



Report to West Area Planning Committee

Application Number:	23/07994/VCDN
Proposal:	Variation of condition 3 (plan numbers) attached to pp 20/07342/FUL (Householder application for construction of single storey front, part single, part two storey side and rear extensions and conversion of loft to habitable accommodation) to allow for facade fenestrations at ground floor level
Site Location:	44 Shelley Road High Wycombe Buckinghamshire HP11 2UW
Applicant:	Mr Chaudry Ansar
Case Officer:	Chris Lamb
Ward(s) affected:	Abbey
Parish-Town Council:	High Wycombe Town Unparished
Date valid application received:	4th December 2023
Statutory determination date:	29th January 2024
Recommendation	Application Permitted

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 to vary condition 3 attached to 20/07342/FUL, to allow for alterations to the approved scheme.
- 1.2 Given the surrounding context and a recent appeal decision in the immediate vicinity, it is considered that the proposed alterations would not have a significantly adverse effect upon the character and appearance of the dwelling and surrounding area, or the amenities of adjacent residents, and therefore it is recommended for approval.
- 1.3 This application has been referred to the Planning Committee, having been called in by all three Abbey Ward Members: Councillors Clarke, Hussain and Alam.

2.0 Description of Proposed Development

- 2.1 This application is made under S73 of the Town and Country Planning Act 1990 (as amended) Act to vary condition 3 attached to 20/07342/FUL, to allow for alterations to the approved scheme – namely changes to the side and rear extensions, fenestration and exterior materials.

- 2.2 Under application 20/07342/FUL, planning permission was originally granted on 6th January 2021, via the Planning Committee, for the construction of single storey front, part single, part two storey side and rear extensions to the property, and conversion of loft into habitable accommodation.
- 2.3 This application proposes design alterations, as above. Specifically, this includes:
- Alterations to the two storey side extension, so that it is no longer set down from the main roof ridge or set back from the main front elevation, and rather is set flush with both.
 - Minor increase in overall depth of the single storey rear extension, to include a small canopy overhang.
 - Application of render finish to all elevations.
 - Minor changes to ground floor side fenestration and front canopy porch design.
- 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) Proposed plans/elevations.
- 2.7 It is noted that works to the property have commenced since the approval of 20/07342/FUL. Members are advised that there are further unapproved developments at the site, not shown on the proposed plans, which do not form part of this application. This application seeks approval for what is shown on the proposed plans only, rather than what has been built ‘on site’. Should the application therefore be approved, this

would not grant permission for the built development as it appears ‘on site’, as certain aspects would remain unlawful. Specifically, this application does not seek approval for the:

- Erection of boundary walls and gates to the frontage of the site.
- Construction of raised patio to the rear of the dwelling.
- Alleged raising of the property roof (the proposed drawings show the height of the property unchanged from that of the 20/07342/FUL ‘existing’ elevations).

3.0 Relevant Planning History

Reference	Development	Decision	Decision Date
19/07688/FUL	Householder application for construction of single storey front extension, part single, part two storey side and rear extension and conversion of loft to habitable accommodation	WDN	23 January 2020
20/07342/FUL	Householder application for construction of single storey front, part single, part two storey side and rear extensions and conversion of loft to habitable accommodation	PER	6 January 2021

4.0 Policy Considerations and Evaluation

Principle and Location of Development

Wycombe District Local Plan (August 2019): CP1 (Sustainable Development), CP3 (Settlement Strategy), 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 and established under the previous approved application, 20/07342/FUL. Therefore, it is only the changes that need to be assessed. In light of the alterations indicated, the proposal would not have any further implications in terms of highway safety/parking or ecology/biodiversity beyond the 20/07342/FUL permission.
- 4.2 The only matters for consideration therefore include a). the impact of this development on the character and appearance of the dwelling and surrounding area, and b). the impact of this development on the amenities of adjacent neighbours.

