

Item No. 12

APPLICATION NUMBER	CB/18/04368/VOC
LOCATION	Maple House, Nicholls Close, Barton-le-Clay, Bedford, MK45 4LL
PROPOSAL	Variation of Condition 10 of planning permission CB/16/04198/FULL dated 08/11/16 (New two storey 4 bedroom dwelling with double garage to be built in garden of 67 Bedford Road. Access to be via Nicholls Close. Exterior finishes to be similar to neighbouring house in Nicholls Close.) - Garage to be removed and parking layout to be changed.
PARISH	Barton-Le-Clay
WARD	Barton-le-Clay
WARD COUNCILLORS	Cllr Shingler
CASE OFFICER	James Peck
DATE REGISTERED	03 December 2018
EXPIRY DATE	28 January 2019
APPLICANT	Gill-Hudson Homes Ltd
AGENT	Mr Butler MRICS
REASON FOR COMMITTEE TO DETERMINE	This submission has been called into the CBC Development Management Committee by ward councillor Mr Shingler on the basis that: <ul style="list-style-type: none">the proposed details would be contrary to other planning conditions under the planning reference CB/16/04198/FULL, as well as that:it would establish the principle of development to the rear of Maple House, Nicholls Close and to the rear of 67 & 69 Bedford Road by providing a means of vehicular access to such development.
RECOMMENDED DECISION	Variation of Condition - Recommended for Approval

Summary of Recommendation:

This variation of condition planning submission to vary the wording of condition 10 attached to the approval decision notice for planning application CB/16/04198/FULL would result in the adoption of new approved plans which would include the substitution of the previously approved detached double garage serving Maple House with three nos. echelon off-street parking spaces. No other details for the scheme approved under the planning application CB/16/04198/FULL, such as those for the existing dwelling of Maple House on site, would be altered.

The principle of varying condition 10 under the forth-mentioned planning application is established through the provisions of section 73 of the Town and Country Planning Act 1990 (as amended) and is considered to be a viable means through which to amend the details of development to be implemented. The variation of condition 10 would not negatively impact the character of the streetscene along Nicholls Close, would not compromise the historic significance of the adjacent Barton-le-Clay Conservation Area or the listed building at 69 Bedford Road and would not be prejudicial to local highway safety.

Overall, due to the nature and scale of the details for the scheme of development now proposed, the re-wording of condition 10 on the approval decision notice for

the 2016 planning application would not require the full re-consideration of the proposal through the determination of a new full planning application by the Local Planning Authority. It is therefore deemed that this variation of condition submission is acceptable and should be granted permission.

Site Location:

The application site, consisting of an existing two storey detached dwelling served by some vehicular hardstanding, lies on the southern side of Nicholls Close in Barton-le-Clay. The site is flanked by the residential curtilages of Burr House in Nicholls Close to its west as well as by the curtilages serving 69 Bedford Road (a Grade II listed building) to its east and 67 Bedford Road to its south-east.

The vicinity of the application site is residential in character and comprises of two storey detached dwellings of varying ages and architectural styles. The southern and eastern boundaries of the subject site abut the Barton-le-Clay Conservation Area.

The Application:

This variation of condition planning submission seeks to vary condition 10 attached to the approval decision notice for the parent planning application with the planning reference CB/16/04195/FULL by amending the list of approved plans. This would involve the substitution of the previously approved plans with a new set of plans which would see the previously approved detached double garage replaced with vehicular hardstanding to create 3 three nos. off-street echelon parking spaces.

An accompanying full planning application seeks planning permission (CB/18/04080/FULL) to create a new detached dwelling on land to the rear of Maple House, Nicholls Close and to the rear of 67& 69 Bedford Road. Also proposed under this full planning application is that vehicular access to this new dwelling would be shared with the vehicular access to the off-street echelon parking spaces serving Maple House.

RELEVANT POLICIES:

National Planning Policy Framework (NPPF) (July 2018)

12: Achieving well-designed places

16: Conserving and enhancing the historic environment

South Bedfordshire Local Plan Review Policies

BE8: Design Considerations

T10: Parking - New Development

Central Bedfordshire Local Plan - Emerging

The Central Bedfordshire Local Plan has reached submission stage and was submitted to the Secretary of State on 30 April 2018.

