Item No. 8

APPLICATION NUMBER CB/13/03029/VOC

LOCATION Eagle House, 135 Potton Road, Biggleswade,

SG18 0ED

PROPOSAL Variation of Condition No. 5 on planning

application CB/12/01120/FULL dated 25/07/2012 to be varied to retain 3 No. existing openings with

their original fenestration.

PARISH Biggleswade

WARD Biggleswade North

WARD COUNCILLORS Clirs Jones & Mrs Lawrence

CASE OFFICER
DATE REGISTERED
EXPIRY DATE
APPLICANT
Nicola Stevens
29 August 2013
24 October 2013
Mr R Storton

AGENT Robert J Larman Architectural Services

REASON FOR The application was called in by Councillor Jane

COMMITTEE TO Lawrence with regard to privacy

DETERMINE

RECOMMENDED

DECISION Variation of Condition - Approval

Summary of recommendation

The proposal would not have a negative impact on the character or appearance of the area or an adverse impact on the residential amenity of neighbouring properties and is acceptable in terms of highway safety therefore by reason of its site, design and location, is in conformity with Policies CS14, DM3 and DM4 of the Core Strategy and Management Policies, November 2009; National Planning Policy Framework (March 2012). It is further in conformity with the technical guidance Design in Central Bedfordshire, a Guide for Development, 2010 and Central Bedfordshire Local Transport Plan: Appendix F Parking Strategy (endorsed as interim technical guidance for Development Management purposes 2.10.12).

Site Location:

The application site is located to the north east of Biggleswade Town Centre, on Potton Road which leads north eastwards out of the town.

The site is located adjacent to the road junction with Drove Road and comprises of a large, detached two storey building formerly in use as a Public House and dwelling, and most recently used as offices.

The building is finished in white painted render underneath a hipped, clay tiled roof. A number of single storey flat roof additions have also been added to the east side of the building.

To site has two vehicular accesses from Potton Road and a large car park to the east.

The site is located within the Biggleswade Settlement Envelope.

The change of use from offices to single dwelling approved by reference CB/12/01120/Full appears to have been implemented. However, a door and window on the rear were shown to be bricked up and a window on the side to be altered and these minor fenestration changes have not been implemented.

Amendments to the scheme were recently refused under a non material amendment (ref: CB/13/02469/NMA) which sought to retain the existing rear door (into the lounge) and existing opaque rear first floor window (bathroom). Both were shown to be removed on the approved plans. Condition 3 attached to the original permission ref: CB/12/01120/FULL removes permitted development rights, including the material alteration of the building.

The Application:

Permission is sought under s73 of the Town and Country Planning Act to vary the terms of planning permission reference CB/12/01120/FULL. The extent of the changes to the consent would be:

 Variation of Condition No. 5 on planning application CB/12/01120/FULL dated 25/07/2012 to be varied to retain 3 No. existing openings with their original fenestration.

In assessing the application, the appropriateness of the proposed amendment and the scheme overall should be considered in light of updated relevant policy and guidance and material changes in the circumstances at the site.

Relevant Policies:

National Planning Policy Framework (2012)

Greater Flexibility for Planning Permissions (DCLG) (2009)

<u>Core Strategy and Development Management Policies for Central Bedfordshire</u> (North)

CS2: Developer Contributions CS14: High Quality Development DM3: High Quality Development

DM4: Development Within and Beyond Settlement Envelopes

Supplementary Planning Guidance

Design in Central Bedfordshire (a guide for development)

Appendix F (Parking Strategy): Central Bedfordshire Local Transport Plan (2012)

Planning Obligations Strategy November 2009

Relevant Planning History

CB/13/2469/NMA Non Material Amendment: to planning permission

CB/12/01120/FULL retainment of existing rear door and existing opaque rear first floor window. Refused 14.8.13

CB/12/01120/FULL Change of use from offices with car parking to single dwelling

with minor fenestration changes. Approved 25.7.12

MB/99/01172/FA FULL: GROUND AND FIRST FLOOR REAR EXTENSION

Approved 18.1.00

MB/98/937/FA FULL: SINGLE STOREY FRONT ENTRANCE PORCH,

REPLACEMENT SCREEN WALL FRONTING POTTON ROAD AND BRICKING UP DOORWAYS Approved 13.8.98

MB/98/219/FA FULL: CHANGE OF USE FROM PUBLIC HOUSE TO

OFFICES.(B1) Approved 30.3.98

Representations:

Biggleswade Town Council

It was **RESOLVED** that Town Council **OBJECT** to this application.

