

DEVELOPMENT CONTROL BOARD

10 September 2020

Reference: 20/00667/VCON **Officer:** Abigail Lavery

Location: Sherwood Glen
Common Lane
Wilmington
Kent
DA2 7DB

Proposal: Variation of condition 2 (approved drawings) of planning permission DA/18/00684/FUL in respect of changes to the internal layout, widening of the first floor side extension and reconfiguration of window layout

Applicant: Mr P Merrington

Agent: DAC Architects/Mr Andrew Scott

Parish / Ward: Wilmington / Maypole & Leyton Cross

RECOMMENDATION:

Approval of the variation of condition 2 of planning permission DA/18/00684/FUL

SITE DESCRIPTION

(1) The site comprises a detached house with a large rear garden in the established residential area of Wilmington. It is located on a private section of unmade road which is a spur from, and is still classified as part of, Common Lane. Several detached properties are located on the north side of this spur, looking over Wilmington Common to the south.

(2) The overall site area is around 1,300 sqm. The rear garden is some 65m deep and the northern rear garden boundary backs onto woodland. The residential property known as Hulsewood Cottage sits to the west and Highbank House to the east.

(3) There is a detached garage to the rear and an additional outbuilding towards the front section of the garden which is around 18 metres from the main dwelling. There is also an outdoor swimming pool which is a few metres from the property's rear elevation.

(4) The land immediately surrounding the house is relatively even but there is a steep incline towards the rear of the garden such that the far rear section sits higher than the dwelling itself. Both the neighbouring properties have similarly sloping rear gardens. The property at Highbank House sits at a slightly lower ground level than Sherwood Glen and Hulsewood Cottage is at a relatively similar level to Sherwood Glen.

(5) The property's front curtilage contains a large gravel driveway which provides access past the eastern elevation of the house to the detached garage which sits on the boundary with the neighbour to the east, Highbank House. The driveway is surrounded by extensive planting and the front boundary to the south is demarcated by a white picket fence.

(6) The front elevation features a wide gable design with a cat slide roof. A single storey element projects to the front, and wraps around the front western corner of the house. The front entrance is within an open porch with a dual pitched roof. The dwelling's main roof is a dual pitched design with a flat roof dormer window in its eastern elevation facing Highbank House. To the rear there is a flat roofed single storey extension. This is a description of the dwelling prior to works commencing as I note that building works have commenced on planning permission reference 18/00684/FUL.

(7) The dwellings along this section of Common Lane have been erected during different periods which has resulted in a varied street scape. Sherwood Glen was built in the 1970s.

(8) The neighbour to the west, Hulsewood Cottage, is a detached house with a similar plot size to the application site. The dwelling has been extended in various manners including a rear extension and detached garage with rooms in the roof. The property sits much closer to the road than Sherwood Glen (the application site property), such that the original rear elevation is forward of Sherwood Glen's front elevation.

(9) The neighbour to the east, Highbank House, is also a detached dwelling with large grounds. This property has been extended in the form of a single storey rear extension and a rear conservatory. There are ongoing building works at the property and there is a pending planning application (20/00964/FUL) for, that which appears to be, revisions to the previous application (19/01584/FUL).

THE PROPOSAL

(10) The current application is made under section 73 of the Town and Country Planning Act 1990 for a minor amendment to vary condition 2 which relates to the approved drawing numbers of planning permission reference 18/00684/FUL. That application granted planning permission for the erection of a side and rear extension at first floor level with Juliette balcony together with provision of additional room in the roof space. The current application seeks to substitute a revised drawing for that which has been permitted.

(11) Members will recall that planning permission 18/00684/FUL was approved by the Development Control Board in August 2018 following a site visit.

(12) Building works commenced on site in June 2020 on the extant permission, after commencement of the works it was found that changes were required for structural reasons relating to the configuration of the building. The variation of condition application was submitted following the commencement of works as it was only during the initial works on site that these structural issues were found. The agent has explained that the structural engineer's drawings showed a wall which was to be used as a support wall for the first floor side extension. Once the building was opened up upon commencement of the works it was found that this wall could not support the extension and therefore the extension has been enlarged so that it can be supported by a different wall.

(13) At the time of writing the timber framing is in situ up to roof height. I am advised that there have been delays to the project as a result of Covid-19 lockdown.

(14) The key external differences proposed to the approved extension to Sherwood Glen are:

- The first floor side extension to the eastern side of the property will be 2.3m deeper, the additional depth will be towards the front of the property. The extension will also have a small section of flat roof, in place of a ridgeline, in order to retain the same maximum height to the roof but allow for adequate headroom over the stairs.
- Additional window in the extended section of the first floor side extension which will be obscure glazed
- Minor alterations to the shape of the window at second floor level in the front elevation
- Provision of cedar cladding to front and eastern side elevations

RELEVANT HISTORY

(15) The house and detached garage were built in the 1970s as a single dwelling.

