

PLANNING COMMITTEE

NOTICE AND AGENDA

For a meeting to be held in the Penn Chamber, Three Rivers House, Northway, Rickmansworth on Thursday, 20 June 2024 at 7.30 pm.

Members of the Planning Committee:-

Councillors:

Chris Whately-Smith (Chair)
Matthew Bedford
Philip Hearn
Stephen King
Chris Lloyd

Sara Bedford (Vice-Chair)
Debbie Morris
Chris Mitchell
Harry Davies
Elinor Gazzard

*Joanne Wagstaffe, Chief Executive
Wednesday, 12 June 2024*

The Council welcomes contributions from members of the public to aid discussions on agenda items at Planning Committee meetings.

Details of the procedure are provided below:

For those wishing to speak:

Please note that, in the event of registering your interest to speak on an agenda item but not taking up that right because the item is deferred, you will be given the right to speak on that item at the next meeting of the Planning Committee.

Members of the public are entitled to speak on an application from the published agenda for the meeting either in support of the application or against. Those who wish to speak can arrive on the night from 7pm to register with the Committee Manager. One person can speak in support of the application and one against.

Please note that contributions will be limited to no more than three minutes.

For those wishing to observe:

Members of the public are welcome to attend the meetings. If you wish to observe you can arrive on the night from 7pm.

In accordance with The Openness of Local Government Bodies Regulations 2014 any matters considered under Part I business only of the meeting may be filmed, recorded, photographed, broadcast or reported via social media by any person.

Recording and reporting the Council's meetings is subject to the law and it is the responsibility of those doing the recording and reporting to ensure compliance. This will include the Human Rights Act, the Data Protection Legislation and the laws of libel and defamation.

1. APOLOGIES FOR ABSENCE

2. MINUTES

To confirm, as a correct record, the minutes of the Planning Committee meetings held on 23 May 2024 and 13 June 2024.

3. DECLARATIONS OF INTEREST

To receive any declarations of interest.

4. NOTICE OF URGENT BUSINESS

Items of other business notified under Council Procedure Rule 30 to be announced, together with the special circumstances that justify their consideration as a matter of urgency. The Chair to rule on the admission of such items.

5. 24/0620/FUL – REMOVAL OF CONDITION 2 (PD RIGHTS - DEVELOPMENT TO BE USED SOLELY FOR PURPOSES INCLUDED IN CLASS B1) OF PLANNING PERMISSION 14/1294/FUL AT DRAKE HOUSE, HOMESTEAD ROAD, RICKMANSWORTH, HERTFORDSHIRE, WD3 1FW

(Pages 7
- 18)

This application seeks to remove Condition 2 of planning permission 14/1294/FUL which states:

The development hereby permitted, excluding Swan House, shall be used solely for purposes included in Class B1 of the Schedule of the Town and Country Planning (Use Classes) Order 1987 (as amended) and for no other purpose whatsoever without the prior permission in writing of the Local Planning Authority.

Reason: To ensure adequate planning control over further development having regard to the limitations of the site and neighbouring properties and in the interests of the visual amenities of the site and the area in general, in accordance with Policies CP1 and CP12 of the Core Strategy (adopted October 2011).

Recommendation

That Condition 2 is removed and that Planning Permission be granted.

6. 24/0535/FUL – VARIATION OF CONDITION 3 (WINDOWS) PURSUANT TO PLANNING PERMISSION 94/234/8 TO INCLUDE ALTERATIONS FIRST FLOOR FENESTRATION CONTAINED WITHIN THE NORTH AND SOUTH ELEVATIONS OF THE DWELLING AT THE OLD GATE, BUCKS HILL, KINGS LANGLEY, HERTFORDSHIRE, WD4 9BR

(Pages
19 - 28)

This application seeks full planning permission for the variation of Condition 3 (Windows) pursuant to planning permission 94/234/8 to include alterations first floor fenestration contained within the north and south elevations of the dwelling.

Condition 3 of planning permission 94/234/8 stated the following:

The new windows in the North and South upper side elevations shall be installed as fixed light, non-opening windows with the upper fanlights only hinged. These windows shall be wholly glazed in obscure glass and these requirements shall be incorporated as part of the works when constructed. Thereafter these upper side windows shall be permanently retained and maintained as such, for so long as they are required to remain.

Reason: In the interests of the amenities and privacy of the occupiers of adjoining residential properties and the occupier of the property the subject of this permission.

Recommendation: That condition 3 (Windows) be VARIED and that PLANNING PERMISSION IS GRANTED.

7. OTHER BUSINESS - IF APPROVED UNDER ITEM 3 ABOVE

Exclusion of Public and Press

If the Committee wishes to consider any items in private, it will be appropriate for a resolution to be passed in the following terms:

“that under Section 100A of the Local Government Act 1972 the press and public be excluded from the meeting on the grounds that it involves the likely disclosure of exempt information as defined in Part I of Schedule 12A to the Act. It has been decided by the Council that in all the circumstances, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.”

(Note: If other confidential business is approved under item 3, it will also be necessary to specify the class of exempt or confidential information in the additional items.)

Background Information

Background Papers (used when compiling the above reports but they do not form part of the agenda)

- Application file(s) referenced above
- Three Rivers Core Strategy (adopted October 2011)
- Development Management Policies LDD (adopted July 2013)
- Site Allocations Local Development Document (SALDD) (adopted November 2014)
- The Community Infrastructure Levy (CIL) Charging Schedule (adopted February 2015)
- Supplementary Planning Documents and Guidance
- National Planning Policy Framework and National Planning Practice Guidance
- Government Circulars
- The Wildlife and Countryside Act 1981 (as amended)
- Town and Country Planning Act 1990 (as amended)
- Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990
- Planning and Compulsory Purchase Act 2004
- The Natural Environment and Rural Communities Act 2006
- The Conservation of Habitats and Species Regulations 2010
- The Localism Act (November 2011)
- The Growth and Infrastructure Act (April 2013)
- Town and Country Planning (Development Management Procedure) (England) Order 2015
- Town and Country Planning (General Permitted Development) (England) Order 2015

- Croxley Green Neighbourhood Plan (Referendum Version December 2018)
- Chorleywood Neighbourhood Development Plan (Referendum Version August 2020)

General Enquiries: Please contact the Committee Team at
committeeteam@threeivers.gov.uk

PLANNING COMMITTEE – 20 June 2024

24/0620/FUL – Removal of Condition 2 (PD Rights - Development to be used solely for purposes included in Class B1) of planning permission 14/1294/FUL at DRAKE HOUSE, HOMESTEAD ROAD, RICKMANSWORTH, HERTFORDSHIRE, WD3 1FW

Parish: Batchworth Community Council
Expiry of Statutory Period: 17.07.2024

Ward: Rickmansworth Town
Case Officer: Tom Norris

Recommendation: That Condition 2 is removed and that Planning Permission be granted.

