

**WELWYN HATFIELD BOROUGH COUNCIL  
EXECUTIVE DIRECTOR - PLANNING, PUBLIC PROTECTION AND GOVERNANCE**

**DELEGATED APPLICATION**

**Application No:** 6/2019/0754/VAR  
**Location:** Flats 15A-E, 15 Station Road, Cuffley, EN6 4HT  
**Proposal:** Variation of condition 8 (first & second floor northern elevation windows) and condition 10 (approved plans) on planning permission 6/2016/1857/VAR  
**Officer:** Mr David Elmore

**Recommendation:** Granted

6/2019/0754/VAR

<b>Context</b>	
<b>Site and Application description</b>	<p>This is an application under section 73 of the Town and Country Planning Act to vary condition 8 (upper floor northern elevation windows) and condition 10 (approved plans) on planning permission 6/2016/1857/VAR.</p> <p>Condition 8 states:</p> <p><i>'The first and second floor windows on the northern elevation of the proposed building shall be glazed with obscured glass and shall be fixed so as to be incapable of being opened below a height of 1.8 metres above floor level, and shall be retained in that form thereafter.'</i></p> <p><i>REASON: To protect the residential amenity of adjoining occupiers in accordance with Policy D1 of the Welwyn Hatfield District Plan 2005'.</i></p> <p>Side hung obscure glazed windows (rather than top opening) have been installed on the northern elevation upper floors of the building, meaning all have the ability to be openable below a height of 1.8 metres above floor level. Therefore, in order to comply with the above condition all of these windows cannot not be opened. The applicant contends that the inability to open these windows has prevented the flow of fresh air into the rooms, causing considerable discomfort to residents.</p> <p>This application proposes to retain the existing side hung windows but with managing agent held - key locking opening restrictors, being fitted to the inside of the window frames. This mechanism would allow for a maximum window opening of 100mm (increase from 80mm on submitted application form upon applicant's request) in order to create adequate ventilation of the room and adequate privacy to the adjacent residential gardens.</p> <p>Condition 10 includes the list of approved plans. The proposed variations to the approved plans includes revisions to the shop front and disabled access way, re-design of front elevation windows, and alterations to the internal layout.</p>
<b>Constraints (as defined within WHDP 2005)</b>	<p>PAR - PARISH (NORTHAW AND CUFFLEY)  Wards - Northaw &amp; Cuffley  A4D - ARTICLE 4 DIRECTION</p>
<b>Relevant planning history</b>	<p>Application Number: 6/2016/1857/VAR  Decision: Granted</p>

<p>Decision Date: 05 May 2017          Proposal: Variation of condition 1 (plans) on planning permission 6/2015/2333/FULL</p> <p>Application Number: 6/2016/1691/COND          Decision: Granted          Decision Date: 09 August 2017          Proposal: Approval of details reserved by condition 2 (materials), 3 (landscape details), 4 (building works), Condition 7 (Noise report), Condition 8 (New Access) and Condition 10 (Parking details) on planning permission</p> <p>Application Number: 6/2015/2333/FULL          Decision: Granted          Decision Date: 05 February 2016          Proposal: Erection of 5 new dwellings and shop (Use Class A5) with new access following demolition of shed and two garages</p>			
<b>Consultations</b>			
<b>Neighbour representations</b>	Support: 0	Object: 0	Other: 0
<b>Publicity</b>	Neighbour letters sent		
<b>Summary of neighbour responses</b>	No representations received		
<b>Consultees and responses</b>	Northaw & Cuffley Parish Council - No objection		
<b>Relevant Policies</b>			
<input checked="" type="checkbox"/> NPPF <input checked="" type="checkbox"/> D1 <input checked="" type="checkbox"/> D2 <input type="checkbox"/> GBSP1 <input checked="" type="checkbox"/> GBSP2 <input type="checkbox"/> M14 <input checked="" type="checkbox"/> Supplementary Design Guidance <input type="checkbox"/> Supplementary Parking Guidance <input type="checkbox"/> Interim Policy for car parking and garage sizes Others: Policies SP9 and SADM11 of the Emerging Local Plan			
<b>Main Issues</b>			
<b>Would the development reflect the character of the building and area?</b>			
<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <b>Comment:</b> The approved shop front area has been amended in order to facilitate a disabled access way. This has involved a reduction in its size and creation of a covered area. Such a change would not detract from the overall design of the building nor negatively impact on the character of the area.  The upper floor front elevation windows have been re-designed from top opening to those which are centrally hung. Their position on the front façade remains broadly unchanged from that approved. Whilst these centrally hung windows are not witnessed along the façade of this parade, the design of windows along this parade and in the immediate locality vary. Therefore, it is considered that such an alteration would still maintain the area's character.  Overall, the revisions fully accord with Policies D1 and D2 of the District Plan, Policy SP9 of the Emerging Local Plan and the NPPF.			
<b>Would the development maintain the living conditions of neighbouring occupiers?</b>			
<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <b>Comment:</b> The first and second floor windows on the northern elevation face directly onto the rear gardens of 8 and 9 Tolmers Gardens.  Window restrictor details have been provided under drawing number: 0/A600/CN/206. The			

