



TO: Planning Committee North

BY: Development Manager

DATE: 10 January 2017

DEVELOPMENT: Removal of condition 14 following approval of application DC/15/1888.
Relating to changing an opaque window to a transparent window.

SITE: Demolished Twigs Bashurst Hill Itchingfield West Sussex

WARD: Itchingfield, Slinfold and Warnham

APPLICATION: DC/16/2370

APPLICANT: Duncan Jagger and Pippa Bugby

REASON FOR INCLUSION ON THE AGENDA: More than 8 representations have been received of a contrary view to the Officer recommendation and by request of Councillor Youtan and Councillor Ritchie.

RECOMMENDATION: To approve the removal of condition 14 attached to DC/15/1888 and grant planning permission subject to the conditions as set out in paragraph 7 and the determination of DISC/16/0318 and DISC/16/0324

1. THE PURPOSE OF THIS REPORT

To consider the planning application.

1.1.1 DESCRIPTION OF THE APPLICATION

1.1.1 Members will recall that at the Development Management Committee (North) meeting on 2 August 2016 where the retrospective application for the erection of a four bed chalet bungalow together with the erection of a detached garage with accommodation above and external air source heat pumps and erection of a cycle store was considered (DC/15/1888), a condition requiring the two triangular windows within the side elevation of the property facing Willow Cottage to be obscure glazed was imposed.

1.1.2 The application seeks to remove the condition imposed on DC/15/1888 which requires the two triangular windows within the side elevation of the property facing Willow Cottage to be obscure glazed. If the application is permitted this will allow the clear glazing to remain in the two triangular windows.

1.2 DESCRIPTION OF THE SITE

1.2.1 The application site comprises a square-shaped residential plot, on which a two storey property has recently been constructed following the demolition of the bungalow that existed on the site. The plot is located on the west side of Bashurst Hill in a countryside

location. Bashurst Hill is characterised by large detached dwellings set in very generous plots.

2. INTRODUCTION

2.1 STATUTORY BACKGROUND

The Town and Country Planning Act 1990.

2.2 RELEVANT GOVERNMENT POLICY

- 2.2.1 The following sections of the National Planning Policy Framework (2012), hereinafter referred to as the 'Framework', are relevant to the consideration of this application (Note: This list is not exhaustive and other paragraphs of the Framework are referred to where necessary within the contents of the report):

NPPF 7 – Requiring good design

2.3 RELEVANT COUNCIL POLICY

- 2.3.1 Horsham District Planning Framework (HDPF) – the following policies are of particular relevance:

Policy 32 – Strategic Policy: The Quality of New Development

Policy 33 – Development Principles

2.4 NEIGHBOURHOOD PLAN

- 2.4.1 The Parish of Itchingfield was designated as a Neighbourhood Development Plan Area on 1 September 2015.

2.5 PLANNING HISTORY

- 2.5.1 The site has a long and complex history which is outlined below:

DC/07/2210 – Demolition of existing bungalow and erection of a 4-bed dwelling and detached double garage – Withdrawn 03.12.2007

DC/08/0659 – Demolition of existing bungalow and erection of a 3-bed dwelling and detached double garage – Refused 20.05.2008

DC/08/1523 – Demolition of existing bungalow and erection of a 4-bed dwelling and detached double garage – Permitted 05.09.2008

DC/11/0682 – Renewal of unimplemented permission Ref DC/08/1523 (Demolition of existing bungalow and erection of a 4-bed dwelling and detached double garage) – Permitted 09.06.2011

DC/13/2058 – Replacement of existing bungalow with chalet dwelling and detached garage – Permitted 23.12.2013

DC/14/0626 – Non-Material amendment to previously approved DC/13/2058 (Replacement of existing bungalow with chalet dwelling and detached garage) comprising alterations to windows, roof and minor design changes – Permitted 28.08.2014

DC/14/2285 – Material amendment to planning permission DC/13/2058 comprising of alterations to the roof – Permitted 06.01.2015

DC/15/0989 – Variation of plans compliance condition on DC/14/2285 to amend the siting and design of the proposed garage – Permitted 02.08.2016.