Reason for consideration by the Committee: Called in by three members of the planning committee unless officers are minded to refuse, due to concerns regarding the loss of office space.

To view all documents forming part of this application please go to the following website:
<https://www3.threerivers.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=SC2NBSQFJI000>

1 Relevant Planning History

- 1.1 15/0938/PDR - Prior Notification: Change of use from Office (Class B1) to 66 Residential units (Class C3) - 02.07.2015 – Permitted
- 1.2 14/1294/FUL - Variation of Condition 2 (development to be used solely for B1 (Office) purposes) of planning permission 8/123/88 (Office development with ancillary car parking and replacement of public car park) to remove restriction in relation to Swan House - 02.10.2014 - Permitted
- 1.3 11/1075/FUL - Renewal of Planning Permission 08/1351/FUL - Four storey front infill extension to create additional office space - 07.07.2011 - Permitted
- 1.4 08/1351/FUL - Four storey front infill extension to create additional office space - 26.08.2008 - Permitted
- 1.5 08/0455/FUL - Four storey front infill extension to create additional office space - Withdrawn
- 1.6 8/123/88 - Office block, car parking, replacement public car park - 07.04.1988 - Permitted

2 Description of Application Site

- 2.1 The application site contains Drake House, Swan House, and a multi storey car park situated on an island site bounded to the north by Park Road, to the east and south by Homestead Road and to the west by Rectory Road. To the west of the application site is Rickmansworth Station and approximately 150 metres to the south of the application site is Rickmansworth High Street.
- 2.2 Drake House comprises a four-storey office building and is currently vacant. The building extends to c. 3,600sqm and provides 140 car parking space within the basement across two floors.
- 2.3 Swan House is a former office building that was converted to residential apartments in 2015/2016 under application 15/0938/PDR. The multi-storey car park, in separate ownership, is currently operated by CitiPark.
- 2.4 The application site is not within a Conservation Area however the Rickmansworth Town Centre Conservation Area is in close proximity to the south. The Conservation Area boundary starts south of the railway line, approximately 20m from the application site.

3 Description of Proposed Development

- 3.1 This application seeks to remove Condition 2 of planning permission 14/1294/FUL which states:

The development hereby permitted, excluding Swan House, shall be used solely for purposes included in Class B1 of the Schedule of the Town and Country Planning (Use Classes) Order 1987 (as amended) and for no other purpose whatsoever without the prior permission in writing of the Local Planning Authority.

Reason: To ensure adequate planning control over further development having regard to the limitations of the site and neighbouring properties and in the interests of the visual amenities of the site and the area in general, in accordance with Policies CP1 and CP12 of the Core Strategy (adopted October 2011).

4 Consultation

4.1 Statutory Consultation

- 4.1.1 Batchworth Community Council: [No objection]

Batchworth Community Council has no objections to this application providing a condition is placed in the approval that requires the developer to adhere to the Technical Housing Standards ' 160519 Nationally Described Space Standards published March 2015 and updated with notes 9th May 2016 or a more stringent policy if the above has been superseded.

- 4.1.2 Three Rivers District Council - Local Plans Section: [Made the following comments]

The application site is located in Rickmansworth, identified as the Principal Town in the Core Strategy (adopted 2011). The application proposes the removal of Condition 2 (PD Rights - Development to be used solely for purposes included in Class B1) of planning permission 14/1294/FUL.

The Three Rivers Site Allocations LDD (SALDD) (2014) allocates sites for housing, employment, retail, open space, education and community uses. The application site is not allocated in the SALDD.

The reason for Condition 2 of planning permission 14/1294/FUL (as seen below) references Core Strategy policies CP1 and CP12.

"The development hereby permitting, excluding Swan House, shall be used solely for purposes included in Class B1 of the Schedule of the Town and Country Planning (Use Classes) Order 1987 (as amended) and for no other purpose whatsoever without the prior permission in writing the Local Planning Authority.

Reason: To ensure adequate planning control over further development having regard to the limitation of the site and neighbouring properties and in the interests of the visual amenities of the site and the area in general, in accordance with Policies CP1 and CP12 of the Core Strategy (Adopted October 2011).

In terms of national policy, Paragraph 127 of the NPPF sets out that local planning authorities should take a positive approach to applications for alternative uses of land which is currently developed but not allocated for a specific purpose in plans, where this would help to meet identified development needs. In particular, they should support proposals to:

a) use retail and employment land for homes in areas of high housing demand, provided this would not undermine key economic sectors or sites or the vitality and viability of town centres, and would be compatible with other policies in this Framework; and

b) make more effective use of sites that provide community services such as schools and hospitals, provided this maintains or improves the quality of service provision and access to open space.

Policy CP1 of the Core Strategy (Adopted October 2011) is the overarching policy on sustainable development and sets out that all development in Three Rivers will contribute to the sustainability of the District. Paragraph D sets out that “this means taking into account the need to make efficient use of land by guiding development onto previously developed, brownfield land....”.

Policy CP12 of the Core Strategy (Adopted October 2011) relates to design of development.

Policy CP6 of the Core Strategy (Adopted October 2011) relates to employment and economic development and sets out that the sustainable growth of Three Rivers economy will be supported by releasing office space from employment use where this is expected to be surplus to employment needs across the plan period as indicated by an up to date Employment Land Study. The most up to date employment land study is the South West Herts Economic Study Update, prepared by Hatch Regeneris (2019). The study identifies an oversupply of office space in Three Rivers.

An Article 4 Direction has been made by the Secretary of State to remove permitted development rights regarding the change of use from class E use (Commercial, Business and Service uses) to C3 use (dwellinghouses) and came into effect on 29th March 2024. The Direction applies to the sites shown on the Schedule of Maps in the non-immediate Article 4 Direction. It must be noted that the application site falls outside of the Article 4 Direction boundaries.