proposed mechanism, limiting maximum window openings to 100mm, would not cause any adverse overlooking or privacy concerns to any neighbouring properties. The living conditions of all neighbouring properties would be protected as a result.

Importantly, the mechanism would be fitted with tamper proof screws and rivets, making it unlikely to be altered or removed by existing or future occupiers. A planning condition can be imposed with a grant of planning permission to ensure that the window restrictors are fitted in accordance with the submitted details, remain in situ and be fully operational at all times thereafter.

The alterations to the internal layout have involved re-configuration of certain flats and alterations to room sizes. No additional habitable accommodation or external openings have been created nor have the positioning of any approved external opening been changed. The internal alterations are insignificant and a satisfactory level of internal accommodation would be provided for its residents.

Taking account of the above, the proposal would fully accord with Policy D1 of the District Plan, the Council's SDG and Policy SADM11 of the Emerging Local Plan.

### **Any other considerations**

#### *Re-imposition of conditions subject to planning permission 6/2016/1857/VAR*

A successful application to amend conditions 8 & 10 would result in the issue of what would be in effect a new planning permission, sitting alongside the original permission. To assist with clarity decision notices for the grant of planning permission under section 73 should also repeat the relevant conditions from the original planning permission, unless they have already been discharged.

One condition of planning permission 6/2016/1857/VAR has not been discharged (condition 5) and this will be re-imposed if the application were to be granted.

A number of conditions are either pre-commencement or prior to occupation (conditions 1, 2, 6 & 9). The development has been completed and is occupied.

Condition 1 lists the schedule of external materials which the development should be started and completed in accordance with. The development is complete and the external materials which have been used are considered acceptable. Therefore this condition can be removed.

Condition 2 requires the approved hard-landscaping plan to be implemented and on-site parking to be laid out, demarcated, levelled, surfaced and drained. A site visit has confirmed that the on-site parking has not been laid or demarcated. Therefore, this condition will need to be reworded – setting a time limit for implementation, and imposed if this application were to be granted.

Condition 6 has been satisfied and can be removed.

Condition 9 outlines that if any external lighting is proposed this should be submitted and approved by the Local Planning Authority prior to commencement of the development. As the development has commenced, this condition will need to be reworded.

Conditions 3, 4 & 5 relate to the approved ground floor A5 use. It is noted that this A5 use has not been implemented and a Barbers (A1 use) will soon occupy the ground floor of this building. Notwithstanding this, the application does not include any details pertaining to the A1 use of the unit and an A5 use could still be implemented in accordance with the extant permission. It is therefore necessary that these conditions are re-imposed with a new grant of planning permission should an A5 use seek to occupy the ground floor unit in the future.

Condition 7 relates to dimensions of the approved private access and can be re-imposed if this application were to be granted.

The reasoning of the imposed conditions will need to also be further amended to reflect the Emerging Local Plan and updated NPPF.

### **Conclusion**

The proposed variations to planning permission 6/2016/1857/VAR accord with all relevant local and national planning policies.

### **Conditions:**

1. Within 3 months from the date of this decision notice, the on-site car parking areas must be laid out and demarcated in accordance drawing number: 0/A000/LP/011 Rev A, and must be retained permanently thereafter.

REASON: In the interest of highway safety in accordance with Policy D1 of the Welwyn Hatfield District Plan 2005, Policy SADM2 of the Welwyn Hatfield Borough Council Draft Local Plan Proposed Submission August 2016 and the National Planning Policy Framework 2019.

2. The use of the approved A5 premises must operate only between the hours of 11:00 to 23.00 Sunday to Thursday, and from 11:00 to 24.00 on Fridays and Saturdays and no customer is permitted to be on the premises outside of these times.

REASON: To protect the residential amenity of adjoining occupiers in accordance with Policy D1 and R19 of the Welwyn Hatfield District Plan 2005, Policy SADM18 of the Welwyn Hatfield Borough Council Draft Local Plan Proposed Submission August 2016 and the National Planning Policy Framework 2019.