The National Planning Policy Framework (paragraph 48) stipulates that from the day of publication, decision-takers may also give weight to relevant policies in emerging plans unless material considerations indicate otherwise.

The apportionment of this weight is subject to:

- the stage of preparation of the emerging plan;
- the extent to which there are unresolved objections to relevant policies;
- the degree of consistency of the relevant policies in the emerging plan to the policies in the Framework.

Reference should be made to the Central Bedfordshire Submission Local Plan which should be given limited weight having regard to the above. The following policies are relevant to the consideration of this application:

HQ1: High Quality Development

HE3: Built Heritage

T2: Highway Safety and Design

T3: Parking

Supplementary Planning Guidance/Other Documents

Central Bedfordshire Design Guide (March 2014)

1 Place-making

Relevant Planning History:

Application Number CB/18/04080/FULL

Description New dwelling with associated access and parking

Decision Decision Pending

Decision Date N/A

Application Number CB/17/01757/FULL

Description 2 New 3 bed dwellings & conversion of existing 4 bed detached dwelling to pair of 3 bed semi detached dwellings

Decision Full Application - Refused

Decision Date 05/07/2017

Application Number CB/16/04198/FULL

Description New two storey 4 bedroom dwelling with double garage to be built in garden of 67 Bedford Road. Access to be via Nicholls Close. Exterior finishes to be similar to neighbouring house in Nicholls Close.

Decision Full Application - Granted

Decision Date 08/11/2016

Consultees:

CBC ward councillor for
Barton-le-Clay Cllr Shingler -

Dated 30/12/18

Cllr Shingler has requested for this variation of condition planning submission to be called into the CBC Development Management committee for Members to determine. The following comments (taken verbatim) have been provided in support of this DMC call-in request:

Parking

Clauses 7&8 of the original permission with regard to parking need to be retained for the

reasons set out in the original permission. Failure to provide the double garage is causing friction between resident and non resident parking.

Other

The application implies that a new road accepts the principle that further backland development in the conservation area is acceptable.

Barton-le-Clay Parish Council -

Dated 13/12/18 (Verbatim)

Object – the two garages associated with this previous planning application have never been built but represent the parking for Maple House (4 bed Property) which is now completed, sold and occupied. Therefore, it has not been built per Condition 10. Additionally, Conditions 7 and 8 of the Granted Planning Consent have not been followed in respect of the garage and parking. With this current planning application there is no remedial spaces allowed for Maple House.

CBC Highways Development Management -

Dated 04/01/19 (Verbatim)

Thank you for your additional consultation on this application, for which I have the following comments to offer, based on revised drawing number LB 0005 sheet 2 of 2 date shown in error as 03/12/2018 and should be 03/01/2019.

This application is for the variation of condition 10, more specifically the removal of the proposed double garage and the provision of a revised parking layout for three off-street parking spaces.

The applicant has provided a revised drawing on which he has indicated the visibility splays which now accord to the recommended standards.

The construction works in the public highway for the creation of the new vehicle access, must be undertaken by the Highway Authority, the cost of which shall be borne by the applicant.

It is evident on site that an additional vehicle crossing has been constructed to the frontage of Maple House, which never formed part of the original planning application, this matter has been forwarded to the Highway Authority for investigation.

I recommend the following conditions are imposed. (N.B. the recommended Highways DM conditions will be attached to any decision granting consent for the subject variation of condition submission).

No objection.

Other Representations:

Neighbours - None received

Considerations:

1. Principle

Section 73 of the Town and Country Planning Act provides for applications for planning permission to develop land without complying with conditions previously imposed on a planning permission. In determining such an application under section 73, the decision maker should take into account any changes in circumstances since the parent permission was issued. In this case, there has been no relevant material change in circumstances.

In Barton-le-Clay parish council's consultation response and as set out on the DMC call-in form by Cllr Shingler, it has been queried whether granting the subject variation of condition submission permission would result in conflict with other conditions attached to the approval decision notice for planning application CB/16/04195/FULL specifically conditions 7 & 8. For reference these indicated conditions are set out as follows:

7) The scheme for parking and garaging indicated on the submitted plans shall be laid out prior to the initial occupation of the development hereby permitted and those areas shall not thereafter be used for any other purpose.