The Article 4 Direction which came into force on 29th March 2024 relates to certain employment areas and town centres across the District. The test for the use of Article 4 Directions has been amended by the revised National Planning Policy Framework (NPPF) published in December 2023. Previously it was stated that the use of Article 4 directions should be limited to situations where it ‘is necessary to protect local amenity or the wellbeing of the area’. The revised NPPF has imposed a much more stringent test where the development relates to a change from non-residential to residential (as set out in paragraph 53). The NPPF sets out that the use of Article 4 Directions to remove national permitted development rights “should be limited to situations where it is necessary to avoid wholly unacceptable adverse impacts’ and, in all cases, should be “based on robust evidence and apply to the smallest geographical area possible”. During the Article 4 process, it was considered that the core centre of Rickmansworth is based around the historic High Street and parts of Church Street and it was considered that the application site falls outside of the core centre of the Rickmansworth Town Centre. Given the physical separation of the application site from the “town centre”, including Homestead Road and the railway lines, it was not considered that the inclusion of the application site within the Rickmansworth Town Centre (and therefore within the Article 4 boundary) would comply with Paragraph 53 of the NPPF. It must also be noted that the Article 4 Direction was reviewed and issued by the Secretary of State, who saw no reason to include the application site within the Article 4 Direction boundary for Rickmansworth Town Centre.

4.1.3 National Grid: [No response received]

4.2 Public/Neighbour Consultation

4.2.1 Neighbours consulted: 4

4.2.2 Responses received: 1 (Objection)

4.2.3 Site notice posted 23.04.2024, expired 15.05.2024.

4.2.4 Press notice published 26.04.2024, expired 18.05.2024

4.2.5 Summary of responses:

- The removal of condition will allow conversion of building to residential without planning permission.
- Apartments within Swan House do not meet national space standards.
- The removal of condition will prevent TRDC from seeking affordable housing on residential development.

5 Reason for Delay

5.1 None.

6 Relevant Planning Policy, Guidance and Legislation

6.1 Legislation

6.1.1 Planning applications are required to be determined in accordance with the statutory development plan unless material considerations indicate otherwise as set out within S38(6) Planning and Compulsory Purchase Act 2004 and S70 of Town and Country Planning Act 1990).

6.1.2 The Localism Act received Royal Assent on 15 November 2011. The Growth and Infrastructure Act achieved Royal Assent on 25 April 2013.

6.1.3 The Wildlife and Countryside Act 1981 (as amended), the Conservation of Habitats and Species Regulations 2010, the Natural Environment and Rural Communities Act 2006 and the Habitat Regulations 1994 may also be relevant.

6.1.4 The Environment Act 2021.

6.2 Policy & Guidance

National Planning Policy Framework and National Planning Practice Guidance

6.2.1 In December 2023 the revised NPPF was published, to be read alongside the online National Planning Practice Guidance. The NPPF is clear that “existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework”.

6.2.2 The NPPF retains a presumption in favour of sustainable development. This applies unless any adverse impacts of a development would 'significantly and demonstrably' outweigh the benefits unless there is a clear reason for refusing the development (harm to a protected area).

The Three Rivers Local Development Plan

6.2.3 The application has been considered against the policies of the Local Plan, including the Core Strategy (adopted October 2011), the Development Management Policies Local Development Document (adopted July 2013) and the Site Allocations Local Development Document (adopted November 2014) as well as government guidance. The policies of Three Rivers District Council reflect the content of the NPPF.

6.2.4 The Core Strategy was adopted on 17 October 2011 having been through a full public participation process and Examination in Public. Relevant policies include Policies PSP1, CP1, CP6, CP8, CP10 and CP12.

6.2.5 The Development Management Policies Local Development Document (DMLDD) was adopted on 26 July 2013 after the Inspector concluded that it was sound following Examination in Public which took place in March 2013. Relevant policies include Policy DM13 and Appendix 5.

6.3 Other

6.3.1 The Community Infrastructure Levy (CIL) Charging Schedule (adopted February 2015).

7 Planning Analysis

7.1 Principle of Development

7.1.1 Paragraph 56 of the National Planning Policy Framework (NPPF) (2023) makes clear that planning conditions should be kept to a minimum, and only used where they satisfy the following tests: 1. necessary; 2. relevant to planning; 3. relevant to the development to be permitted; 4. enforceable; 5. precise; and 6. reasonable in all other respects. These are generally referred to as the '6 tests' and each must be satisfied for a condition to be applied.

7.1.2 Paragraph 127 of the NPPF sets out that local planning authorities should take a positive approach to applications for alternative uses of land which is currently developed but not allocated for a specific purpose in plans, where this would help to meet identified development needs. In particular, they should support proposals to:

a) use retail and employment land for homes in areas of high housing demand, provided this would not undermine key economic sectors or sites or the vitality and viability of town centres, and would be compatible with other policies in this Framework; and

b) make more effective use of sites that provide community services such as schools and hospitals, provided this maintains or improves the quality of service provision and access to open space.

7.1.3 Policy CP1 of the Core Strategy (adopted October 2011) is the overarching policy on sustainable development and sets out that all development in Three Rivers will contribute to the sustainability of the district. Paragraph d) sets out that "this means considering the need to make efficient use of land by guiding development onto previously developed brownfield land".

7.1.4 Policy CP6 of the Core Strategy (adopted October 2011) states that the sustainable growth of the Three Rivers economy will be supported by continuing to focus employment use within the key employment areas within the district. The application site is in Rickmansworth Town Centre, a key employment area. Policy CP6 of the Core Strategy (adopted October 2011) states that the Council will support sustainable development that releases office space from employment use where it is expected to be surplus to employment needs across the plan period as indicated by an up-to-date Employment Land Study.

7.1.5 Policy PSP1 of the Core Strategy (adopted October 2011) states that development in Rickmansworth will maintain the overall amount of existing employment floorspace in the town, including the general supply of office accommodation in the town centre.

7.1.6 The Site Allocations Local Development Document (Main Modifications version January 2014) allocates sites for housing, employment, retail, open space, education and community uses. The application site is not identified in the SALDD and therefore Drake House is not specifically safeguarded by policy for a particular use.

7.1.7 An Article 4 Direction has been made by the Secretary of State to remove permitted development rights regarding the change of use from class E use (Commercial, Business and Service uses) to C3 use (dwellinghouses). This came into effect on 29th March 2024. The Direction applies to the sites shown on the Schedule of Maps in the non-immediate

Article 4 Direction. It must be noted that the application site falls outside of the Article 4 Direction boundaries. The reasons for not including the application site within the Article 4 Direction boundary are set out in the comments of the Council's Local Plans Section at paragraph 4.1.2 of this report. In summary, the locational circumstances of the site, relative to the core of Rickmansworth Town Centre, meant that it did not meet the test for inclusion.