It was also **RESOLVED** that Cllr Mrs J Lawrence take this application to the next Development Control meeting.

Neighbours

2 letters of objection from Nos 16 and 18 Jubilee Gardens to the rear: Concerns are summarised as follows:

Site notice (6.9.13)

Object to the application not to block up the first floor window and fire door on the grounds of loss of privacy.

Question why an address in Oak Crescent is given when the applicant is living at Eagle House.

Concerned that if the application is approved adjoining residents will not the be in a position to make any comments on changes that would further impact our privacy. eg putting glass panels in the door, making the window bigger or changing to clear glass.

The previous office use was only during Monday to Friday and standard Office hours therefore had significantly less usage. There are sufficient doors in the property to provide exit routes, the new allowed French doors and side door being just some! All of which have a view in to our properties.

No 18 Jubilee Gardens state that: Again we will reiterate our feelings over our privacy being impacted by these changes, as we are now faced with just that. Our bedroom, kitchen and bathrooms can be viewed directly from the residents of Eagle House by more than one window and door.

Consultations/Publicity responses:

Highways No objections

Minerals and Waste No comments to make

Determining Issues

The main considerations of the application are;

- 1. The principle of development
- 2. Visual impact
- 3. Residential amenity
- 4. Other material planning considerations

Considerations:

1. The principle of development

The previous application was assessed in light of the National Planning Policy Framework (2012) issued March 2012. This promotes the delivery of sustainable development, like that proposed, and so the development remains acceptable in principle.

As noted in the previous application the site is within the settlement envelope of Biggleswade and as such the principle of residential development is considered acceptable subject to careful consideration of criteria set out in Policy DM3, in particular, the size of the site needs to be adequate, there must be sufficient on site parking, the design of the proposed dwellings must be in keeping with their surroundings and there must not be an unduly adverse impact on the amenities of neighbours.

The proposal will result in the loss of a building in office use. However, this site has not been safeguarded as employment land, there are other such facilities in the area and there is no policy presumption against the loss of this facility in a town the size of Biggleswade. As noted above the change of use has now been implemented and the building is occupied as a single dwelling.

2. Visual Impact

This proposal seeks to vary condition No. 5 (plan nos.) on planning application CB/12/01120/FULL dated 25/07/2012 to retain 3 No. existing openings with their original fenestration.

The site is in a prominent location on Potton Road and as such any development will have an impact upon the street scene. As noted in the previous application the existing building has previously been used as a dwelling and thus retains much of its original character as a dwelling. Aside from modest alterations to the fenestration on the building, the proposal will not alter the existing character or appearance of the building, and thus, the proposal will have a minimal impact on the streetscene.

The retention of the door and first floor window on the rear (northern elevation)

will not be visible in the streetscene. The retention of the ground floor window on the side (eastern elevation) instead of a door and window as previously proposed will still be in keeping with the host building. As such the appearance of the development would remain acceptable in accordance with Policy DM3 of the Adopted Core Strategy, Development Management Policies, 2009 and guidance in the Adopted Design Guide, 2010.

3. Residential amenity

This proposal seeks to vary condition No. 5 (plan nos.) on planning application CB/12/01120/FULL dated 25/07/2012 to retain 3 No. existing openings with their original fenestration.

The nearest residential properties potentially most affected by the proposal are No.s 133 and 135a Potton Road, either side of the application site and No.s 14, 16 and 18 Jubiliee Gardens to the north, and No. 135c to the north east.

As noted in the previous application, because there are no other physical alterations proposed to the building, it is considered that there will be no greater impact in terms of outlook, loss of light or overbearing impact. The remaining issue is considered to relate to the impact the proposal may have on the level of privacy currently enjoyed by the occupiers of neighbouring properties.

Privacy:

The only physical alterations to the existing building relate to minor changes to the fenestration.

As noted in the previous approval, No. 133 Potton Road to the west side, has been built on lower ground and thus there is a change in levels between the application site and this property. The west facing side elevation of the application property faces the east side elevation of No. 133 which contains one first floor window serving a habitable room. A distance of approximately 10metres lies between these properties and this distance also includes a flat roof, double garage. It is proposed to enlarge the existing openings on the ground floor, however, these will be entirely screened by the existing double garage and thus would not result in an increase in overlooking of No. 133.