DC/15/1888 – Retrospective application for the erection of a four bed chalet bungalow together with the erection of a detached garage with accommodation above and external air source heat pumps and erection of a cycle store – Permitted 02.08.2016.

DISC/16/0318 – Approval of details reserved by condition 16 on DC/15/1888 – To be considered by Committee

DISC/16/0324 – Approval of details reserved by condition 18 to approved application DC/15/1888 – To be considered by Committee

DC/16/2567 – Retrospective application for the erection of an oak framed pergola to the southern elevation of the property, black painted metal fencing and gates to the front of the property, and formation of earth bund adjacent to stream at front of the site – Under consideration

DC/16/2568 – Retrospective application for the tarmacking of existing hardstanding area between stream and highway to front of site – Under consideration

3. OUTCOME OF CONSULTATIONS

3.1 Where consultation responses have been summarised, it should be noted that Officers have had consideration of the full comments received, which are available to view on the public file at www.horsham.gov.uk.

3.2 INTERNAL CONSULTATIONS

3.2.1 **Environmental Health** – No comments.

3.3 PARISH/NEIGHBOURHOOD COUNCIL

3.3.1 *“Itchingfield Parish Council uphold the wishes of the 11 neighbours who have objected and strongly object to this condition being removed. Itchingfield Parish Council therefore objects to this application for condition 14 to be removed.”*

3.4 MEMBER COMMENTS

3.4.1 Councillor Youtan and Councillor Ritchie have requested that the application is heard before Committee.

3.5 PUBLIC CONSULTATIONS

3.5.1 11 letters/emails of objection have been received from 9 households which raise the following material considerations:

- The use of frosted glass was one of the four conditions set in August when the retrospective planning permission was granted.
- The condition was supported by an overwhelming majority of council members who voted in favour of the condition after seeing photographs depicting and documenting the window in question.

- Council members deemed that the window be a breach of privacy and intrusive for the residents of Willow Cottage, and requested that it be replaced with opaque frosted glass
- While it was acknowledged that the window is above head height, the scale of the window and close proximity to our boundary was deemed by Members to be intrusive and an invasion of privacy.
- The occupants of Twigs will need to clean the window regularly as it is a shower room – this may be done using only a small pair of steps and in the process the occupants will look out over Willow Cottage.
- The architect has stated that "*the high coniferous hedge screens neighbouring private garden areas used for amenity, so it would make even the perception of overlooking from Willow Cottage very unlikely*" – the hedge is not high enough to screen the house and garden of Willow Cottage.
- The triangular window has become even higher and more obtrusive since the original planning permission was granted because the roof ridge and the window below it have been raised 0.5 meters.
- Without the opaque frosted glass required by Condition 14, the large triangular window in question would cause unacceptable harm with respect to the privacy and amenity of the occupants of Willow Cottage.
- The removal of the condition would be contrary to Horsham District Planning Framework Policy 33.

4. HOW THE PROPOSED COURSE OF ACTION WILL PROMOTE HUMAN RIGHTS

- 4.1 Article 8 (Right to respect of a Private and Family Life) and Article 1 of the First Protocol (Protection of Property) of the Human Rights Act 1998 are relevant to this application, Consideration of Human rights forms part of the planning assessment below.

5. HOW THE PROPOSAL WILL HELP TO REDUCE CRIME AND DISORDER

- 5.1 It is not considered that the development would be likely to have any significant impact on crime and disorder.

6. PLANNING ASSESSMENTS

- 6.1 Members will recall that at the Development Management Committee (North) meeting on 2 August 2016, where the retrospective application for the erection of a four bed chalet bungalow together with the erection of a detached garage with accommodation above and external air source heat pumps and erection of a cycle store was considered, a condition requiring the two triangular windows within the side elevation of the property facing Willow Cottage to be obscure glazed was imposed.