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), DM35 (Placemaking and Design Quality), DM36 (Extensions and Alterations to Existing Dwellings)

Householder Planning and Design Guidance (2020)

- 4.3 The most obvious changes to the appearance of the proposed development from the previously approved scheme would be the alterations to the two storey side extension and application of render to all elevations. These are discussed in turn below:

Regarding the two storey side extension:

- 4.4 Within this application, the proposed two storey side extension would remain of the same width as approved under 20/07342/FUL, but no longer be set down from the main roof ridge or set back from the main front elevation.
- 4.5 Whilst these set down/set back design features are notably stipulated within the Council's Householder Planning and Design Guidance SPD for two storey side extensions – principally as a means of ensuring subservience – they are of course guidance only and should be applied with consideration given also to the wider character and appearance of the area.
- 4.6 In this instance, the side extension is of a modest width which would be proportionate to the existing dwelling. Whilst the side extension would have a reduced subservience in its proposed form, it remains of an appropriate size and scale which would not unbalance the visual appearance of the property.
- 4.7 Furthermore, it is noted that there are numerous properties within the immediate street scene which benefit from existing side extensions that do not have a set down at ridge level, including the immediate neighbour no. 42, as well as nos. 40, 45, 39, 35 and 33. Many of these extensions are also not set back from the front elevation of their respective properties. To this extent, a side extension lacking a set down/set back would not appear as intrinsically out of character within the street scene, given these other forms of development.
- 4.8 Members should also be aware that the Council very recently lost an enforcement appeal for a similar scenario at no. 36 Shelley Road, less than 40m away from the application site. In that case, planning permission was originally granted for a two storey side extension (wider than that proposed under this application) with a set down ridge, but the extension was built without the set down (PINS app ref: APP/K0425/C/23/3316302). Nevertheless, the enforcement notice was subsequently quashed and planning permission granted by the inspector for the extension as built, who concluded that the lack of a set down ridge "[would] not harm the character and appearance of the host dwelling or the character of the area".
- 4.9 A principal consideration in the inspector's reasoning for the above appeal was that, "whilst the development is not subservient to the extent of not providing a set down to the roof ridge, that does not automatically mean that the development is an obtrusive or discordant addition".
- 4.10 In the case of this proposal, whilst the side extension would now not be set down from the roof ridge or set back from the front elevation, it is considered that a similar conclusion to the inspector should be reached. Indeed, whilst the set down/set back design features would no longer be included, the side extension, given its modest width and appropriate size, would not appear as an obtrusive or discordant addition.
- 4.11 As such, and given the existing context of the area, in which there are numerous other side extensions which also lack the set down/set back design features and that the extension is of a lesser width than that allowed at appeal at no. 36, overall it is not considered that this aspect would appear as out of keeping with the property or surrounding character/appearance of the area more generally.

Regarding the application of render:

- 4.12 The proposed drawings indicate that render would be applied to all elevations. Whilst many of the surrounding dwellings employ a mixture of brick and render, it is acknowledged that the application of render to this extent would result in the dwelling's increased prominence within the street scene.
- 4.13 Nevertheless, though this is perhaps not ideal, it is noted that no. 25 Shelley Road employs a similar level of render, particularly to the front elevation. In addition, significant weight should be given to the consideration that a similar application of render – certainly to the 'existing' dwelling – could likely be achieved under Permitted Development rights in any instance.
- 4.14 To this extent, given the presence of rendered properties in the immediate vicinity (albeit most only partially), it is not considered that the external appearance of the property would be significantly out of keeping with the character of the area, to such an extent which would warrant a refusal of the application. On balance, given that a similar finish could be achieved without planning permission, under Permitted Development, this aspect is therefore also considered to be acceptable.

Other aspects:

- 4.15 The proposed alterations to the single storey rear extension, front porch and ground floor fenestration are minor in nature and would have no adverse effect on the character and/or appearance of the dwelling or surrounding area. All other aspects of the development, including the single storey front extension/garage conversion and two storey rear extension, would remain as previously approved and would therefore have no further impact in this regard from what has already been deemed acceptable under the previous application.
- 4.16 Several representations have been received regarding the alleged raising of the property roof, as well as the installation of front boundary walls/gates. Members are reminded that these features do not form part of this application, given that the proposed plans show no changes to the roof height, and no boundary treatments to the frontage of the site have been sought. To this extent, the concerns raised regarding these aspects would instead be a matter for the Council's Enforcement Team to investigate and rectify.