Reason: To enable vehicles to draw off and park clear of the highway to minimise danger, obstruction and inconvenience to users of the adjoining highway.

8) Notwithstanding the provisions of the Town and Country Planning General Permitted Development Order 1995, or any amendments thereto, the garage accommodation on the site shall not be used for any purpose, other than as garage accommodation, unless permission has been granted by the Local Planning Authority on an application made for that purpose.

Reason: To retain off-street parking provision and thereby minimise the potential for on-street parking which could adversely affect the convenience of road users.

Advice contained within the National Planning Practice Guidance states that the original planning permission will continue to exist whatever the outcome of the application under section 73 and to assist with clarity, decision notices for the grant of planning permission under section 73 should also repeat the relevant conditions from the original planning permission, unless they have already been discharged. 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. In deciding an application under section 73, the Local Planning Authority must only consider the disputed condition/s that are the subject of the application – it is not a complete re-consideration of the application, (paragraph 031). The Local Planning Authority can grant permission unconditionally or

subject to different conditions, or they can refuse the application if they decide the original conditions should continue.

Having regard to the established principle of the development, consideration of the application therefore turns to examining the impact of the variation of the condition upon the local character and local highway safety.

2. Impact on Local Character

Paragraph 127 of the NPPF (revised July 2018) states that, amongst other things, development decisions should "function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development" and "are visually attractive as a result of good architecture, layout and appropriate and effective landscaping".

The design of the dwelling within the site of Maple House was established as being acceptable by Central Bedfordshire Council as the Local Planning Authority as part of the approval of planning permission under the planning reference CB/16/04198/FULL. Its design would not be changed as a result of this variation of condition planning submission to vary condition 10 for this parent planning application's approval decision notice.

A modest amount of hardstanding to provide sufficient vehicular access and space for the echelon off-street parking to replace the previously approved double garage for Maple House would be included. This substitution is not considered to result in an undesirable urbanizing effect to the detriment of local visual amenity given the residential character of the local area. Due to the nature, scale and positioning of the proposed off-street parking, it would not have a material impact on the special historic character of the Barton-le-Clay Conservation Area found to the east and south of the subject site or to the Grade II listed building at 69 Bedford Road contrary to paragraphs 190, 192 & 193 of the NPPF.

Consequently, the proposal would be compliant with policy BE8 of the South Bedfordshire Local Plan Review, policy HQ1 and HE3 of the emerging Central Bedfordshire Local Plan and sections 12 and 16 of the NPPF.

3. Impact on Local Highway Safety

Examination of CBC Highways Development Management comments

Following the submission of revised plans, the CBC Highways Development Management officer is satisfied that the proposed variation of condition to amend condition on the 2016 planing approval decision notice would provide sufficient off-street parking and provide sufficient inter-visibility splays so as to not result in additional on-street parking or lead to inconvenience for other road users. Consequently, the proposal put forward as part of this variation of condition planning submission would not be prejudicial to local highway safety.

Examination of ward councillor comments regarding the provision of new vehicular access to the rear of Maple House

CBC ward councillor Mr Shingler has questioned whether this variation of condition submission to provide a separate vehicular access to proposed residential development to the rear of Maple House, Nicholls Close and to the rear of 67 Bedford Road would establish the principle of backland development by the Council.

This variation of condition planning submission seeks to vary a condition so that an alternative parking arrangement can be created which serves the needs of Maple House. This variation of condition planning submission which could provide a means of vehicular access to new residential development to the rear of the subject site does not establish the principle of this new form of development as this needs to be examined and accessed as to its acceptability in planning terms as part of the determination of the full planning application with the reference CB/16/04198/FULL.

4. Other Considerations

Human Rights and Equality Act issues:

Based on information submitted there are no known issues raised in the context of Human Rights / The Equalities Act 2010 and as such there would be no relevant implications.

Recommendation:

That the Variation of Condition be **GRANTED** subject to the following:

RECOMMENDED CONDITIONS

- 1 The development hereby permitted shall begin not later than three years from the date of this permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

- 2 No building shall be occupied until the junction of the proposed vehicular access with the highway has been constructed in accordance with the approved details.