- 6.2 This current application seeks to remove condition 14 attached to DC/15/1888. If permitted this will allow the clear glazing to remain in the two triangular windows. Condition 14 states:

14 Within two months of the date of this decision, the triangular windows within the south west elevation shall be fitted with privacy level 5 obscure glazed glass. The windows shall be obscure glazed in perpetuity.

Reason: To prevent the perception of overlooking to the neighbouring property in accordance with Policy 33 of the Horsham District Planning Framework (2015).

- 6.3 Policy 33 of the Horsham District Planning Framework requires new development to ensure that it is designed to avoid unacceptable harm to the amenity of occupiers/users of nearby property and land, for example through overlooking or noise, whilst having regard to the sensitivities of surrounding development.
- 6.4 As outlined by Officers at the Development Management Committee (North) meeting on 2 August 2016, the windows the subject of this application are within ensuite shower rooms, with the bottom of the windows (sill level) being over 2 metres from floor level. From a recent site visit undertaken, it can be confirmed that the sill level (bottom) of both windows when measured from the bottom of the shower tray is just over 2.3 metres with the window being recessed from the wall forming the side of the shower by just under 0.3 metres. The height of an average door is 2 metres.
- 6.5 It should be noted that these triangular windows were approved in this location and without a requirement for them to be obscure glazed on the previous permissions, including the initial application in 2013. Whilst neighbours have commented that these windows are now larger than shown on the original scheme for the site, in a different position due to alterations to the design of the dwelling and therefore allow for more opportunities for overlooking, it is considered that it would be unreasonable to require these windows to be obscure glazed given the height of the sill level of the windows. Neighbours are concerned that the occupiers of the property will be able to overlook the garden area of Willow Cottage when cleaning the windows, however given that this is likely to be carried out relatively infrequently and is likely to be carried out relatively quickly, it is not considered reasonable to refuse the removal of the condition for this reason.
- 6.6 Given the above, it remains Officers considered opinion that there are no reasonable planning grounds to continue to require these windows to be obscure glazed as there would be no overlooking from the windows and therefore no loss of privacy to the neighbouring property. It is recommended that the condition should therefore be removed.

7. RECOMMENDATIONS

- 7.1 It is recommended that condition 14 attached DC/15/1888 is removed and planning permission be granted subject to the following conditions:

1. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order amending or revoking and re-enacting that Order with or without modification) no windows or other openings (other than those shown on the plans hereby approved) shall be formed in the first floor side elevations of the development, unless otherwise agreed with the Local Planning Authority through the submission of a planning application.

Reason: To protect the amenities of adjoining residential properties and in accordance with Policy 33 of the Horsham District Planning Framework (2015).

2. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order amending or revoking and re-enacting that Order with or without modification) no gate, fence, wall or other means of enclosure shall be erected or constructed in front of the forwardmost part of any proposed building which fronts onto a highway, unless otherwise agreed with the Local Planning Authority through the submission of a planning application.

Reason: In order to safeguard the character and visual amenities of the locality and/or highway safety and in accordance with Policy 33 of the Horsham District Planning Framework (2015).

3. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order amending or revoking and re-enacting that Order with or without modification) no development falling within Classes A, B, C, D and E of Part 1 of Schedule 2 to the order shall be erected, constructed or placed within the curtilage of the dwelling hereby permitted so as to enlarge improve or otherwise alter the appearance or setting of the dwelling or the garage/carport, unless otherwise agreed with the Local Planning Authority through the submission of a planning application.

Reason: In the interest of visual amenity and in accordance with Policy 33 of the Horsham District Planning Framework (2015).

4. No work for the implementation of the development hereby permitted shall be undertaken on the site except between 08.00 hours and 18.00 hours on Mondays to Fridays inclusive and 08.00 hours and 13.00 hours on Saturdays, and no work shall be undertaken on Sundays, Bank and Public Holidays unless otherwise agreed in writing by the Local Planning Authority.

Reason: To safeguard the amenities of nearby residents in accordance with Policy 33 of the Horsham District Planning Framework (2015).