Amenity of existing and future residents

Wycombe District Local Plan (August 2019): DM35 (Placemaking and Design Quality), DM36 (Extensions and Alterations to Existing Dwellings)
Householder Planning and Design Guidance (2020)

- 4.17 In terms of loss of light, the depth of the single storey rear extension would be increased by approximately 1m when compared against the 20/07342/FUL drawings, so as to include a canopy overhang feature.
- 4.18 Contrary to the submitted plans, following this alteration the rear extension would breach the Council's 60-degree ruling when measured from the nearest ground floor habitable room window of no. 46, although it should be noted that the extent of this breach would be marginal. The Council's 60-degree ruling is for guidance only, and in this instance given the detached nature of the property, that this element is single storey, and that the breach would be very marginal, it is overall not considered that there would be any significant loss of light for this neighbour beyond what has already been deemed acceptable under the previous application.

- 4.19 Given the nature of the other alterations proposed, no further concerns regarding overshadowing/loss of light are envisaged.
- 4.20 In terms of outlook, for the same reasons the increased 1m depth of the single storey rear element is considered to be acceptable. Though the rear extension projects beyond the rear build line of both no. 42 and 46, it is not considered that the further 1m increase in depth would significantly worsen the outlook of either neighbour, given the detached nature of the properties and single storey form of this aspect of the development. To this extent, it is not considered that there would be any significant loss of outlook for either neighbour beyond what has already been deemed acceptable under the previous application.
- 4.21 Given the nature of the other alterations proposed, no further concerns regarding outlook/overbearing appearance are envisaged.
- 4.22 In terms of privacy, the application proposes to vary the ground floor fenestration to the southeast facing side elevation, namely the addition of a new door and window to the study, new window to the adjacent en suite, and removal of a window to the kitchen. It is not considered that these minor alterations would have any material impact on the privacy of the adjacent property on this side, no. 42, beyond what has already been deemed acceptable.
- 4.23 This application proposes no changes to the approved 20/07342/FUL scheme in regard to the side windows at first floor level and above. In line with the conclusions of the previous application, it would therefore be appropriate to re-condition that these windows be obscurely glazed and fixed shut below 1.7m, so as to again prevent potential overlooking from these openings. Provided this is accorded with, it is not considered that the proposed development, as submitted, would have a detrimental impact on neighbour privacy.
- 4.24 It is noted from the representations received that these windows are alleged to have been installed in breach of this condition. Should this be the case, this would be a matter for the Council's Enforcement Team to investigate and rectify, and not a reason to refuse the application.
- 4.25 Several representations have also been received regarding a potential loss of privacy resulting from the unauthorised construction of a raised patio to the rear of the property. Members are reminded however that this feature does not form part of this application, and therefore these comments, whilst noted, cannot be taken into consideration. As no planning permission has been sought, or approved, for the raised patio, concerns regarding its construction would again be a matter for the Council's Enforcement Team.
- 4.26 Having regard to only the changes to the 20/07342/FUL scheme that are shown on the proposed plans, overall it is not considered that the proposal would have any significant impact on neighbouring amenity beyond what has already been deemed acceptable.

Consideration of Previously Imposed Conditions

Condition 1 – Time Limit. The development has already commenced on site therefore a time limit condition is no longer appropriate.

Condition 2 – Materials. Condition to be updated to reflect the new plans.

Condition 3 – Plan Numbers. Condition to be updated to reflect the new plans.

Condition 4 – Obscure Glazing. Condition to be updated to reflect the new plans.

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 paragraphs 38 and 39 of the NPPF (2023), Buckinghamshire Council takes a positive and proactive approach to development proposals and is focused on seeking solutions where possible and appropriate. 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 application was deemed acceptable as submitted and no further assistance was required.

7.0 Recommendation

- 7.1 It is recommended that this application be **GRANTED**, subject to the following conditions and reasons:
 - 1 The materials to be used in the development hereby permitted shall strictly accord with those indicated on the approved drawings and application form.
Reason: To secure a satisfactory external appearance.
 - 2 The development hereby permitted shall be built and retained in accordance with the details contained in the planning application hereby approved and plan

numbers R355.01, R355.03B, and R355.04B, 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 Before the first occupation of the building/extension hereby permitted, all new flank windows at first floor level and above, as indicated on plan numbers R355.03B and R355.04B, shall be fitted with obscured glazing and any part of the windows that is less than 1.7 metres above the floor of any room in which they are installed shall be non-opening. The windows shall be permanently retained in that condition thereafter.