78/00788/FULA1 - single storey rear extension permitted

91/00267/FUL - Erection of a detached single storey building for use as a snooker room in connection with and ancillary to the residential use of the house 'Mahjong' (now Sherwood Glen) - permission granted

18/00684/FUL - Raising height of roof for erection of a side and rear extension at first floor level with Juliette balcony together with provision of additional room in the roof space - permission granted by Development Control Board.

COMMENTS FROM ORGANISATIONS

(16) Wilmington Parish Council - The Council is concerned that the proposed reconfiguration of the windows will result in unacceptable overlooking for the neighbour.

NEIGHBOUR NOTIFICATION

(17) Neighbours were consulted on the application on the 17th of June 2020. In response to this one letter of objection was received from the neighbour to the east, Highbank House. The neighbour is concerned that the alterations to the plans will result in a dominating and overbearing impact, also resulting in loss of light and privacy.

RELEVANT POLICIES

(18) The Dartford Core Strategy 2011, the Dartford Development Policies Plan 2017 and the Kent Minerals and Waste Local Plan 2016 form the Dartford's Development Plan and the application should be determined against this unless material considerations indicate otherwise.

(19) Adopted Dartford Development Policies Plan 2017
DP1: Presumption in favour of sustainable development
DP2: Good Design
DP5: Environmental and amenity protection
DP7: Borough housing stock and residential amenity

(20) Dartford Parking Standards Supplementary Planning Document 2012

(21) The National Planning Policy Framework is also a material consideration.

COMMENTS

Section 73 applications

(22) The variation of a planning permissions via section 73 of the Town and Country Planning Act is called a minor material amendment to the permission. There is no statutory definition of a 'minor material amendment' but government guidance advises that it is likely to include any amendment which results in a development which is not substantially different from the one which has been approved. Where an application under section 73 is granted, the effect is the issue of a new planning permission, sitting alongside the original permission, which remains intact and unamended. It is open to the applicant to decide whether to implement the new permission or the one originally granted. In granting permission under section 73 the local planning authority may also impose new conditions - provided the conditions do not materially alter the development that was subject to the original permission and are conditions which could have been imposed on the earlier planning permission.

(23) In deciding an application under section 73 the local planning authority must only consider the conditions which are the subject of the planning application.

Key Issues

(24) Planning permission for the extensions to this property has already been granted and therefore under section 73 the only consideration can be the impact of the proposed changes on the amended plan, the key issues to be considered therefore are the impact on neighbour amenity and on the character and appearance of the host dwelling and immediate area.

Neighbour amenity

(25) The principal change for which permission is now sought is to the first floor side extension to the eastern side of the property. This extension will project approximately 2.3m further forward than was approved and there will be an additional obscure glazed window. The extension will still be set back from the front elevation by approximately 1.2m

(26) The neighbour at Highbank House to the east has raised concerns about the impact of the alterations on their amenities in terms of overbearing, loss of light and privacy.

(27) Based on the plans, my site visit and aerial mapping it seems that the front of the first floor extension will now sit slightly behind the building line to the main front elevation of Highbank House.

(28) When the previous application was determined Highbank House had 2 No. windows serving non-habitable rooms in its western elevation facing the boundary with Sherwood Glen. Since the previous permission was granted Highbank House has received planning permission (19/01584/FUL) for extensions including additional windows in the western elevation at ground floor and a glazed ground floor extension to the front. The only first floor window to the side of the property is shown to serve an ensuite. A new application (20/00964/FUL) which appears to be proposed amendments to the previous application is currently under consideration. The latest application will still include door to a utility room and window to a shower room at ground floor, and a front extension of a similar size to that approved but which is now brick built but with a relatively large area of glazing. The front extension will sit forward of Sherwood Glen's proposed first floor side extension and as such this proposed area of glazing should not be adversely affected.

(29) The proposed amendments to the extension will not project to the side, (further east towards Highbank House) only extending it further south towards the front elevation. So the same distance is retained to the boundary. Sherwood Glen is set in from the common boundary with Highbank House by approximately 3 metres and this neighbour is set in around 1 metre from this boundary. Given the distance between the properties and the lack of any habitable windows to the side of the property I do not consider that the additional 2.3m forward projection will result in harm to the amenities of this neighbour. With regard to the ground floor extension that is to be built to the front of Highbank, I do not consider that the increase in size of the proposed first floor side extension at the application property will result in any harm to the windows in the western elevation, particularly as these are at ground floor within 1 m of a boundary and so boundary treatment will impact on light. But also because this extension is glazed on three sides and so will receive good daylight to the room.