5. The approved facilities for the parking, loading and unloading of vehicles and the storage of materials and equipment associated with the building works as agreed with the Local Planning Authority on 28th January 2015 and shown on drawing number 2657/1000 Rev B shall be retained and available for use throughout the period of work required to implement the development hereby permitted unless alternative details are agreed in writing by the Local Planning Authority.

Reason: In the interests of road safety and/or in the interests of amenity and in accordance with Policy 40 of the Horsham District Local Development Framework: General Development Control Policies (2007).

6. The approved vehicle wheel-cleaning facility as agreed with the Local Planning Authority on 28th January 2015 and shown on drawing number 2657/1000 Rev B shall be provided in working order and operated throughout the period of any construction work on the site to ensure that vehicles do not leave the site carrying earth and mud on their wheels in a quantity which causes a nuisance, hazard or visual intrusion from material deposited on the road system in the locality.

Reason: In the interests of road safety and in accordance with Policy 40 of the Horsham District Planning Framework (2015).

7. No burning of materials in association with the construction works shall take place on the site.

Reason: In the interests of amenity and in accordance with Policy 33 of the Horsham District Planning Framework (2015).

8. The hard and soft landscaping works as agreed with the Local Planning Authority on 28th January 2015 and shown on drawing number 2657/1000 Rev B shall be fully implemented in the first planting season following occupation of the dwelling hereby permitted and completed strictly in accordance with the approved details. Any plants or species which within a period of 5 years from the time of planting die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season

with others of similar size and species, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure a satisfactory development and in the interests of amenity in accordance with Policy 33 of the Horsham District Planning Framework (2015).

9. The provision for the storage of refuse/recycling bins which were agreed with the Local Planning Authority on 28th January 2015 and shown on drawing number 2657/1000 Rev B shall be retained in perpetuity.

Reason: To ensure the adequate provision of recycling facilities in accordance with Policy 40 of the Horsham District Planning Framework (2015).

10. The parking spaces and cycle parking facility shown on the submitted plan forming part of application DC/15/1888 shall be maintained in accordance with the approved details.

Reason: To ensure that adequate and satisfactory provision is made for the accommodation of vehicles and cycle clear of the highways in accordance with Policy 40 of the Horsham District Planning Framework (2015).

11. The vehicle turning space as shown on the approved site plan forming part of application DC/15/1888 shall be maintained in accordance with the approved details.

Reason: In the interests of road safety and to comply with Policy 40 of the Horsham District Planning Framework (2015).

13. The window within the north west elevation of the garage hereby approved shall be obscure glazed in accordance with details to be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and the obscure glazing retained in perpetuity.

Reason: To protect the amenities of adjoining residential properties and in accordance with Policy 33 of the Horsham District Planning Framework (2015).

14. The restrictor fitted to the first floor window on the north east elevation to prevent the window opening more than 5cm shall be retained in perpetuity.

Reason: To protect the privacy of the occupiers of the neighbouring property in accordance with Policy 33 of the Horsham District Planning Framework (2015).

15. The additional landscaping scheme for the site as detailed in application DISC/16/0318 shall be completed strictly in accordance with the approved details. Any plants or species which within a period of 5 years from the time of planting die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To protect the privacy of the occupiers of the neighbouring property in accordance with Policy 33 of the Horsham District Planning Framework (2015).

16. The tree located on the boundary with Beggars Roost labelled as 'Conifer (Multi-bole)' on drawing no. 2657/100 Rev M submitted in respect of DC/15/1888 shall not be wilfully damaged or uprooted, felled/removed, topped or lopped without the prior approval of the Local Planning Authority.

Reason: To protect the privacy of the occupiers of the neighbouring property in accordance with Policy 33 of the Horsham District Planning Framework (2015).

17. The garage/carport shall be carried out strictly in accordance with the schedule of materials as agreed by application DISC/16/0324.

Reason: In the interests of the visual amenity of the site in accordance with Policy 33 of the Horsham District Planning Framework (2015).

Background Papers: DC/13/2058, DC/14/0626, DC/14/2285, DC/15/0989 and DC/15/1888