

Section '3' - Applications recommended for PERMISSION, APPROVAL or CONSENT

Application No : 17/01653/RECON

**Ward:
Shortlands**

**Address : 95 Shortlands Road Shortlands Bromley
BR2 0JL**

OS Grid Ref: E: 538689 N: 168562

Applicant : Mr Andrew Tsiaoukkas

Objections : YES

Description of Development:

Variation of Condition 2 of planning permission reference 17/00093/FULL6 (removing permitted development rights for all developments and minor operations within the curtilage of the dwellinghouse) so that permitted development rights are retained for the construction of any building or enclosure within the curtilage of the dwelling (Class E); any hard surface which is incidental to the dwelling (Class F); any chimney or flues (Class G); and any microwave antenna (Class H) of Part 1, and all minor operations under Part 2 of the Town and Country Planning (General Permitted Development) Order 2015.

Key designations:

Conservation Area: Shortlands
Biggin Hill Safeguarding Area
Highways Proposal sites
London City Airport Safeguarding
Open Space Deficiency
Smoke Control SCA 21
Smoke Control SCA 9

Proposal

This application seeks a variation of Condition 2 of permission reference 17/00093/FULL which was permitted in March 2017. This condition restricts all permitted development rights. This application seeks to vary Condition 2 so that permitted development rights are retained for the construction of any building or enclosure within the curtilage of the dwelling (Class E), any hard surface which is incidental to original dwelling (Class F), any chimney or flues (Class G), and any microwave antennae (Class H) of Part 1, and all minor operations under Part 2 of the Town and Country (General Permitted Development) (England) Order 2015 (as amended). The applicant is seeking to vary the condition on the grounds it limits future development at the site to a wider extent than he considers necessary (i.e. removes all permitted development rights from the site), and is therefore is unreasonable.

The application is accompanied by a supporting statement.

This application has been "called in" by a Ward Councillor.

Location

The application site occupies a prominent corner position at southern end of Shortlands Road, adjacent to its junction with Hayes Lane. The site incorporates an area of 0.11ha and is occupied by a single detached dwelling - the subject of this planning application.

The surrounding area is predominantly residential in character. The NE site boundary abuts the Shortlands Road Conservation Area, which also encompasses houses on the facing side of Shortlands Road. The opposite side of Hayes Lane falls within the Park Langley Conservation Area.

Consultations

Nearby owners/occupiers were notified of the application and one representation was received, summarised as follows:

- Permission previously granted would not have been acceptable without the conditions imposed by the Council
- Previous planning permission should be rescinded if this condition is removed
- Dwelling should be rebuilt in accordance with approved plans if conditions are removed
- Concern at the manner in which the dwelling has been enlarged/altered
- Dwelling in its existing form is out of character
- Concern at nature of proposed works that could be carried out to the house
- Concern that removal of condition could encourage similar developments

Planning Considerations

Planning Considerations

The application falls to be determined in accordance with the following policies of the Unitary Development Plan and the London Plan:

BE1 Design of New Development
BE13 Development Adjacent to Conservation Areas
H8 Residential Extensions

London Plan:

Policy 7.4 Local Character
Policy 7.6 Architecture

The National Planning Policy Framework is also a material consideration in this appeal.

Planning history

The site is the subject of a fairly detailed planning history. The applications most relevant to this current proposal are set out below:

13/03375/FULL1

Under application reference 13/03375/FULL1 planning permission was granted in December 2013 for the enlargement of the existing house along its southern end to incorporate a kitchen/diner and games room and study. Permission was also granted for a porch along the northern side of the dwelling. The proposal did not include any additional first floor accommodation; however some internal reconfiguration was incorporated on the plans. In addition, the proposed plans appeared to show changes to the external elevational and fenestration treatment.

Amongst the conditions included was No 2 which stated:

Details of the materials to be used for the external surfaces of the building shall be submitted to and approved in writing by the Local Planning Authority before any work is commenced. The works shall be carried out in accordance with the approved details.

The above condition was not discharged.

13/03375/AMD

Under reference 13/03375/AMD, the Council approved a non-material amendment in April 2014 involving modifications to the fenestration design.