- 7.1.8 Planning permission 8/123/88 was granted subject to a condition (C2) restricting the use of the development solely to office use (Class B1). This condition was subsequently varied under application 14/1294/FUL, which omitted reference to Swan House however remained applicable to Drake House.
- 7.1.9 The LPA note the applicant's contention that the SALDD policy position demonstrates that the Drake House is not viewed as an important strategic location for office use and, as such, the use should not be restricted via planning condition. It is acknowledged that Drake House is not allocated in the SALDD and therefore is not protected for office use.
- 7.1.10 The LPA also note the applicant's contention that the exclusion of Drake House from the Article 4 Direction demonstrates that it is not strategically important to retain the site as offices. It is acknowledged that Drake House was not included within the recently imposed Article 4 Direction which covers the core of Rickmansworth Town Centre. It is considered that the assumption of the applicant is reasonable, and the building in its current use is not critical to the vitality of the town centre. While this is noted, it must also be made clear that it was not a wholly strategic decision to exclude the site but rather it did not meet the geographical test for inclusion in the Article 4 Direction.
- 7.1.11 It is noted that the Town and Country Planning (Use Classes) Order 1987 (as amended) was reformed in April 2021. The reform saw the deletion of Class B1 with office uses now falling within a newly formed Class E (commercial, business and service). It is acknowledged that the applicant contends that the wording of Condition 2 is now out-of-date given that "Class B1" no longer exists.
- 7.1.12 Applying Policy CP6, the most up-to-date employment land study is the South West Herts Economic Study Update, prepared by Hatch Regeneris (2019). The study identifies an oversupply of office space in Three Rivers. The economic study forms part of the evidence base for the emerging Local Plan and is therefore a material consideration. The economic study identifies an oversupply of office space in Three Rivers. The LPA note the applicant draws attention to the fact that this study was conducted prior to the covid-19 pandemic and therefore, in the current work from home era, demand has likely reduced further. Irrespective of this, the evidence identifies an oversupply in any instance.
- 7.1.13 The LPA note the marketing information submitted with the application and acknowledge that the application site has been marketed since February 2023. This marketing included the erection of advertising boards on site; listings on multiple websites online; distribution of letting brochures; and direct correspondence with agents and occupiers. It is noted that the marketing information states that potential occupiers for office accommodation have sought or agreed alternative sites following enquiries. Furthermore, it is acknowledged that the information states that Watford and Croxley Green have attracted most of the recent office demand of this scale. The minimum scale of the marketed available space (7,430sq. ft) also significantly exceeds the largest local letting recently (5,200 sq. ft) at Trinity Court in November 2019. The LPA acknowledge that the evidence states that a comprehensive marketing campaign has been undertaken for over 12 months with little to no prospect of occupation for office use. The LPA have no reason to dispute the marketing information supplied with the application and note, following an online search, that there is an active listing.
- 7.1.14 It is acknowledged that, when permission was granted for 14/1294/FUL and the restriction to B1 Office use was removed in relation to Swan House, it was stated in the report that "the variation of Condition 2 would not significantly undermine the local economy, so as to

justify refusal of the application in recognition of the submitted marketing information and status of the site which is not formally designated as employment land.” It must be noted that the application site shares similar circumstances to Swan House and the Development Plan has not changed since the approval of 14/1294/FUL.

- 7.1.15 In summary, it is acknowledged that that the site is not safeguarded for employment use in the adopted or emerging Local Plan, and the Council’s own evidence (South West Herts Economic Study Update 2019) demonstrates that there is an oversupply of office space in the District. Furthermore, the applicant’s evidence demonstrates that the site is vacant with no short- or medium-term prospect of being brought back into office use. It is acknowledged that restricting the use of the site to office fails to make effective use of a brownfield town centre site and is contrary to the aims of Core Strategy Policies CP1 and CP12 and the NPPF. It is also acknowledged that the wording of Condition 2 refers to the now obsolete Class B1. Therefore, taking adopted local and national planning policies, evidence base, and recently imposed Article 4 Direction all into consideration, while also giving weight to the evidence submitted by the applicant, including site specific marketing information, it is considered that there is no sound planning justification for the retention of Condition 2 of planning permission 14/1294/FUL.
- 7.1.16 It is considered that it would not meet the six tests of the NPPF set out at Paragraph 56 of the NPPF. While the condition may still meet some of the tests, such as being precisely worded, enforceable, and relevant to the planning and the development. It is no longer considered necessary or reasonable to restrict the building to B1 Office use in light of the above considerations.
- 7.1.17 Overall, it is considered that the proposed deletion of condition 2 is acceptable (as since its previous variation, it only remains relevant to Drake House), in accordance with Policy CP6 of the Core Strategy (adopted October 2011) and the NPPF (2023).

7.2 Other Considerations

- 7.2.1 The proposed removal of condition would not result in any harm to residential amenity or visual amenity within the street scene. Any impacts of any future application of permitted development rights could be appropriately considered and controlled through the Prior Approval process.

8 **Recommendation**

- 8.1 That **Condition 2 is removed and that PLANNING PERMISSION BE GRANTED** subject to the following conditions:

C1 The development hereby permitted shall be maintained in accordance with the following approved plans: TRDC001 (Location Plan), TRDC002 (Swan House Plan), Plan B1 (Lower Level Car Parking), Plan B2 (Upper Level Car Parking), 4196/1F (Car Park Level -1), 4196/2F (Car Park Level -2), 4195/3/E (Site Plan), 4196/4I (Floor Plans Level 0, 1 and 2), 4196/5I (Floor Plans Level 4 and Roof), 4196/6G (Elevations), 4196/7E (Elevations and Sections), 4196/8/C (Public Car Park Plans and Sections), 4196/103J (Car Park Level -2), 4196/104/J (Car Park Level -1), 4196/108C (Elevations), 4196/23 (Public Car Park Elevations), RM100 (Proposed Ground Floor Alterations), 8818/2.03G (Public Car Park Floor Plan), 8818/2.07, 8818/2.08, 8818/2.09, 8818/2.10P (Public Care Park Elevations), 4196/SK.13 (Additional Floor Area Level 3 Block B), 4196/SK.19 (External Arrangement of Handrails, Chillers and Flues at Roof Level), 4196:26 (Landscaping Scheme), 4196:27 (Soft Landscape Courtyard Details), 4196:28 (Landscape Scheme Elevations), 4196 A3/1 (Roof Plant Ridge), 029428910/SK1 (Part Elevation Existing), 029428910/SK2 (Existing Elevations), 029428910/SK3 (Proposed Front Elevations), 029428810/SK4 (Proposed Elevations).

Reason: For the avoidance of doubt and in the proper interests of planning in accordance with Policies PSP1, CP1, CP6, CP8, CP10 and CP12 of the Core Strategy (adopted October 2011) and Policy DM13 and Appendix 5 of the Development Management Policies LDD (adopted July 2013).

