

WELWYN HATFIELD COUNCIL
PLANNING CONTROL BOARD
9TH MAY 2002
REPORT OF THE CHIEF PLANNING OFFICER

PCB 09.05.02
PART 1
ITEM NO
FOR DECISION
CPO

N6/2002/336/FP
VARIATION OF CONDITION 6 OF PREVIOUS PLANNING PERMISSION
N6/2001/668/FP RELATING TO WINDOWS IN FRONT ELEVATION AT
13 SHERRARDSPARK ROAD, WELWYN GARDEN CITY

APPLICANT: MR AND MRS ROTHERAY

(Sherrards)

1.0 INTRODUCTION

- 1.1 This application site is located at the end of a cul de sac off Sherrardspark Road in the Welwyn Garden City Conservation Area. The cul de sac runs between numbers 11 and 13 Sherrardspark Road which front onto the main road. The cul de sac serves three properties which are sited around the turning head at its southern end, with the application site located on the south eastern side of the turning head.
- 1.2 The application premises comprise a detached red brick chalet bungalow with dormer windows in the front and rear roof slopes. The property is set well back from the front of the site and has a flat roofed garage at the northern side of the site close to the rear boundary of 7 Sherrardspark Road. The property is relatively low rise with a ridge height of 7.2 metres.

2.0 PLANNING HISTORY

- 2.1 It is likely that members will recall that planning permission was granted under reference N6/2001/668/FP for a two storey side extension, extension of first floor and raising of roof incorporating dormer windows to create additional habitable accommodation at 13 Sherrardspark Road on 18th January 2002. The application was granted planning permission subject to six planning conditions, of which condition number 6 is of direct relevance to this application.
- 2.2 Condition 6 states: The window in the centre of the front elevation above the porch shall be of non opening form and shall be retained thereafter in that form after first installation.
- 2.3 The reason for the condition is: To prevent any overlooking or loss of privacy to adjoining properties and to accord with Gen Criteria 3 of the Welwyn Hatfield District Plan Alterations No 1, 1998.
- 2.4 The remaining planning history for the site can be summarised as follows:-
W/2001/1105/EM – Two storey side extension, extension of first floor and raising of roof incorporating dormer windows to create additional habitable accommodation and extension of hardstanding – Approved 18/1/02.

W/1996/318/EM – Relocation of soil pipe to external elevation – Approved 16/9/96.

W/1995/363/EM – Remove and brick up two windows in side elevation – Approved 17/10/95.

3.0 PROPOSAL

- 3.1 This application seeks permission to vary planning condition 6 of planning permission reference N6/2001/668/FP, which is detailed above. In effect the application seeks consent to allow the first floor window above the approved porch to be an opening window.
- 3.2 The initial application sought consent to discharge condition 5 of planning permission N6/2001/668/FP in addition to condition number 6. However the applicants have withdrawn their proposal to vary condition 5 after it was indicated, that part of the application proposal, was likely to be recommended for refusal.

4.0 MAIN RELEVANT PLANNING POLICIES

- 4.1 Welwyn Hatfield District Plan Alterations No 1 1998
Gen Criteria 3 – Impact on amenities of residential properties
Oth Criteria 1 – Development in Conservation Areas
- 4.2 Circular No 11/95 –The Use of Conditions in Planning Permissions

5.0 REPRESENTATIONS RECEIVED

- 5.1 The application has been publicised by means of notification of neighbours by letter. In response to the consultation process I have received two letters of objection. One letter comments that they see no reason for the condition to be lifted. With regard to condition 6 it comments that the condition was intended to prevent overlooking and loss of privacy to adjoining properties and should be upheld. Adequate maintenance can be carried out externally by letter and ventilation via a ventilation slit.
- 5.2 The other neighbour letter received comments that drawing number 1102:P:02a shows a feature window above the porch which is impaired by a thick bar across the middle. The restraining order should remain for condition 6. Copies of both letters have been circulated to members in the normal manner.
- 5.3 The Welwyn Garden City Society comment that the Society objected to the original application for the extension to 13 Sherrardspark Road and therefore assume that the various conditions imposed were intended to overcome, in some measure the valid objections of the occupants of 7 and 9 Sherrardspark Road.
- 5.4 BEAMS comment that they have considered the drawing showing the opening window above the porch and are of the opinion that compared to the original approved drawing the alteration to the window will have little effect on the appearance of the elevation and they therefore have no objection.