13/03731/FULL1

Under application reference 13/03731/FULL1 the Council granted planning permission in January 2014 for a roof extension including a raised roof area and associated openings to serve a master bedroom and en-suite. The maximum height of the ridge was shown to be increased to 8.55m (up from 8.0m).

13/03731/AMD

Under reference 13/03731/AMD an application for a non-material amendment - referred to in the application form as 'Roof extension to be formed within form of existing style without raised element' - was also approved in April 2014. The substance of the changes was illustrated in Drawing No 010. The changes included a more modest increase to the roof height by 0.3m (rather than 0.55m); however, the eaves height was increase by 0.3m.

17/00093/FULL6

Under reference 17/00093/FULL6, planning permission was granted in March 2017 for the retention of the existing two storey and single storey extensions and roof extensions including an increase in the roof height (by 0.3m) and east and west

facing dormer windows (originally permitted under application references 13/03375 and 13/03731) - and proposed elevational alterations including a new line of ridge tiles. The plans also involved the repainting of the house to white. The Council imposed an eight month compliance condition.

The table below provides a summary of all previous planning applications relating to the site.

Reference	Description	Status	Decision Date
72/03731	Detached chalet bungalow and garage	Refused	19.12.1972
87/03749/FUL	Demolition of existing car port and erection of detached double garage and formation of vehicular access	Permitted	17.02.1988
00/00848/FULL1	Formation of vehicular access to Shortlands Road	Permitted	03.05.2000
13/03375/FULL1	Erection of single storey side extensions, single storey rear extension and front porch extension	Permitted	04.12.2013
13/03731/FULL1	Roof extension including raised roof area and additional openings to provide a master bedroom and en suite	Permitted	06.01.2014
13/03375/AMD	AMENDMENT: To alter windows from white to grey timber frames double glazed windows, reduction of east bay window from a full height window to a 820mm high sill and alteration of a single glazed panel in the outbuilding to A2 part window	Approved	11.04.2014
13/03731/AMD	AMENDMENT: Roof extension to be formed within existing roof space with no increase in ridge height	Approved	11.04.2014
14/01369/FULL6	Single storey side extensions, part one/two storey rear extension and front porch extension	Refused	09.06.2014
14/02523/FULL1	Replacement of the existing boundary fence with an external wall and shiplap fencing, creation of a covered car port to the front garden area	Refused	29.09.2014
14/04296/FULL1	Replacement boundary fencing to include provision for access to refuse store	Permitted	18.06.2015
14/04308/FULL1	Replacement of existing boundary fence with approx. 2.1m high wall	Refused	01.04.2015

	with railings, approx. 2m high fence, approximately 2.3m high timber gates and refuse and recycling store		
16/02355/FULL6	Car port (retrospective application)	Permitted	28.07.2016
17/00093/FULL6	Part retrospective application for retention of existing two storey and single storey extensions and roof extensions including increase in roof height (0.3m) and east and west facing dormer windows (originally permitted under application references 13/03375 and 13/03731) - and proposed elevational alterations including a new line of ridge tiles	Permitted	21.03.2017

Conclusions

In assessing the merits of this application, it is necessary to assess the reasonableness of Condition 2 of permission reference 17/00093/FULL6, both in light of the site circumstances and in terms of the conditions tests incorporated in the NPPF.

Condition 2 was imposed by Members who considered application reference 17/00093/FULL6. The Committee Report at the time considered, *"In its existing form... the dwelling undermines local character. Whilst the surrounding area contains a diverse building stock, it is considered that the design of the building varies markedly from its surroundings, both in terms of its proportions and external finish. These differences are intensified as a result of its prominent location; as such the house has become an unduly dominant feature within the streetscene."* The purpose of Condition 2 was to protect the visual and residential amenities of the area and to prevent an overdevelopment of the site.