- C2 The parking and turning spaces shown on the approved plans shall be kept permanently available for the use of employees and visitors to Drake House (if Drake House is to be used for office use).

Reason: In the interests of highway safety and convenience in accordance with Policies CP1 and CP10 of the Core Strategy (adopted October 2011).

Informatives

- 11 With regard to implementing this permission, the applicant is advised as follows:

All relevant planning conditions must be discharged prior to the commencement of work. Requests to discharge conditions must be made by formal application. Fees are £145 per request (or £43 where the related permission is for extending or altering a dwellinghouse or other development in the curtilage of a dwellinghouse). Please note that requests made without the appropriate fee will be returned unanswered.

There may be a requirement for the approved development to comply with the Building Regulations. Please contact Hertfordshire Building Control (HBC) on 01438 879990 or at buildingcontrol@hertfordshirebc.co.uk who will be happy to advise you on building control matters and will protect your interests throughout your build project by leading the compliance process. Further information is available at www.hertfordshirebc.co.uk.

Community Infrastructure Levy (CIL) - Your development may be liable for CIL payments and you are advised to contact the CIL Officer for clarification with regard to this. If your development is CIL liable, even if you have been granted exemption from the levy, please be advised that before commencement of any works it is a requirement under Regulation 67 of The Community Infrastructure Levy Regulations 2010 (As Amended) that CIL form 6 (Commencement Notice) must be completed, returned and acknowledged by Three Rivers District Council before building works start. Failure to do so will mean you lose the right to payment by instalments (where applicable), and a surcharge will be imposed. However, please note that a Commencement Notice is not required for residential extensions IF relief has been granted.

Following the grant of planning permission by the Local Planning Authority it is accepted that new issues may arise post determination, which require modification of the approved plans. Please note that regardless of the reason for these changes, where these modifications are fundamental or substantial, a new planning application will need to be submitted. Where less substantial changes are proposed, the following options are available to applicants:

- (a) Making a Non-Material Amendment
- (b) Amending the conditions attached to the planning permission, including seeking to make minor material amendments (otherwise known as a section 73 application).

It is important that any modifications to a planning permission are formalised before works commence otherwise your planning permission may be unlawful and therefore could be subject to enforcement action. In addition, please be aware that changes to a development previously granted by the LPA may affect any previous Community Infrastructure Levy (CIL) owed or exemption granted by the Council. If you are in any doubt whether the new/amended development is now liable for CIL you are advised to contact the Community Infrastructure Levy Officer (01923 776611) for clarification.

Information regarding CIL can be found on the Three Rivers website (<https://www.threerivers.gov.uk/services/planning/community-infrastructure-levy>).

Care should be taken during the building works hereby approved to ensure no damage occurs to the verge or footpaths during construction. Vehicles delivering materials to this development shall not override or cause damage to the public footway. Any damage will require to be made good to the satisfaction of the Council and at the applicant's expense.

Where possible, energy saving and water harvesting measures should be incorporated. Any external changes to the building which may be subsequently required should be discussed with the Council's Development Management Section prior to the commencement of work. Further information on how to incorporate changes to reduce your energy and water use is available at: <https://www.threerivers.gov.uk/services/environment-climate-emergency/home-energy-efficiency-sustainable-living#Greening%20your%20home>.

- I2 The Local Planning Authority has been positive and proactive in its consideration of this planning application, in line with the requirements of the National Planning Policy Framework and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015. The development maintains/improves the economic, social and environmental conditions of the district.

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PLANNING COMMITTEE – 20 June 2024

24/0535/FUL – Variation of Condition 3 (Windows) pursuant to planning permission 94/234/8 to include alterations first floor fenestration contained within the north and south elevations of the dwelling at THE OLD GATE, BUCKS HILL, KINGS LANGLEY, HERTFORDSHIRE, WD4 9BR

Parish: Sarratt Parish Council
Expiry of Statutory Period: 25.06.2024

Ward: Chorleywood North and Sarratt
Case Officer: Lauren Edwards

Recommendation: That condition 3 (Windows) be VARIED and that PLANNING PERMISSION IS GRANTED.

Reason for consideration by the Committee: The application has been called in by 3 members of the planning committee in order to discuss the impact of the development on neighbouring amenity.

To view all documents forming part of this application please go to the following website:

[24/0535/FUL | Variation of Condition 3 \(Windows\) pursuant to planning permission 94/234/8 to include alterations first floor fenestration contained within the north and south elevations of the dwelling at The Old Gate, Bucks Hill \(threeivers.gov.uk\)](#)

1 Relevant Planning

- 1.1 8/234/94 - Form gabled roof with front dormers and two storey and single storey rear extension- Permitted.
- 1.2 23/0147/COMP - Enforcement enquiry – Pending consideration in so far as it relates to replacement windows.
- 1.3 24/0245/RSP - Retrospective: Erection of stable block and riding arena, associated access and hardstanding – Permitted.

2 Description of Application Site

- 2.1 The application site has an irregular shaped plot and is located on the eastern side of Bucks Hill. The application site contains a detached dwelling which appears as a Chalet style bungalow to the front and a two storey dwelling to the rear.
- 2.2 To the front of the application site is a driveway and to the rear is a patio with an area of lawn. Further eastern of the main garden is a riding area and stables (consented pursuant to 24/0245/RSP).
- 2.3 The neighbouring property to the south (Friars Cottage) is a two storey semi-detached dwelling. This neighbour sits forward of the application dwelling.
- 2.4 The neighbouring property to the north (Holmwood) is a detached bungalow. This neighbour sits further back on the plot than the application dwelling.

3 Description of Proposed Development

- 3.1 This application seeks full planning permission for the variation of Condition 3 (Windows) pursuant to planning permission 94/234/8 to include alterations first floor fenestration contained within the north and south elevations of the dwelling.
- 3.2 Condition 3 of planning permission 94/234/8 stated the following:

The new windows in the North and South upper side elevations shall be installed as fixed light, non-opening windows with the upper fanlights only hinged. These windows shall be wholly glazed in obscure glass and these requirements shall be incorporated as part of the works when constructed. Thereafter these upper side windows shall be permanently retained and maintained as such, for so long as they are required to remain.

Reason: In the interests of the amenities and privacy of the occupiers of adjoining residential properties and the occupier of the property the subject of this permission.

3.3 Following the report of an alleged breach at the application site (24/0147/COMP) it was ascertained that the first floor windows within the north and southern elevations had been replaced. The pre-existing windows were obscurely glazed as required by condition 3 of planning permission 94/234/8. During the initial visit it was ascertained that the window in the northern flank had been fitted with clear glass and was top level opening only. The window in the southern flank had been fitted with clear glass to the top level opening fanlight and opaque film had been applied to the main portion of the window. Following this the main portion of the window within the southern flank was replaced with a purpose made obscure glazed panel however the fan light pane remains clear glazed. Both windows serve bedrooms.

