

## 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](mailto: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](http://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.