The applicant seeks the variation of Condition 2 in order that permitted development rights are retained for the construction of any building or enclosure within the curtilage of the dwelling (Class E), any hard surface which is incidental to original dwelling (Class F), any chimney or flues (Class G), and any microwave antennae (Class H) of Part 1, and all minor operations under Part 2 of the Town and Country (General Permitted Development) (England) Order 2015 (as amended). The applicant is seeking to vary the condition on the grounds it limits future development at the site to a wider extent than he considers necessary (i.e. removes all permitted development rights from the site), and is therefore is unreasonable. The applicant also notes that before application reference 17/00093/FULL6 was approved there were no restrictions to permitted development at the site whatsoever.

Paragraph 203 of the National Planning Policy Framework states: "Local planning authorities should consider whether otherwise unacceptable development could be

made acceptable through the use of conditions". Paragraph 206 of the National Planning Policy Framework states the planning conditions should only be imposed where they are:

1. necessary;
2. relevant to planning and;
3. to the development to be permitted;
4. enforceable;
5. precise;
6. reasonable in all other respects.

Taking account of paragraph 203 of the Framework and the applicant's representations, it is considered that the removal of all permitted development rights is unduly onerous on the basis that it encompasses all minor works as set out in Classes A to F of Part 2, including gates, fences and walls (Class A), means of access to the highway (Class B), exterior painting (Class C), electrical outlets and upstands for recharging vehicles (Classes D and E), and closed circuit television cameras (Class F). Part 1 allows for the construction of any building of enclosure within the curtilage of the dwelling (Class E); any hard surface which is incidental to the dwelling (Class F); any chimney or flues (Class G); and any microwave antenna (Class H) of Part 1, and all minor operations.

In effect, the applicant is content that certain Part 1 restrictions should be able to continue to apply, including the enlargement, alteration or other alteration of a dwellinghouse (Class A); additions to the roof of a dwellinghouse (Class B); other alterations to the roof of a dwellinghouse (Class C); and porches (Class D). Given that these conditions specifically affect the external fabric and appearance of the dwellinghouse, it is considered that a restriction of these permitted development rights will ensure that the Council is able to control future developments at this property which will affect the visual amenities of the area, and so ensure that any changes to the dwellinghouse do not undermine neighbouring amenity. The site is particularly prominent and much of the existing dwelling is well exposed from the surrounding roads. In terms of Class E (outbuildings), the applicant seeks to retain this permitted development right. Taking account of the site characteristics and the nature of Class E allowances, it is considered that Class E 'PD' rights can be retained without the prospect that local visual amenity or neighbouring amenity will be unduly affected.

However, given the injurious appearance of the dwelling in its current form, which has to a large extent been accentuated by the external paint treatment, it is considered that 'PD' rights afforded under Class C of Part 2 (exterior painting) should continue to be restricted. Under the terms of application reference 17/00093/FULL6, the approved scheme involved the repainting of the outside of the dwelling to white. As such, it is considered reasonable that the external paint treatment of the dwelling remains sympathetic to local character and to the satisfaction of the Local Planning Authority, and that the dwelling is not painted unsympathetically at a future time.

Taking account of the above, it is concluded that Condition 2 should be varied, rather than removed.

Background papers referred to during production of this report comprise all correspondence on file refs: 13/03375, 13/03731, 17/00093 and 17/01653, excluding exempt information.

RECOMMENDATION: PERMISSION

Subject to the following conditions:

- 1 The works to the dwellinghouse hereby approved shall be undertaken and completed by 21 November 2017 and these shall be permanently retained thereafter.**

Reason: In the interest of the appearance of the dwellinghouse and the character and appearance of the wider area, including the adjacent Conservation Areas, and to accord with Policies BE1, BE13 and H8 of the Unitary Development Plan; Policies 7.4 and 7.6 of the London Plan; and the National Planning Policy Framework.

- 2 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order amending, revoking and re-enacting this Order) no building, structure or alteration permitted by Class A, B, C, or D of Part 1 of Schedule 2 or Class C of Part 2 of Schedule 2 of the 1995 Order (as amended), shall be erected or made within the curtilage of the dwelling without the prior approval in writing of the Local Planning Authority.**

Reason: In the interest of the visual and residential amenities of the area and to prevent an overdevelopment of the site in order to comply with Policies BE1, BE13 and H8 of the Unitary Development Plan; Policies 7.4 and 7.6 of the London Plan; and the National Planning Policy Framework.