3.4 This application seeks permission for the retention of the two windows, as described above, in their current state.

4 Consultation

4.1 Statutory Consultation

4.1.1 National Grid: [No response received]

4.1.2 Sarratt Parish Council: [No response received]

4.2 Public/Neighbour Consultation

4.2.1 Neighbours consulted: 2

4.2.2 Responses received: 1 objection.

4.2.3 Summary of objections:

- Loss of privacy.
- Goes against previous condition.
- Granting permission would be a mockery of planning system.
- Perception of prospective buyers is that neighbouring property is overlooked.
- Ignorance to planning rules does not constitute justification.
- Window in situ is causing anxiety to the neighbour.

4.2.4 Site Notice: Expired 31.05.2024.

4.2.5 Press Notice: Not required.

5 Reason for Delay

5.1 Not applicable.

6 Relevant Planning Policy, Guidance and Legislation

6.1 Planning applications are required to be determined in accordance with the statutory development plan unless material considerations indicate otherwise as set out within S38 (6) Planning and Compulsory Purchase Act 2004 and S70 of Town and Country Planning Act 1990).

6.2 National Planning Policy Framework and National Planning Practice Guidance

In 2023 the new National Planning Policy Framework was published. This is read alongside the National Planning Practice Guidance (NPPG). The determination of planning applications is made mindful of Central Government advice and the Local Plan for the area. It is recognised that Local Planning Authorities must determine applications in accordance with the statutory Development Plan, unless material considerations indicate otherwise, and that the planning system does not exist to protect the private interests of one person against another. The NPPF is clear that “existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework”.

The NPPF states that 'good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities'. The NPPF retains a presumption in favour of sustainable development. This applies unless any adverse impacts of a development would 'significantly and demonstrably' outweigh the benefits.

6.3 The Three Rivers Local Plan

The application has been considered against the policies of the Local Plan, including the Core Strategy (adopted October 2011), the Development Management Policies Local Development Document (adopted July 2013) and the Site Allocations Local Development Document (adopted November 2014) as well as government guidance. The policies of Three Rivers District Council reflect the content of the NPPF.

The Core Strategy was adopted on 17 October 2011 having been through a full public participation process and Examination in Public. Relevant policies include Policies CP1, CP9, CP10 and CP12.

The Development Management Policies Local Development Document (DMLDD) was adopted on 26 July 2013 after the Inspector concluded that it was sound following Examination in Public which took place in March 2013. Relevant policies include DM1, DM6, DM13 and Appendices 2 and 5.

6.4 Other

The Community Infrastructure Levy (CIL) Charging Schedule (adopted February 2015).

The Localism Act received Royal Assent on 15 November 2011. The growth and Infrastructure Act achieved Royal Assent on 25 April 2013.

The Wildlife and Countryside Act 1981 (as amended), the Conservation of Habitats and Species Regulations 2010, the Natural Environment and Rural Communities Act 2006 and the Habitat Regulations 1994 may also be relevant.

The Environment Act 2021.

7 Planning Analysis

7.1 Impact on the character and appearance of the host dwelling and the locality

- 7.1.1 Policy CP1 of the Core Strategy (adopted October 2011) seeks to promote buildings of a high enduring design quality that respect local distinctiveness and Policy CP12 of the Core Strategy relates to design and states that in seeking a high standard of design, the Council will expect development proposals to have regard to the local context and conserve or enhance the character, amenities and quality of an area.
- 7.1.2 There were two first floor pre-existing windows of the same physical proportions (size and siting) as those now in situ. However those now installed differ in the positioning of clear/obscure glazing. The application sits within a row of other residential properties. Whilst the first floor flank windows are visible from the streetscene, notwithstanding their obscurity, it is not considered that the windows in situ appear incongruous additions to the host dwelling or streetscene.
- 7.1.3 As such it is not considered that the development results in an adverse impact on the character or appearance of the host dwelling, street scene or area and the proposal would be acceptable in accordance with Policies CP1 and CP12 of the Core Strategy (adopted October 2011) and Policy DM1 and Appendix 2 of the Development Management Policies LDD (adopted July 2013).
- 7.2 Impact on amenity of neighbours
- 7.2.1 Policy CP12 of the Core Strategy states that development should 'protect residential amenities by taking into account the need for adequate levels and disposition of privacy, prospect, amenity and garden space'. Policy DM1 and Appendix 2 of the Development Management Policies document set out that development should not result in loss of light to the windows of neighbouring properties nor allow overlooking and should not be excessively prominent in relation to adjacent properties.
- 7.2.2 The first floor flank window within the northern elevation is clear glazed with a top level opening fan light. This window serves a bedroom and faces towards the neighbour at Holmwood. This neighbour is set further back in the plot than the application dwelling and therefore views from this window are directed towards the site frontage of this neighbour. There is an existing mature tree on the boundary however even if this were to be removed direct views would not be had to the private sections of this neighbour's rear garden or directly towards habitable room windows. As such the window in situ within the northern flank at first floor level does not give rise to unacceptable levels of overlooking so as to result in harm to neighbouring amenity.
- 7.2.3 The first floor flank window within the southern elevation (facing Friars Cottage) has obscure glazing to the main portion of the window however the fan light section to the top is clear glazed. The openable clear glazed part is 1.9m above the floor level of the bedroom floor that the window serves. The previous condition attached the original 1994 consent required this window to be fully obscure glazed and top level opening only, however, did not specify a minimum cill height for the openable section. It is standard practice now to require relevant windows to be top level opening only above 1.7m and therefore the clear glazed opening section in situ is higher than a current condition would generally impose. As the upper fanlight section has a clear panel, whilst it is top opening only it does not fully comply with the condition as it is clear glazed. The test in this case would therefore be to consider whether, as a result of its clear glazed nature, the upper fanlight section results in unacceptable levels of overlooking to neighbouring amenity. Owing to the height of the clear glazed panel relative to the room it serves a person of even more than average height would not be able to have views up and over into the neighbouring garden or their flank windows.
- 7.2.4 It is also noted that the original permitted window had an openable part and thus when the window was open a person would have had to be at a similar elevated and unnatural position to have afforded any comparable views. The comments from the neighbouring property regarding the perception of overlooking, as more particularly experienced from their windows, is acknowledged. However the windows now in situ are of the same siting

and size as those which existed previously. Given this and for the reasons outlined above it is not considered that the window in situ results in any additional perceived or actual overlooking.