6.0 DISCUSSION

- 6.1 The application is made under Section 73 of the Town and Country Planning Act 1990 which provides that applications can be made to discharge or vary conditions without compliance with conditions previously attached. These applications only relate to the specific matters covered by the conditions they seek to vary. In determining such applications paragraph 15 of Circular 11/95 provides the advice that conditions should not be retained unless there are sound and clear cut reasons for doing so. Therefore the main issues in this case relate to whether the condition the subject of this application is necessary and whether planning permission would have to be refused if the condition was not imposed.
- 6.2 In determining such applications the Local Planning Authority can grant permission unconditionally or subject to different conditions, or they can refuse the application if they decide the original conditions should continue. The original planning permission will continue to subsist whatever the outcome of the application under Section 73.
- 6.3 In support of their application the applicant's agent has submitted a supporting letter. This letter indicates that they consider the condition requiring the window above the porch to be non-opening is unduly onerous, because access to the porch flat roof will be required for maintenance and ventilation. They indicate that they are happy to restrict the size of openers to standard window types as they understand that the Planning Authority do not wish the porch roof to be used as a balcony. Drawing number 1102:P.02a indicates the proposed design of window which has two side hung opening lights above the mid height transom bar, with fixed glazing below.
- 6.4 With regard to condition no 6 which relates to the window above the porch, at the point of considering the original application it was understood that the window would be a non-opening feature window. The main concern of the Planning Authority in imposing the condition was to ensure that the porch roof did not get used as a balcony area, which are generally resisted due to concerns overlooking. The drawing submitted indicates fixed windows below the mid point of the window, with side hung opening windows above. The applicants have indicated that the reason for requiring this is to provide ventilation and easier maintenance. Given that it is not the intention of the applicants to use the porch roof as a balcony, the only other concern related to the appropriateness of the altered design to allow for the opening compared to that originally approved. Beams have considered the design of the window however and have expressed their satisfaction. In these circumstances it is considered the altered design of window will not lead to undue overlooking to neighbouring properties or cause harm to the appearance of the building. The proposed alteration is considered to accord with Gen Criteria 3 and Oth Criteria 1 of the adopted District Plan. Therefore I can see no objection to the varying of condition 6 to allow the opening of the top half of the window.

7.0 CONCLUSION

- 7.1 It is considered Condition 6 can be appropriately varied without contravening the original intentions of imposing the condition that of protecting against undue loss of privacy to neighbouring properties. Furthermore the drawing submitted has shown that varying the condition to allow opening windows, can be achieved without harming the appearance of the approved extended building.

8.0 RECOMMENDATION

8.1 I recommend that this planning application N6/2002/336/FP be approved subject to the following conditions:-

1. The development to which this permission relates shall be begun within a period of 5 years commencing on the date of this notice.

REASON

To comply with the requirements of Section 91 of the Town and Country Planning Act 1990

2. The bottom half of the window in the centre of the front elevation above the porch shall be non-opening as shown on drawing number 1102:P.02a and shall be retained in that form thereafter after first installation

REASON

To prevent any overlooking or loss of privacy to adjoining properties and to accord with Gen Criteria 3 of the Welwyn Hatfield District Plan Alterations No 1, 1998.

3. Access to the roof of the porch via this window shall be for emergency escape or maintenance purposes only unless agreed otherwise in writing with the Local Planning Authority in advance.

