

WELWYN HATFIELD BOROUGH COUNCIL – DEVELOPMENT MANAGEMENT
DELEGATED REPORT

APPLICATION No: S6/2014/1623/S73b

SITE ADDRESS: 12 Ramsey Close

DESCRIPTION OF DEVELOPMENT: Variation of condition 2 (drawings) of planning permission S6/2013/2381/FP – Erection of single storey front and side extension and two storey rear extension following demolition of existing garage

RECOMMENDATION: Approval subject to conditions

1. SITE AND APPLICATION DESCRIPTION:

The application site is on the north side of a small cul-de-sac known as Ramsey Close, which is located on the periphery of the developed area of Brookmans Park and is accessed from Shepherds Way. The site comprises a detached two storey dwelling with front and rear gardens and a detached single garage.

The application site benefits from planning permission, granted under reference S6/2013/2381/FP, for the erection of single storey front and side extension and two storey rear extension following demolition of existing garage. Planning permission was granted subject to three planning conditions.

This application seeks to vary planning condition 2 (approved plans) to allow amendments to the approved internal layout and amendments to the approved fenestration. As the development has been substantially completed, Section 73A of The Town & Country Planning Act 1990 applies. Section 73A of the Act provides, among other things, for retrospective planning applications to be made in respect of development which has been carried out without permission, and for applications for planning permission to authorise development which has been carried out without complying with some planning condition to which it was subject.

2. SITE DESIGNATION:

The site lies within the Green Belt and a Landscape Character Area 51 as designated in the Welwyn Hatfield District Plan 2005.

3. RELEVANT PLANNING HISTORY:

S6/2013/2381/FP – Erection of single storey front and side extension and two storey rear extension following demolition of existing garage (Granted 06/01/2014)

S6/2013/1343/FP – Demolition of existing garage and erection of two storey side, single storey front extension and orangery/conservatory (Refused 18/09/2013)

4. CONSULTATIONS:

None

5. NEIGHBOUR REPRESENTATIONS:

One objection has been received on behalf of the occupier of No.13 Ramsey Close which may be summarised as:

- Overlooking to the kitchen/dining area of No.13 via the glazing in the side door of this property
- Overlooking to the garden, in particular a patio area to the rear of No.13

6. TOWN/PARISH COUNCIL REPRESENTATIONS

The Parish Council confirmed: *“no comment”*

7. MAIN PLANNING ISSUES AND RELEVANT PLANNING POLICIES:

The main planning issues with this application are:

a) Will the changes to the scheme have a harmful impact on the appearance and character of the area and the residential amenity of adjoining occupiers (D1, D2 SDG and NPPF)

8. ANALYSIS:

a) The Killian Pretty review in 2008 recommended that *“Government should take steps to allow a more proportionate approach to minor material changes in development proposals after permission has been granted”*. This recommendation arose from concerns that in some cases new planning applications were being required where relatively small changes that were more than “non material” were being sought.

The recommendation was that an existing process under Section 73 of the Town and Country Planning Act 1990 to allow changes to the conditions applying to existing permissions should be streamlined. Section 73 allows applicants to apply to vary one or more conditions attached to a planning permission. This results in a new permission with one or more conditions from an extant permission varied or removed. Where a condition is attached which lists consented plans, applicants can apply to substitute new plans, in effect achieving an amendment to the original scheme. In determining an application under this section, officers have to have regard to the development plan and all other material considerations but the principle of development should not be re-assessed since that is not an issue in relation to the variation of the condition.

There is no statutory definition of a minor material change but guidance states that:

“A minor material amendment is one whose scale and nature results in a development which is not substantially different from the one which has been approved”.

The judgement on “materiality” in any particular case is one of fact and degree, also taking into account the likely impacts of the amendment. The extant planning consent is a material consideration. There have been no significant changes to the surrounding context and there have been no other planning applications relating to the same site or any adjacent sites since planning application S6/2013/2381/FP.

This application is made under section 73A of the Town and Country Planning Act 1990 that relates to the determination of applications without compliance with

conditions subject to which a previous planning permission was granted. This application specifically relates to the variation of condition 2 of permission S6/2013/2381/FP which states that:

“The development/works shall not be started and completed other than in accordance with the approved plans and details: 01 & 02 & 201A & 202A & 203A received and dated 11 November 2013 & 204B & 205B & 206B received and dated 02 December 2013 unless otherwise agreed in writing by the Local Planning Authority.

REASON: To ensure that the development is carried out in accordance with the approved drawings and any changes must be agreed in advance in writing by the Local Planning Authority.”

The main differences between the extant permission and the current proposal are; changes to the internal layout of the first floor, including the relocation of the family bathroom and alterations to the layout bedroom 3 and 4 and changes to the approved fenestration.