7.2.5 It is not considered that the clear glazed upper section of the window in situ, facing Friars Cottage, gives rise to unacceptable levels overlooking and therefore does not result in harm to neighbouring amenity.

7.2.6 In summary, the development does not result in any adverse impact on the residential amenity of any neighbouring occupier so as to justify refusal of the application and the development would therefore be acceptable in accordance with Policies CP1 and CP12 of the Core Strategy (adopted October 2011) and Policy DM1 and Appendix 2 of the Development Management Policies LDD (adopted July 2013).

7.3 Highways & Parking

7.3.1 Core Strategy Policy CP10 requires development to provide a safe and adequate means of access and to make adequate provision for all users, including car parking. Policy DM13 and Appendix 5 of the Development Management Policies document set out parking standards.

7.3.2 Appendix 5 outlines that dwellings with four or more bedrooms should provide 3 on-site parking spaces. The proposal has not resulted in the creation of any additional bedrooms and the existing parking provision to the frontage would remain.

7.4 Rear Garden Amenity Space

7.4.1 Policy CP12 of the Core Strategy states that development should take into account the need for adequate levels and disposition of privacy, prospect, amenity and garden space.

7.4.2 Appendix 2 requires 105 sqm of amenity space. The proposal does not result in the creation of any additional bedroom or loss of existing amenity space.

7.5 Trees & Landscape

7.5.1 Policy DM6 of the Development Management Policies LDD sets out that development proposals should seek to retain trees and other landscape and nature conservation features, and that proposals should demonstrate that trees will be safeguarded and managed during and after development in accordance with the relevant British Standards.

7.5.2 The application site is not located within a Conservation Area nor are there any protected trees on or near the site. Furthermore owing to the nature of the development it is not considered that any adverse impacts would have resulted or could result in the future in this respect.

7.6 Biodiversity

7.6.1 Section 40 of the Natural Environment and Rural Communities Act 2006 requires Local Planning Authorities to have regard to the purpose of conserving biodiversity. This is further emphasised by regulation 3(4) of the Habitat Regulations 1994 which state that Councils must have regard to the strict protection for certain species required by the EC Habitats Directive. The Habitats Directive places a legal duty on all public bodies to have regard to the habitats directive when carrying out their functions.

7.6.2 The protection of biodiversity and protected species is a material planning consideration in the assessment of this application in accordance with Policy CP9 of the Core Strategy and Policy DM6 of the Development Management Policies document. National Planning Policy requires Local Authorities to ensure that a protected species survey is undertaken for applications where biodiversity may be affected prior to the determination of a planning

application. A Biodiversity Checklist was submitted with the application and states that no protected species or biodiversity interests will be affected as a result of the application.

7.7 Mandatory Biodiversity Net Gain

7.7.1 Paragraph 13 of Schedule 7A of the Town and Country Planning Act 1990 sets out that every planning permission granted for the development of land in England shall be deemed to have been granted subject to the 'biodiversity gain condition' requiring development to achieve a net gain of 10% of biodiversity value. This is subject to exemptions, and an exemption applies in relation to planning permission for a development which is the subject of a householder application, within the meaning of article 2(1) of the Town and Country Planning (Development Management Procedure) (England) Order (2015).

7.7.2 In this case, the applicant has confirmed that if permission is granted for the development to which this application relates the biodiversity gain condition would not apply because this application is a Section 73 application and would also relate to householder development.

7.8 Other considerations

7.8.1 Conditions 1 and 2 pursuant to 8/234/94 related to 'Time Limit' and 'Materials'. These conditions are no longer relevant and therefore Condition 3 pursuant to 8/234/94 becomes Condition 1 below.

8 **Recommendation**

8.1 That condition 3 (Windows) be VARIED and that PLANNING PERMISSION IS GRANTED.

C1 The first floor flank windows hereby permitted shall maintained in accordance with the details as shown on plan number 143/02 REV AP1 including the positioning of the openable parts and the provision of purpose made obscure within the southern flank window.

Reason: To safeguard the amenities of the occupiers of neighbouring residential properties in accordance with Policies CP1 and CP12 of the Core Strategy (adopted October 2011) and Policy DM1 and Appendix 2 of the Development Management Policies LDD (adopted July 2013).

8.2 Informatives

I1 With regard to implementing this permission, the applicant is advised as follows:

All relevant planning conditions must be discharged prior to the commencement of work. Requests to discharge conditions must be made by formal application. Fees are £145 per request (or £43 where the related permission is for extending or altering a dwellinghouse or other development in the curtilage of a dwellinghouse). Please note that requests made without the appropriate fee will be returned unanswered.

There may be a requirement for the approved development to comply with the Building Regulations. Please contact Hertfordshire Building Control (HBC) on 0208 207 7456 or at buildingcontrol@hertfordshirebc.co.uk who will be happy to advise you on building control matters and will protect your interests throughout your build project by leading the compliance process. Further information is available at www.hertfordshirebc.co.uk.

Community Infrastructure Levy (CIL) - If your development is liable for CIL payments, it is a requirement under Regulation 67 (1) of The Community Infrastructure Levy Regulations 2010 (As Amended) that a Commencement Notice (Form 6) is submitted

to Three Rivers District Council as the Collecting Authority no later than the day before the day on which the chargeable development is to be commenced. DO NOT start your development until the Council has acknowledged receipt of the Commencement Notice. Failure to do so will mean you will lose the right to payment by instalments (where applicable), lose any exemptions already granted, and a surcharge will be imposed.

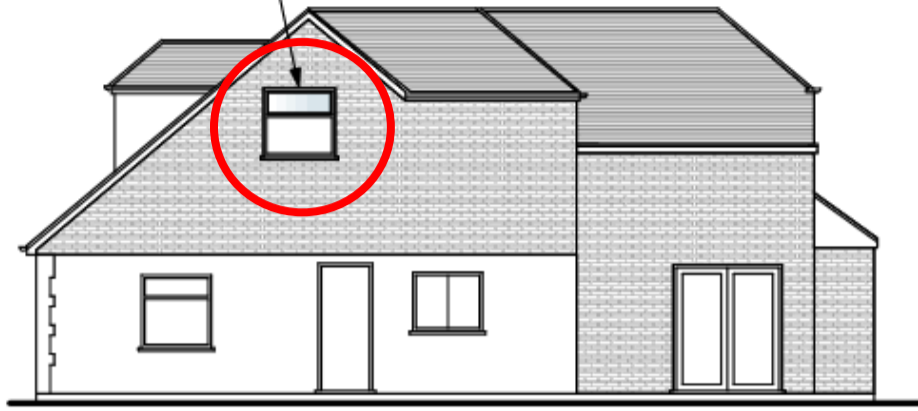
Care should be taken during the building works hereby approved to ensure no damage occurs to the verge or footpaths during construction. Vehicles delivering materials to this development shall not override or cause damage to the public footway. Any damage will require to be made good to the satisfaction of the Council and at the applicant's expense.