REASON

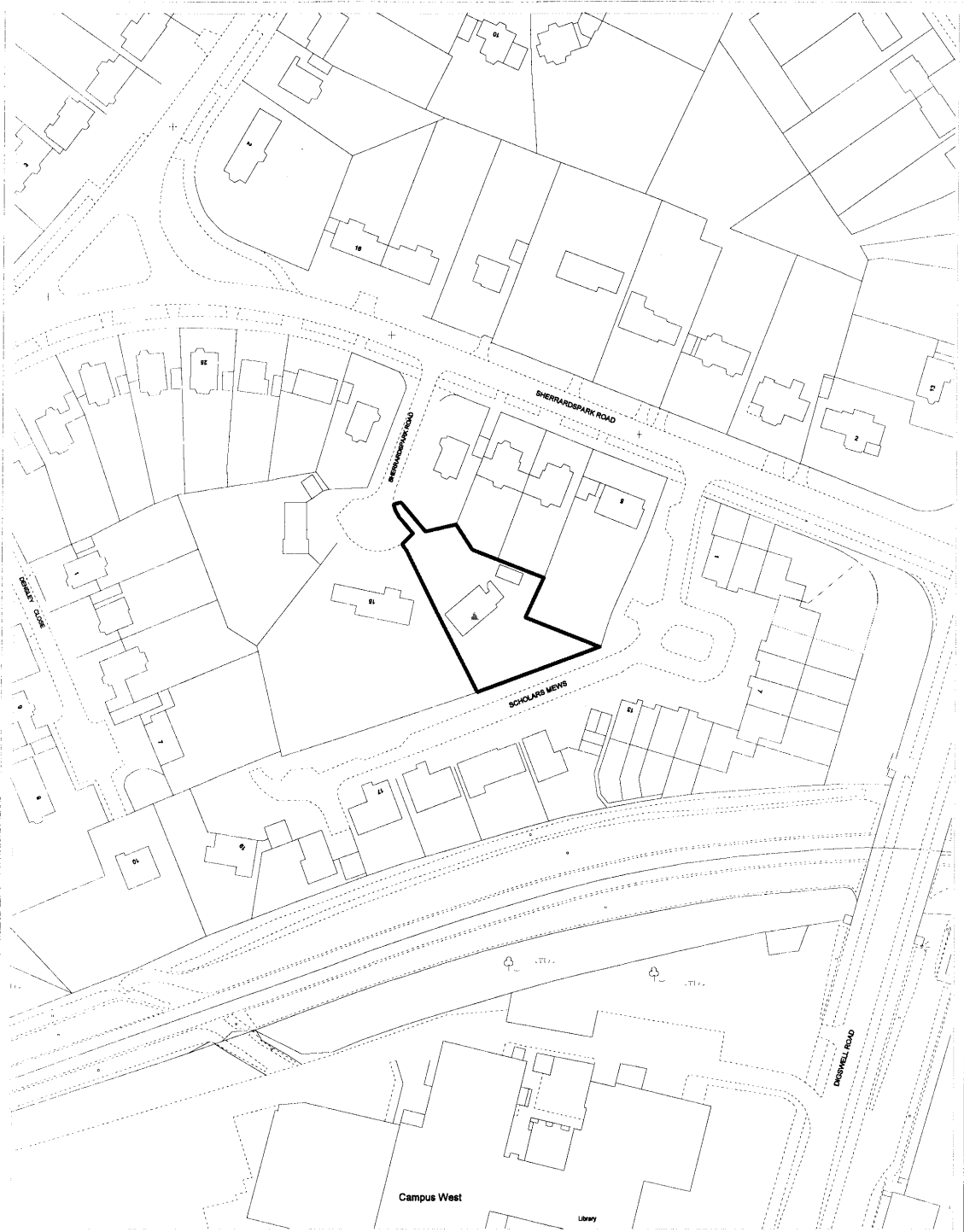
To prevent any overlooking or loss of privacy to adjoining properties and to accord with Gen Criteria 3 of the Welwyn Hatfield District Plan Alterations No 1, 1998.

INFORMATIVE

This recommendation is to grant planning permission to vary condition 6 of Planning Permission N6/2001/668/FP only. As indicated above Planning Permission N6/2001/668/FP still exists and all other conditions imposed on that planning permission must be complied with.

BACKGROUND PAPERS

Planning Applications: N6/2002/336/FP
N6/2001/668/FP



**WELWYN
HATFIELD
COUNCIL**

13 SHERRARDSPARK ROAD

SCALE: 1:1250

DRAWN BY: LIZA WREN

DATE 28th April 2002

Drawing No.

N8/2002/336

Council Offices, The Campus,

Welwyn Garden City, Herts. AL8 6AE

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