The approved elevations plan No.205B show no windows within the east elevation at first floor level, although, the approved floor plan No.202A shows a window serving a family bathroom. The current proposal includes retention of a first floor window which would serve bedroom 4. It is also proposed to retain a ground floor window within the east facing side elevation which serves the garage. To the rear elevation, the retention of a single Juliet balcony and two windows are proposed in place of the approved Juliet balconies and single window. The proposal does not increase the size of the extensions or the number of bedrooms approved under the extant permission.

The proposed changes to the approved fenestration are limited to the east side elevation and rear elevation of the application dwelling which are less prominent from public vantage points when compared to the front and west elevations of the property. More importantly, the new/amended windows are considered to adequately respect and relate to existing fenestration and the character and appearance of the application dwelling in accordance with Local Plan Policy D1 and D2 and the SPG.

In terms of impact on neighbour amenity, views from the Juliet balcony and windows within the rear elevation of the extension would predominantly be to the rear garden of the application site. Whilst the Juliet balcony and windows would also afford views across the rear garden of No.13, overlooking of this type is a common characteristic of the relationship between residential properties that are side by side. The extent of overlooking would be consistent with a neighbouring relationship generally expected between residential properties and comparable to the views from the windows approved under planning permission S6/2013/2381/FP.

Turning to the new window which serves the garage, as this window is at ground floor level it could be achieved in accordance with permitted development rights outside the control of the Local Planning Authority, therefore, it would be unreasonable to object to this element of the proposal.

Having viewed the adjacent property, No.13 Ramsey Close, from the inside the window serving bedroom 4, the concerns of the neighbouring occupiers regarding the potential for overlooking can be appreciated. The new window would afford views from it towards the side elevation of No.13 and across part of the rear garden of this property. Nevertheless, similar views would be possible over a much larger part of the rear garden of No.13 through the approved windows within the rear elevation, especially when open, albeit at a more oblique angle. In terms of the potential for overlooking towards the kitchen/dining area of No.13 via the glazing in the side door of this property, views from the bedroom window would be largely obscured by the garage serving the application property. Glimpsing views into the adjacent dwelling would be possible through the top of the glazed door when standing very close to the bedroom window, however, this would not be a common occurrence in the general use of the bedroom and is not considered significantly harmful to the amenity of adjoining occupiers. The additional overlooking possible would not have a significant impact on the residential amenity of the occupiers of No.13 through a loss of privacy.

It would not be appropriate to condition fixed and obscure glazing as the window serves a habitable room. More importantly, the installation of obscured glass is not considered essential, nor would the restricted outlook from this window have an unacceptable impact on the privacy of neighbouring occupiers.

As the approved first floor rear windows within the extension would also be clearly seen from No.13, the effect of the amendments, as proposed, would not unduly heighten a perception of being overlooked.

Overall, the proposed amendments are considered to be non material and would not result in a substantial departure from what was originally approved. The proposed changes to the appearance of the dwelling would not be significant and would retain a satisfactory standard of design. Additionally, it is considered that the changes would not have an unreasonable impact on the level of privacy afforded to the neighbouring occupiers. The proposal is therefore in accordance with the National Planning Policy Framework; Policies D1 and D2 of the Welwyn Hatfield District Plan 2005 and Supplementary Design Guidance 2005 (Statement of Council Policy).

9. CONCLUSION:

This application seeks to vary planning condition 2 (approved plans) to allow amendments to the approved internal layout of the extended dwelling and amendments to the approved fenestration. As the development has been substantially completed, Section 73A of The Town & Country Planning Act 1990 applies. Section 73A of the Act provides, among other things, for retrospective planning applications to be made in respect of development which has been carried out without permission, and for applications for planning permission to authorise development which has been carried out without complying with some planning condition to which it was subject.

The proposed amendments are considered to be non material and would not result in a substantial departure from what was originally approved. The proposed changes to the appearance of the dwelling would not be significant and would retain a satisfactory standard of design. Additionally, it is considered that the changes

would not have an unreasonable impact on the level of privacy afforded to the neighbouring occupiers. The proposal is therefore in accordance with the National Planning Policy Framework; Policies D1 and D2 of the Welwyn Hatfield District Plan 2005 and Supplementary Design Guidance 2005 (Statement of Council Policy).

The extant permission granted under planning permission S6/2013/2381/FP was also subject to a planning condition requiring the development to be begun before the expiration of three years from the date of the permission (condition 1) and a condition requiring materials and external decorations to match the existing dwelling. As the works have largely been completed these conditions are no longer necessary.

10. CONDITIONS:

1. C.13.1 – Development in accordance with approved plans and details 01 & 02 & 201F & 202D & 203A & 204D & 205D received and dated 23 July 2014

SUMMARY OF REASONS FOR THE GRANT OF PERMISSION:

The decision has been made taking into account, where practicable and appropriate the requirements of paragraphs 186-187 of the National Planning Policy Framework and material planning considerations do not justify a decision contrary to the development plan (see Officer's report which can be inspected at these offices).

INFORMATIVES:

None

Signature of author..... Date.....