Reason: In the interests of the amenity of neighbouring properties.

Informatives:

- 1 In accordance with paragraphs 38 and 39 of the NPPF (2023), Buckinghamshire Council takes a positive and proactive approach to development proposals and is focused on seeking solutions where possible and appropriate. 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 application was deemed acceptable as submitted and no further assistance was required.
- 2 Whilst it would appear from the application that the proposed development is to be entirely within the curtilage of the application site, care should be taken upon the commencement and during the course of building operations to ensure that no part of the development, including the foundations and roof overhang will encroach on, under or over adjoining property.

During construction no scaffolding shall encroach on, under or over adjoining property unless permission has first been obtained from the owner of that property.

APPENDIX A: Consultation Responses and Representations

Councillor Comments:

Cllr Lesley Clarke OBE:

Initial Comments:

Despite not following the agreed plans of the former planning decision 20/07342/FUL the plans that are now presented in this retrospective application do not cover all the apparent changes to this property. I am particularly concerned at the build line which appears to be up to the property boundary on the western elevation. The patio to the rear of the property goes across the entire back of the property, which leads to overlooking of BOTH neighbouring gardens. The garage is now incorporated into the main house. Overlooking of neighbouring properties is a problem.

If minded to approve this incomplete retrospective application I request that it is brought to committee for determination and that a site visit is essential for the Committee to view this property which is so out of keeping with the street scene. made. And unfortunately in no way adheres to the approved former planning application even with this retrospective addition.

Final Comments:

I wish to call in the retrospective planning application reference 23-07994-VCDN, which seeks to gain permission for the changes of the original application 20/07342/FUL of the property 44 Shelley Road, High Wycombe.

This retrospective planning application Is seriously does not followed the conditional permissions approved by the Planning Committee in both 20/07342/FUL and most importantly does not follow the current adopted Wycombe District Council's Householder Planning and Design Guidance Supplementary Planning Document which is part of the former legacy Council's Local Plan. All Local Planning Authorities are required to determine a planning application, in accordance with their adopted policies within their Local Plan.

Thus, as this retrospective application goes against many conditions as set out in the original planning decision 20/07342/FUL and also that of the design guidance as set out in the above-mentioned policy document it is important that this application comes before the Planning Committee for determination.

Cllr Mahboob Hussain:

I want to ask for a call in on the same ground as Lesley.

Cllr Arman Alam

Further to the emails of my colleagues I would also like to support a call in the retrospective planning application reference 23-07994-VCDN, which seeks to gain permission for the changes of the original application 20/07342/FUL of the property 44 Shelley Road, High Wycombe. This application should be called in for the committee to decide. I would like to state that although I am supporting a call in of this application I have not made up my mind or taken a view either way in respect of the application.

Parish/Town Council Comments

None – High Wycombe Town Unparished.

Representations:

Multiple representations were received objecting to the proposal. The relevant concerns raised can be summarised as follows:

- Side extension not set down/set back; out of character.
- Render is incongruent and out of keeping/character with the street scene.
- Side flank windows have not been installed in accordance to condition of previous permission.
- Insufficient parking; increased flood risk.
- Loss of trees/vegetation.
- The plans submitted do not cover all the alterations to 20/07342/FUL that have been made. (*Officer note: This is not disputed, however the application can only be assessed based on what the application seeks approval for, i.e. what is shown on the plans, rather than what has been built on site).*

Further objections were raised to other aspects that have been built 'on site', however these features do not form part of this application:

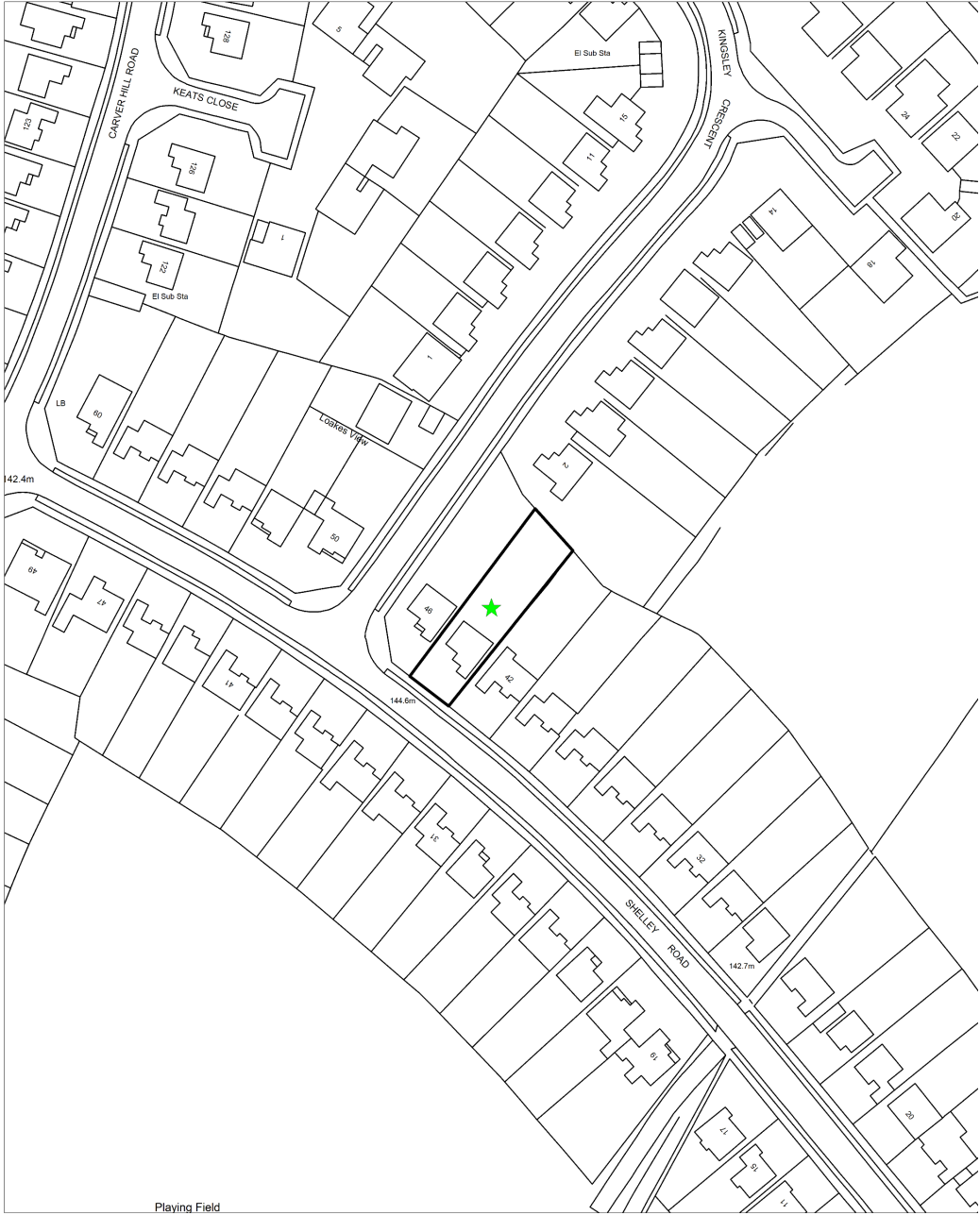
- Increased roof height: Out of keeping/character with the street scene.
- Construction of raised patio to rear: Loss of privacy, overlooking.
- Erection of boundary treatments to the frontage: Out of keeping/character with the street scene.
- Installation of external security cameras: Loss of privacy.
- Extension to garage is overly prominent and obtrusive (*Officer note: This application proposes no alterations to the garage beyond the 20/07342/FUL application).*

One letter of representation was received in support of the proposal. The points raised can be summarised as follows:

- The works are an improvement on the existing property.
- The rendering is similar to no. 25 Shelley Road.
- The boundary treatments are similar to no. 7 Shelley Road.

APPENDIX B: Site Location Plan

23/07994/VCDN
Scale 1/1250



Planning Committee
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Ordnance Survey 100062456