(30) There is one additional window proposed in the eastern elevation of the first floor side extension to the application site. This is to be obscure glazed, high level, serving a stairway and will be positioned towards the front of the house and away from any private amenity space. If Members are minded to approve the application I recommend a condition be imposed [3] that this be obscure glazed and fixed shut. It is considered that this obscure glazed window will not result in any loss of privacy for the occupiers of Highbank House.

(31) The changes are predominately to the eastern side of Sherwood Glen and as such Hulsewood Cottage to the west should not be adversely affected.

Visual amenity

(32) The design of the proposal is largely the same, the key changes will be the provision of cedar cladding and an area of flat roof instead of a ridgeline.

(33) The flat roof area atop the first floor side extension will have an area of approximately 5 square metres and will be set back around 6 metres from the front elevation. It will not be visible from the street scene, appearing as the top of a hipped roof. I note that the first floors side extension replaces an existing flat roofed dormer window.

(34) The houses along this stretch of Common Lane are each relatively unique with a range of materials present. It is not considered that the cladding will be harmful to the visual amenities of the area given the mixed context in this area.

(35) The small window which was approved to the front elevation at first floor level is proposed to be a different shape but will not be materially larger. I consider that the visual impact of this change will be de-Minimis.

(36) I am satisfied that the proposal changes will not result in any harm to visual amenity or the character of the area.

Other issues

(37) The alterations do not result in the creation of any additional rooms over and above that which was approved under 18/00684/FUL and as such there are not any parking implications as a result of the changes.

(38) The architect has advised that the enlargement of the proposal is predominately for structural reasons and that he has taken efforts to limit the changes to that which is necessary for the proposals to proceed.

HUMAN RIGHTS IMPLICATIONS

(39) I have considered the application in the light of the Human Rights Act 1998. I am satisfied that my analysis of the issues in this case and my consequent recommendation are compatible with the Act.

PUBLIC SECTOR EQUALITY DUTY

(40) Due regard has been had to the Public Sector Equality Duty, as set out in Section 149 of the Equality Act 2010. It is considered that the application proposals would not undermine objectives of the Duty.

CONCLUSIONS AND REASONS FOR RECOMMENDATION

(41) I am satisfied that the changes for which permission is sought are appropriate in terms of the key issues of neighbour amenity and design. I consider that these alterations are compliant with the relevant policies of the Dartford Development Policies Plan (2017) as described above. I have considered the comments of the neighbour in reaching this decision. I am satisfied that the proposals are acceptable minor amendments to the approved plans. I therefore recommend that condition 2 of 18/00684/FUL should be varied and the planning permission should be reissued with this variation with the conditions reproduced from the original permission as set out below.

(42) The existing permission has been implemented but the current application results in a new permission as explained above. However, a variation of a condition cannot extend the time to extend the original permission so the time limit relates to the original permission.

RECOMMENDATION:

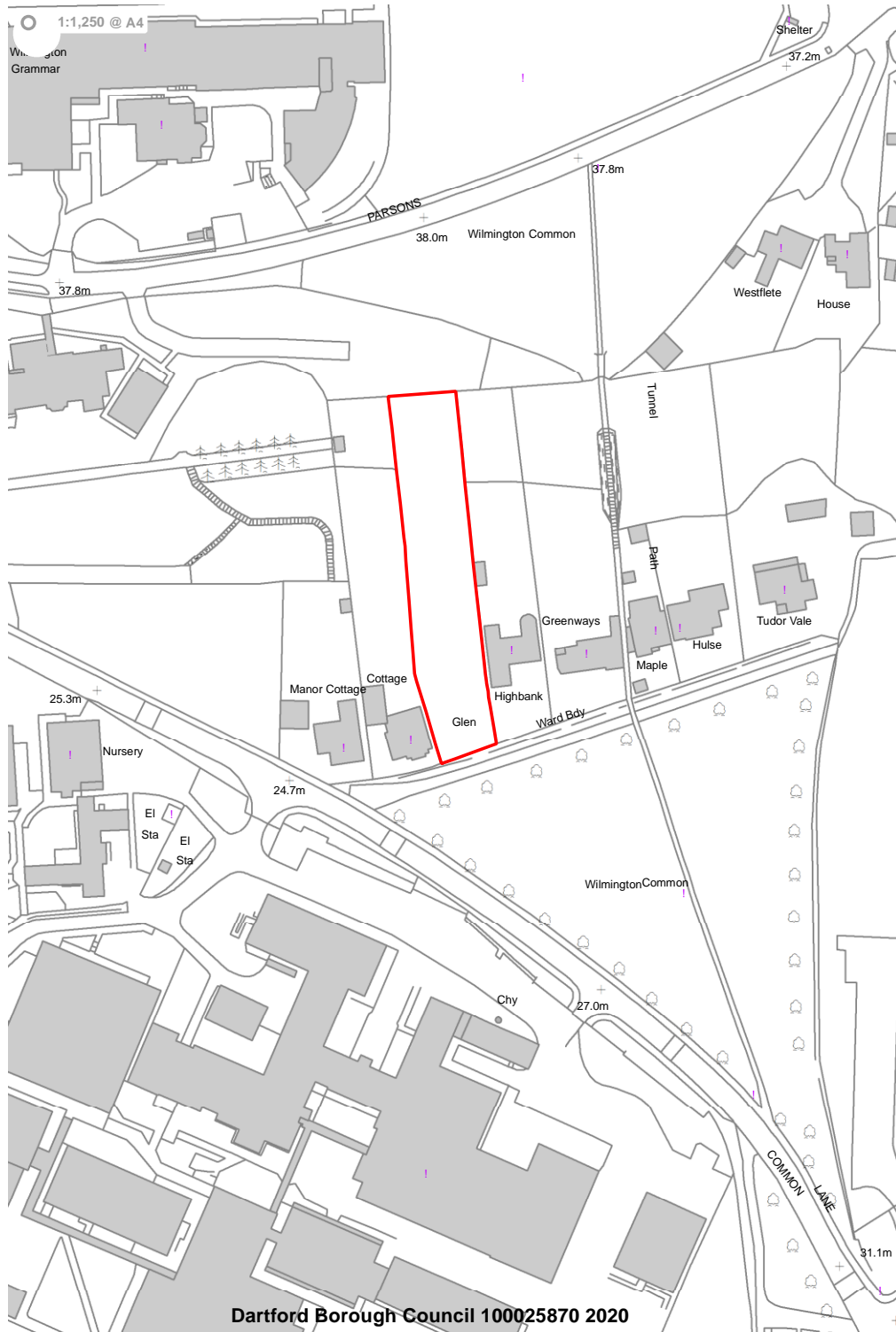
Approval of the variation of condition 2 of planning permission DA/18/00684/FUL for the reasons set out in the report and a fresh planning permission be granted subject to the conditions set out at the end of this report