Where possible, energy saving and water harvesting measures should be incorporated. Any external changes to the building which may be subsequently required should be discussed with the Council's Development Management Section prior to the commencement of work.

- 12 The Local Planning Authority has been positive and proactive in its consideration of this planning application, in line with the requirements of the National Planning Policy Framework and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015. The development maintains/improves the economic, social and environmental conditions of the District.

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Top part of window on First Floor Side Elevation changed to clear glazing.
Lower part to remain obscure glazing.



11 South Elevation Proposed
Scale: 1:100

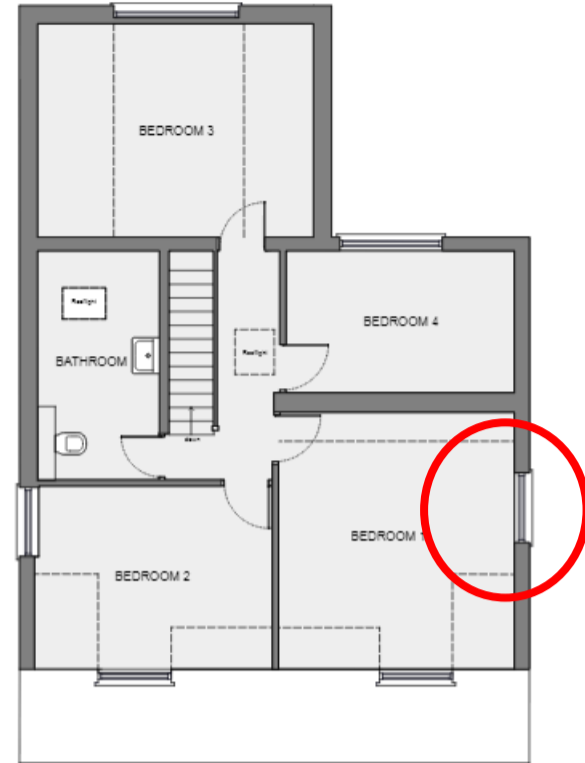


Photo 1

Photo 1 is taken from inside the room serving the window circled in red above. This window is sited in the Southern elevation facing Friar Cottage. This photo is taken at the Case Officer's eye level.

Photo 2 is taken through the upper panel above the head height of the Case Officer.



Photo 2

Window on First Floor Side Elevation
changed to clear glazing.

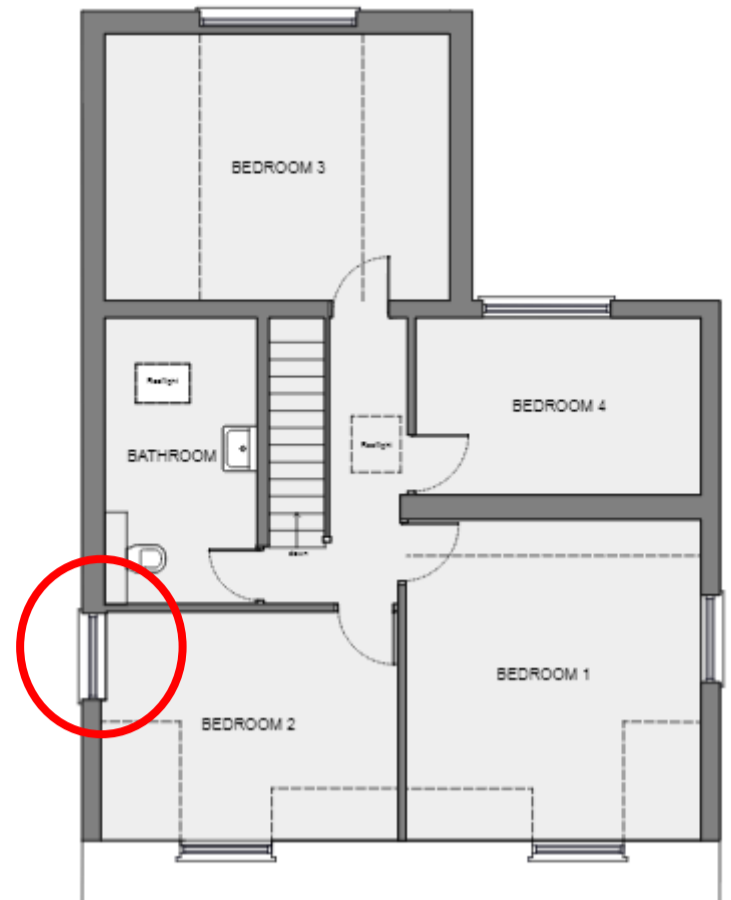
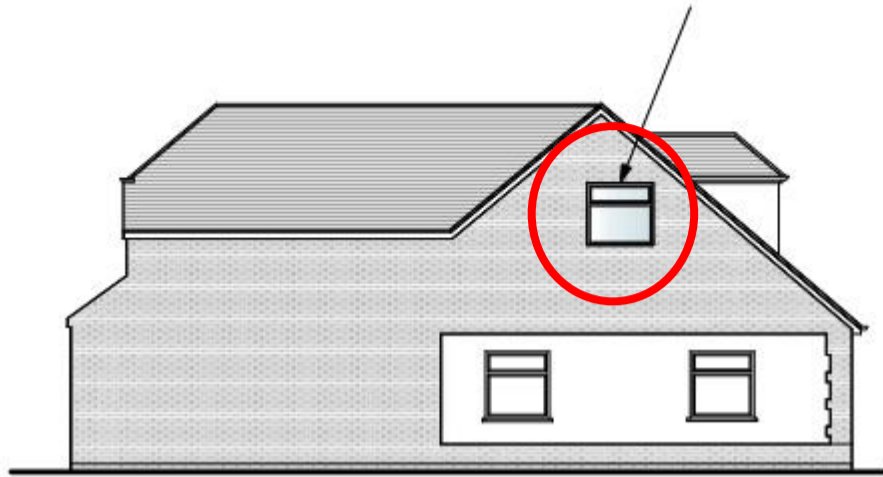


Photo 3 is taken from within the room of the window circled in red. This window is in the Northern elevation and faces Holmwood.
This photo is taken at the Case Officer's eye level.