The neighbouring properties potentially affected by any alterations to the fenestration on the east side facing elevation are No.s 135a and 135c Potton Road, located to the east and north east of the application property. No 135a is separated from the application site by the driveway of No 135c and has a kitchen door and clear glazed landing window on its side elevation. There is a 1.8m fence along the shared side boundary. The alterations proposed on this elevation relate to the removal of two small windows and replacement with a three pane window to serve the kitchen (which has already been implemented). Under this current proposal it is now proposed to retain a ground floor four pane window (instead of replacing with a door and smaller window). These windows would be on the ground floor and would look towards the fence aligning the east side boundary. The existing blank brick wall of No. 135c would also prevent any overlooking towards this property. As such given the distances and relationships involved the new window and the retention of the ground floor window on the eastern elevation would not result in any undue loss of privacy for adjoining neighbours.

The building was previously a public house and more recently an office development. As noted above the change of use to a dwelling appears to have already been implemented. Under this current proposal it is proposed that the lounge door and first floor obscure glazed bathroom window on the rear be retained which were originally shown to be blocked up.

The ground floor lounge door is solid in appearance. There is a approx 1.62m close boarded fence with trellis above (total approx 2.06m) directly to the rear. However, the door is 0.4m above ground level. It is offset from the rear boundary by approx 3 metres. The rear gardens of Nos 16 and 18 Jubilee Close are approx 10m deep. The neighbour at the rear has put soft landscaping along the shared boundary which effectively screens the door. Although it is noted that the door is at a higher level (approx 0.4m above ground level), given that the door is at single storey level, the existence of existing boundary treatment, and that the door is solid in appearance it is not considered that this part of the scheme will result in any unacceptable loss of privacy for adjoining residents. It is considered a condition should be attached to ensure the door remains solid in appearance with no glazing to protect neighbouring amenity.

The first floor bathroom is served by two obscure glazed windows with top openings on the rear and side. The bathroom is approx 0.3m above the level of the internal hallway. The bottom of the top opening of the rear window is approx 1.6m from the floor level of the bathroom. When the top hung window is open it is possible to see the rear elevation of the two properties directly to the rear (Nos 16 and 18 Jubilee Gardens) which both have windows serving main habitable rooms on their rear elevations. Privacy distances are approx 19m at first floor level which are below the standards set out in the Councils adopted design guidance (which sets out a minimum distance of 21m back to back). It also appears that the bathroom window in the converted residential property the subject of this application is also at a higher level than those properties directly to the rear. However, despite the privacy distance being below that set out in the Councils guidance, given that the window is obscure glazed and serves a non habitable room it is not considered that the retention of this window would result in any undue loss of privacy to an unacceptable degree which would result in a reason for refusal. As the window is existing there will not be any additional overlooking of these properties. It is considered a condition should be attached to ensure the window remains obscure glazed to protect neighbouring amenity.

The two conditions to protect neighbouring amenity on the original approval should be reattached. Condition 3 removed permitted development rights relating to extensions or alterations including further new windows and structures within the residential curtilage. Condition 4 ensured the first floor bathroom (east) side elevation and ensuite bathroom window (west) side elevation be obscured glazed and restricted opening.

It is not therefore, considered that the proposal will have any undue impact on the amount of privacy afforded to the occupiers of neighbouring properties.

4. Other material planning considerations

Highways

The proposal does not seek to alter the existing access arrangement from

Potton Road. The previous scheme showed that the number of existing parking spaces would be reduced to provide space for a garden, however, five spaces would remain which satisfies the required parking provision for a dwelling of this size. Although the Councils parking standards have been amended since the previous application was approved, the level of on site parking remains acceptable. No objection has been received from the Highway Officer.

Minerals and Waste Comments:

No objection has been received from the Minerals and Waste team. It is noted that under the previous application comments were received with respect to the previous use of the site as an old gravel pit in the 1950s. In particular, the concern relates to the type of materials that were used to fill this pit and whether these could support new development on the site. The history of the site however, shows that following the filling of the pit, the public house and dwelling were constructed and then a number of alterations to the building were carried out. As in the previous application the current proposal does not seek to build any new development, rather it seeks to use the existing build on the site and thus it is not considered relevant now to consider whether the ground conditions can support a building because there is already an established building on the site.