Conditions:

- 01 The development hereby permitted shall be begun before the 10th August 2021.
- 01 In pursuance of Section 91(1) of the Town and Country Planning Act 1990.
- 02 The development shall be carried out in accordance with the following plans and documents: 4777 D.202 rev E
- 02 For the avoidance of doubt and to ensure a satisfactory form of development.
- 03 Prior to occupation of the development hereby approved the second floor windows and first floor window serving the third bedroom in the western side elevation(s) of the extension facing Hulsewood Cottage and as shown on the approved drawings shall be obscure glazed with a minimum obscurity level of 3 as referred to in the Pilkington Texture Glass Range leaflet, or nearest equivalent as may be agreed in writing by the Local Planning Authority. Such glazing shall be incapable of being opened with the exception of any top hung fan lights, and shall subsequently be maintained as such at all times except in the case of an emergency where access is required as an escape window.
- 03 To safeguard the privacy of adjoining residents in accordance with Policies DP2 and DP5 of the adopted Dartford Local Plan.
- 04 Prior to occupation of the development hereby approved the first floor window(s) in eastern side elevation(s) of the extension facing Highbank House and serving bathrooms and the southernmost window serving the stairwell and as shown on the approved drawings shall be obscure glazed with a minimum obscurity level of 3 as referred to in the Pilkington Texture Glass Range leaflet, or nearest equivalent as may be agreed in writing by the Local Planning Authority. Such glazing shall be fitted with opening restrictors in accordance with details to be submitted to the Local Planning Authority to be approved in writing, and shall subsequently be maintained as such at all times.
- 04 To safeguard the privacy of adjoining residents in accordance with Policies DP2 and DP5 of the adopted Dartford Local Plan.
- 05 Prior to occupation of the development hereby approved the window in the eastern side of the roof slope serving bedroom 4 and as shown on the approved drawings shall be obscure glazed with a minimum obscurity level of 3 as referred to in the Pilkington Texture Glass Range leaflet, or nearest equivalent as may be agreed in writing by the Local Planning Authority. Such glazing shall be incapable of being opened with the exception of any top hung fan lights, and shall subsequently be maintained as such at all times.
- 05 To safeguard the privacy of adjoining residents in accordance with Policies DP2 and DP5 of the adopted Dartford Local Plan.

INFORMATIVES

- 01 For the avoidance of doubt this permission has been granted under section 73 of the Town and Country Planning Act 1990 and varies the conditions on the original planning permission granted on 10 August 2018 under reference DA/18/00684/FUL. Either of these permissions may be implemented but the conditions on the permission chosen to be implemented must be fully complied with



Application No.:	20/00667/VCON
Address :	Sherwood Glen Common Lane Wilmington Kent DA2 7DB
Date: 26 August 2020	Scale: Not to Scale

