



Report to East Area Planning Committee

Application Number:	PL/22/2882/VRC
Proposal:	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.
Site location:	Kerns 11 Woodlands Drive Knotty Green Buckinghamshire HP9 1JY
Applicant:	4 Lee's Ltd
Case Officer:	Melanie Beech
Ward affected:	Penn Wood & Old Amersham
Parish-Town Council:	Penn Parish Council
Valid date:	11 August 2022
Determination date:	8 December 2022
Recommendation:	Application PL/22/2882/VRC be delegated to the Director of Planning, Growth & Sustainability to approve, subject to conditions and the satisfactory prior completion of a Section 106 Agreement. If the Section 106 Agreement cannot be completed the application be refused for such reasons as considered appropriate.

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 24th 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, and the conversion of the garages to studies.
- 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 variations do not have an adverse impact on the character of the area, amenity of neighbouring properties or on highway matters. This assessment has been made in consultation with the Highway Authority who raise no objection to the application.
- 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.
- 1.7 Based on the officer's assessment, it is considered that the proposal complies with the relevant Development Plan policies and therefore it is recommended that the application is deferred for approval, subject to completion of a planning agreement to secure the financial contribution to the SAMMS.
- 1.8 Essentially, this is the same as the previous application on the same Committee agenda, ref. PL/22/2881/VRC, but without the dormer structure across the rear.

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 24th 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.

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, 24th 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 2nd August 2022.
- 3.3 PL/22/2892/CONDA - Application for approval of condition 4 (external facing and roofing materials) of planning application Application CH/2018/0825/FA, Appeal Approval Ref. APP/X0415/W/19/3219988 – Condition accepted 3rd November 2022.
- 3.4 PL/22/2881/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 and new dormer at rear roof level 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 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 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, the dwellings are far from complete and therefore the proposed variations should be assessed on their own merits, although the potential for the changes to be subsequently built anyway, as permitted development, is a material consideration. An additional condition removing further permitted development rights to extend is proposed, given the slightly larger dwellings, which the Appeal Inspector did not include in their decision.

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. The proposed variations relate to the rear of the property and therefore the appearance of the dwellings will not alter in comparison to the approved scheme when viewed from the front of the property on Woodlands Drive.
- 5.7 The proposed variations will increase the scale and size of the dwellings but only to the rear at ground floor level. The dwellings will still be set in from the plot boundaries and will still leave large sized rear gardens. As such, it is not considered that the development will appear cramped or out of keeping with the surrounding area.

Amenity of existing and future residents

Local Plan Saved Policies:

GC3 (Protection of amenities)

H12 (Private residential garden areas)

- 5.8 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.
- 5.9 The proposed rear extensions (including the additional side windows) are all 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 at single storey level, they remain set in from the boundaries and are not considered to have an adverse impact on the amenity of the neighbouring properties. It is noted that the rear projections will now be 3 metres closer to the neighbouring property to the rear but this property is set over 50 metres away and the garden is of a sufficient length that this relationship is still considered to be acceptable.
- 5.10 Furthermore, the rear garden for the new dwellings is also still of a sufficient size (well over 15 metres) for future occupiers of the development. 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

- 5.11 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 and the alterations to the ground floor windows do not have any implications for highway matters.
- 5.12 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).
- 5.13 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.
- 5.14 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 the highway.

Environmental issues

Core Strategy Policies:

CS4 (Ensuring that development is sustainable)

CS24 (Biodiversity)

Local Plan Saved Policies:

NC1 (Safeguarding of nature conservation interests)

- 5.15 The site is within the Zone of Influence of the Burnham Beeches Special Area of Conservation (SAC). Natural England have 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.
- 5.16 In light of new evidence relating to recreation impacts, Natural England have 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.
- 5.17 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.

- 5.18 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.
- 5.19 The applicant has agreed that they willing to enter into a planning obligation to secure the contribution. A planning obligation will therefore be progressed and completed to secure the financial contribution towards the SAMMS subject to the outcome of the Planning Committee.

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 is at ground floor level and to the rear of the properties and therefore the appearance of the development will not alter from the front and when viewed from Woodlands Drive. The dwellings are no closer to the side boundaries of the plot and are still a significant distance to the rear boundary. As such, it is not considered that the proposed variations will make the new dwellings appear cramped or be out of keeping with the surrounding houses. An additional condition removing further permitted development rights is recommended.
- 6.3 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 could 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. The Highway Authority confirm it would not result in a danger to highway safety and therefore it would be difficult to defend an appeal on this issue.
- 6.4 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.
- 6.5 Based on the above assessment, it is considered that the proposal complies with the relevant Development Plan policies and it is recommended that the application is delegated to Officers to approve, subject to the recommended conditions and the satisfactory prior completion of a Section 106 Agreement.