Planning Obligation:

The proposal creates one three bedroom dwelling which falls within the criteria of the Planning Obligations Strategy, and therefore, contributions for Local Infrastructure are required. A Unilateral Undertaking was submitted and accepted under the previous application. The level of financial contributions have not changed and have already been paid under the previous application (in August 2013) and as such no further contributions are required.

Landscaping

The block plan submitted with the original application showed that part of the existing car park will be changed to garden together with new planting to the front of the site. Condition 2 attached to CB/12/1120/Full requires both hard and soft landscaping to be submitted and approved however this has not been done to date nor implemented on site. As the change of use to a dwelling has now taken place a landscaping condition could be reattached should this proposal be approved.

Other issues

There is no need to reattach a timescale condition as the change of use has already been implemented and the current application seeks retention of three existing openings.

Based on the information submitted there are no known issues raised in the context of the Human Rights/The Equalities Act) and as such there would be no relevant implications.

There are no further considerations to this application.

Recommendation

That Planning Permission be granted subject to the following conditions:

RECOMMENDED CONDITIONS / REASONS

- Within one month of the date of this decision, full details of both hard and soft landscaping shall be submitted to and approved in writing by the Local Planning Authority. These details shall include:-
 - materials to be used for any hard surfacing;
 - planting plans, including schedule of size, species, positions, density and times of planting;
 - cultivation details including operations required to establish new planting;
 - details of existing trees and hedgerows on the site, indicating those to be retained and the method of their protection during development works.

The development shall be carried out in accordance with the approved details.

Reason: In order to ensure that the landscaping is carried out within a reasonable period in the interest of the visual amenities of the area.

The scheme approved in Condition 1 shall be carried out by a date which shall be not later than the end of the full planting season immediately following the date of this decision.

Thereafter the planting shall be adequately maintained for a period of five years from the date of planting. Any of the trees or shrubs or both which die or are removed, or which become severely damaged or seriously diseased (during the said period of five years) shall be replaced with trees or shrubs or both, as the case may be, of similar size and species to those originally required to be planted and the same shall be maintained until properly established.

Reason: In order to ensure that the planting is carried out within a reasonable period in the interest of the visual amenities of the area.

Notwithstanding any provision of the Town and Country Planning (General Permitted Development Order) 1995 (or any Order revoking or re-enacting that Order with or without modification) no works shall be commenced for extensions or alterations, including further new windows, and structures within the residential curtilage of the approved new dwelling until detailed plans and elevations which form a valid planning application have been submitted to and approved in writing by the Local Planning Authority.

Reason: To protect the amenities of occupiers of neighbouring properties and the appearance of the approved buildings.

Prior to the first occupation of the building hereby approved, the first floor bathroom window in the east, side elevation and ensuite bathroom window in the west side elevation of the development hereby permitted shall be fitted with obscured glass of a type to substantially restrict vision through it at all

times where the window height is less than 1.7metres above the floor level in the room where the window is installed. No further windows or other openings shall be formed in these elevations.

Reason: To safeguard the amenities of occupiers of adjoining properties.

The first floor bathroom window in the rear (northern) elevation of the development shall be fitted with obscured glass of a type to substantially restrict vision through it at all times. This restriction shall be retained at all times. No further windows or other openings shall be formed in this elevation.

Reason: To safeguard the amenities of occupiers of adjoining properties.

The ground floor lounge door in the rear (northern) elevation of the development shall be retained as a solid panel and with no glazing at all times. This restriction shall be retained at all times. No further windows or other openings shall be formed in this elevation.

Reason: To safeguard the amenities of occupiers of adjoining properties.

The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans, numbers: CBC/001, 102011/1, 102011/2, 102011/4B.

Reason: For the avoidance of doubt.

Notes to Applicant

Statement required by the Town and Country Planning (Development Management Procedure) (England) (Amendment No. 2) Order 2012 - Article 31

Planning permission has been granted for this proposal. Discussion with the applicant to seek an acceptable solution was not necessary in this instance. The Council has therefore acted pro-actively to secure a sustainable form of development in line with the requirements of the Framework (paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) (England) (Amendment No. 2) Order 2012.

DECISION		
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