. The occupants of the proposed development would add to the recreational disturbance of the Burnham Beeches Special Area of Conservation and the proposal would not contribute satisfactorily to mitigate its impacts in this respect. In the absence of a planning obligation to secure suitable strategic access management and monitoring, to the satisfaction of the Local Planning Authority, the proposal is contrary to Policy CS24 of the Core Strategy for Chiltern District - Adopted November 2011, the Burnham Beeches Special Area of Conservation Strategic Access Management and Monitoring Strategy SPD, and Section 15 of the National Planning Policy Framework, 2021.

## Appendix A – Consultation Responses

### Parish Council Comments

“Strong Objection -The scale of changes do not fall within permitted development rights, as they apply to a notional property, which has yet to be built. Changes should be the subject of a new application, otherwise the semis should be built according to the plans approved by the National Planning Inspector, and to do otherwise would be a breach of planning conditions. There is an increase in scale and bulk to the rear form. The rear dormer creates overlooking and privacy issues, plus loss of light to neighbours. Parking provision is inadequate, with garage loss, especially given the need for parking and turning”.

### Consultation Responses

#### **Highway Authority:**

“Thank you for your letter dated 22nd August 2022 with regard to the above planning application.

I note the Highway Authority has provided previous comments for this site, most recently for application no. CH/2018/0825/FA, which in a response dated 14th June 2018; the Highway Authority had no objection subject to conditions.

The application seeks planning consent for the variation of condition 2 to allow for a rear extension to the dwellings and the conversion of the proposed garages into habitable accommodation.

Having assessed the submitted plans, the proposed rear extension does not make a difference in highway terms and therefore I have no objection to this part of the proposal.

However, the conversion of the garage into a habitable room does result in the loss of one parking space within the site. It is noted that the site falls on the boundary between Zone B and Zone C within the Buckinghamshire Countywide Parking Guidance; however, given the location of the site which is within a 10-minute walk of Beaconsfield town centre and railway station, it is considered that parking standards for Zone B can be applied in this situation.

In accordance with this, the proposed site requires the provision of 3 parking spaces per dwelling. The external area of hardstanding fronting the dwellings appears to safely accommodate the parking of two vehicles, which therefore results in a shortfall in one parking space per dwelling. Whilst this is not ideal, given the nature of the road which does not benefit from parking restrictions and the ability to safely accommodate two vehicles on the highway if necessary, the Highway Authority is not in a position to recommend refusal on this matter.

Mindful of the above, I have no objection to the variation of condition 2.”

### Representations

At the time of drafting this report, 14 representations have been made on the application, which are summarised below:

- The proposed changes should be subject to a separate planning application
- The proposals contradict condition 2 of the appeal decision which states that the development shall be built in accordance with the approved plans
- Permitted Development rights should not apply to houses which have not been built
- The increase in the depth of the building is significant
- The increase in size exacerbates the already cramped appearance and overdevelopment of the site
- The design is not compatible with the surrounding houses
- The application is contrary to Policies H3 and GC1

- Loss of garage space results in inadequate parking
- Parking on the road (opposite the junction with Woodlands Glade) will become a hazard
- Dwellings will affect the neighbours in front and back gardens
- Dormer windows will be very visible from Woodlands Drive, are very prominent and of large proportion. They will be unsightly, reducing the quality of the area
- Dormer windows will cause issues of overlooking, loss of light and loss of privacy to neighbouring properties.