3. No deliveries to the approved A5 premises shall take place outside the hours of 07.00 and 21.00 on Monday to Saturday and 10.00 to 14.00 on Sundays.

REASON: In the interests of neighbouring amenity, in accordance with Policies D1 and R19 of the Welwyn Hatfield District Plan 2005, Policy SADM18 of the Welwyn Hatfield Borough Council Draft Local Plan Proposed Submission August 2016 and the National Planning Policy Framework 2019.

4. Prior to first occupation of the A5 unit a noise report shall be submitted to and approved in writing by the Local Planning Authority. The report shall include details of a survey of the existing environmental noise in the area and an assessment of the noise generated by any proposed kitchen air handling system (including a BS4142 (2014) assessment of commercial noise). An appropriate mitigation scheme shall be submitted with this noise report for the approval of the Local Planning Authority. This must incorporate an appropriate scheme demonstrating that the kitchen air handling system, including noise and odour details, is in accordance with the DEFRA "guidance on the control of odour and noise from commercial kitchen exhaust systems" and BS4142 (2014). Subsequently, the kitchen air handling system shall be implemented in accordance with the approved details and shall be retained thereafter.

REASON: In the interests of neighbouring amenity in accordance with Policies D1 and R19 of the Welwyn Hatfield District Plan 2005, Policy SADM18 of the Welwyn Hatfield Borough Council Draft Local Plan Proposed Submission August 2016 and the National Planning Policy Framework 2019.

5. Notwithstanding the submitted details, the private access shall be maintained in perpetuity at a minimum width of 4.1 metres with a carriageway width of 3.8m for its length and shall be constructed perpendicular to the highway carriageway for a minimum length of 10 metres as measured from the near edge of the highway carriageway.

REASON: In the interest of highway safety and traffic movement in accordance with Policy D1 of the Welwyn Hatfield District Plan 2005, Policy SADM2 of the

Welwyn Hatfield Borough Council Draft Local Plan Proposed Submission August 2016 and the National Planning Policy Framework 2019.

6. The first and second floor windows on the northern elevation of the building must be retained with obscure glazing and have opening restrictors fitted in accordance with the submitted Window Restrictor Details - drawing number: 0/A600/CN/206. Once fitted, the restrictors must remain in situ and be fully operational at all times thereafter.

REASON: To protect the living conditions of adjoining occupiers in accordance with Policy D1 of the Welwyn Hatfield District Plan 2005, Policy SADM11 of the Welwyn Hatfield Borough Council Draft Local Plan Proposed Submission August 2016 and the National Planning Policy Framework 2019.

7. Details of any external lighting proposed in connection with the development hereby approved, must be submitted to and approved in writing by the Local Planning Authority prior to installation of such external lighting.

REASON: In the interests of the visual amenities of the area in accordance with Policy D1 of the Welwyn Hatfield District Plan 2005, Policy SADM18 of the Welwyn Hatfield Borough Council Draft Local Plan Proposed Submission August 2016 and the National Planning Policy Framework 2019.

#### DRAWING NUMBERS

8. The development/works shall not be started and completed other than in accordance with the approved plans and details:

<b>Plan Number</b>	<b>Revision Number</b>	<b>Details</b>	<b>Received Date</b>
0/A000/LP/001B	A	Location Plan	29 March 2019
0/A000/LP/004		Block Plan	29 March 2019
0/A100/CN/001	A13	Ground Floor Plan	29 March 2019
1/A100/CN/011	A12	First Floor Plan	29 March 2019
2/A100/CN/003	A12	Second Floor Plan	29 March 2019
0/A200/PR/001	D	Proposed Elevations	29 March 2019
0/A200/PR/002	B	Proposed Elevations	29 March 2019
0/A200/PR/003	B	Proposed Elevations	29 March 2019
0/A200/PR/004	C	Proposed Elevations	29 March 2019
0/A000/LP/011	A	Parking Plan	30 May 2019
0/A600/CN/206		Window Restrictor Details	10 June 2019

REASON: To ensure that the development is carried out in accordance with the approved plans and details.

## 1. POSITIVE AND PROACTIVE STATEMENT

The decision has been made taking into account, where practicable and appropriate the requirements of paragraph 38 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 viewed on the Council's website or inspected at these offices).

### **Informatives:**

1. This permission does not convey any consent which may be required under any legislation other than the Town and Country Planning Acts. Any permission required under the Building Regulations or under any other Act, must be obtained from the relevant authority or body e.g. Fire Officer, Health and Safety Executive, Environment Agency (Water interest etc. Neither does this permission negate or override any private covenants which may affect the land.

### **Determined By:**

Mr Mark Peacock  
11 June 2019