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 / Agent and has focused on seeking solutions to the issues arising from the development proposal. The Council works with applicants/agents in a positive and proactive manner by:
- offering a pre-application advice service
 - updating applicants/agents of any issues that may arise in the processing of their application as appropriate and, where possible and appropriate, suggesting solutions.
- 7.2 The applicant has agreed to the recommended conditions.

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

8.0 Recommendation: Application PL/22/2882/VRC be delegated to the Director of Planning, Growth & Sustainability to approve, subject to conditions and the satisfactory prior completion of a Section 106 Agreement. If the Section 106 Agreement cannot be completed the application be refused for such reasons as considered appropriate.

Subject to the following conditions:-

1. Prior to the implementation of the permission hereby granted, detailed plans, including cross section, showing the existing ground levels and the proposed slab and finished floor levels of the dwellings hereby permitted shall be submitted to and approved in writing by the Local Planning Authority. Such levels shall be shown in relation to a fixed datum point located outside the application site. Thereafter the development shall not be constructed other than as approved in relation to the fixed datum point.
Reason: To protect, as far as is possible, the character of the locality and the amenity of neighbouring properties.
2. The development hereby permitted shall only be constructed in the materials shown on the Schedule of External Materials Revision A, received by the Council on 21 October 2022 and which were approved under reference PL/22/2892/CONDA.
Reason: To ensure that the external appearance of the development is not detrimental to the character of the locality.
3. The dwellings hereby permitted shall not be occupied until the first floor windows on each flank elevation have been fitted with obscured glazing, and no part of those windows that is less than 1.7 metres above the floor of the room in which it is installed shall be capable of being opened. Details of the type of obscured glazing shall be submitted to and approved in writing by the local planning authority before the window is installed and once installed the obscured glazing shall be retained thereafter.
Reason: To protect the amenities and privacy of the adjoining properties.
4. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no windows other than those expressly authorised by this permission shall be constructed on the flank elevations at first floor level.
Reason: To protect the amenities and privacy of the adjoining properties.
5. Prior to the occupation of the development the new access, parking and turning shall be constructed in accordance with the approved plans and shall be permanently maintained for those purposes.
Reason: In order to minimise danger, obstruction and inconvenience to users of the highway and of the development and to enable vehicles to draw off, park and turn clear of the highway.
6. Within one month of the new access being brought into use, the existing access point shall be permanently stopped up by raising the existing dropped kerb or removing the existing bellmouth and reinstating the footway and highway boundary to the same line, level and detail as the adjoining footway and highway boundary and retained thereafter.

Reason: In order to minimise danger, obstruction and inconvenience to users of the highway and of the development.

7. The development shall be undertaken in accordance with the recommended safeguards provided within the Bat Survey produced by Arbtech Consulting Ltd (August 2018) and in accordance with the ecological enhancements shown in the Ecological, Mitigation, Enhancement and Management Plan dated 10th June 2022 prepared by Arbtech (which was approved under application reference PL/22/2163/CONDA).

Reason: In the interests of improving biodiversity in accordance with NPPF and policy 24 of the Chiltern District Core Strategy and to ensure the survival of protected and notable species protected by legislation that may otherwise be affected by the development.

8. Notwithstanding the provisions of Article 3(1) of the Town & Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting that Order) no development falling within Classes A to B of Part 1 of Schedule 2 to the said Order shall be erected or constructed within the application site unless planning permission is first granted by the Local Planning Authority.

Reason: In order that the Local Planning Authority can properly consider whether any future proposals will constitute overdevelopment of the site or will in any other way be detrimental to the character of the locality or the amenity of neighbouring properties.

9. This permission relates to the details shown on the approved plans as listed below:

List of approved plans:

<u>Received</u>	<u>Plan Reference</u>
8 May 2018	location plan
11 Aug 2022	5544-A102 D
11 Aug 2022	5544-A101 E

and in accordance with any other conditions imposed by this planning permission.

Reason: To ensure that the development is carried out in accordance with the details considered by the Local Planning Authority.

APPENDIX A: Consultation Responses and Representations

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. 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.

Comments on the proposed dormer windows are not relevant to this application as they are only proposed on the other current application which is pending decision (reference PL/22/2881/VRC).