Reason: In order to minimise danger, obstruction and inconvenience to users of the highway and the premises (Policy T10, SBLPR, policy T2 of the emerging Central Bedfordshire Local Plan and section 9, NPFF).

- 3 Before the new access is first brought into use visibility splays shall be provided on each side of the new access at its junction with the public highway. The minimum dimensions to provide the required splay lines shall be 2.4m measured along the centre line of the proposed access from its junction with the channel of the public highway and 43m measured from the centre line of the proposed access along the line of the channel of the public highway. The vision splays so described shall thereafter be kept free of all obstruction to visibility exceeding a height of 600mm above the adjoining carriageway level.

Reason: To provide adequate visibility between the existing highway and the proposed access and to make the access safe and convenient for the traffic that is likely to use it (Policy T10, SBLPR, policies T2 & T3 of the emerging Central Bedfordshire Local Plan and section 9, NPFF).

- 4 The parking scheme indicated on the submitted plans shall be laid out prior to the initial occupation of the development hereby permitted and those areas shall not thereafter be used for any other purpose.

Reason: To enable vehicles to draw off and park clear of the highway to minimise danger, obstruction and inconvenience to users of the adjoining highway (Policy T10, SBLPR, policies T2 & T3 of the emerging Central Bedfordshire Local Plan and section 9, NPPF).

- 5 Before the premises are occupied all on site vehicular areas shall be surfaced in a stable and durable material in accordance with details to be approved in writing by the Local Planning Authority. Arrangements shall be made for surface water drainage from the site to soak away within the site so that it does not discharge into the highway or into the main drainage system.

Reason: To avoid the carriage of mud or other extraneous material or surface water from the site so as to safeguard the interest of highway safety and reduce the risk of flooding and to minimise inconvenience to users of the premises and ensure satisfactory parking of vehicles outside highway limits (Policy T10, SBLPR, policies T2 & T3 of the emerging Central Bedfordshire Local Plan and section 9, NPPF).

- 6 The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans, numbers LB-0005/ Sheet No. 1 of 2 (dated 03/12/2018) and LB-0005/ Sheet No. 2 of 2 (dated 03/01/2019).

Reason: To identify the approved plans and to avoid doubt.

INFORMATIVE NOTES TO APPLICANT

1. In accordance with Article 35 (1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015, the reason for any condition above relates to the Policies as referred to in the South Bedfordshire Local Plan Review (SBLPR) and the National Planning Policy Framework (NPPF).
2. This permission relates only to that required under the Town & Country Planning Acts and does not include any consent or approval under any other enactment or under the Building Regulations. Any other consent or approval which is necessary must be obtained from the appropriate authority.
3. The applicant is advised that no works associated with the construction of the vehicular access should be carried out within the confines of the public highway without prior consent, in writing, of the Central Bedfordshire Council. Upon receipt of this Notice of Planning Approval, the applicant is advised to follow this link on the Council website
<http://www.centralbedfordshire.gov.uk/transport/request/dropped-kerb.aspx>
or contact Central Bedfordshire Council's Highway Help Desk, Tel: 0300 300 8301 quoting the Planning Application number. This will enable the necessary consent and procedures under Section 184 of the Highways Act to be implemented.

The applicant is also advised that if any of the works associated with the construction of the vehicular access affects or requires the removal and/or the relocation of any equipment, apparatus or structures (e.g. street name plates, bus stop signs or shelters, statutory authority equipment etc.) then

the applicant will be required to bear the cost of such removal or alteration. To fully discharge condition 1 the applicant should provide evidence to the Local Planning Authority that the Highway Authority have undertaken the construction in accordance with the approved plan, before the development is brought into use.

- 4. The applicant is advised that the requirements of the New Roads and Street Works Act 1991 will apply to any works undertaken within the limits of the existing public highway. Further details can be obtained from The Street Works Co-ordinator, Central Bedfordshire Highways, by contacting the Highways Helpdesk 0300 300 8301.

- 5. The applicant is advised that the storage of materials associated with this development should take place within the site and not extend into the public highway without authorisation from the highway authority. If necessary further details can be obtained from The Street Works Co-ordinator, Central Bedfordshire Highways, by contacting the Highways Helpdesk 0300 300 8301.

**Statement required by the Town and Country Planning
(Development Management Procedure) (England) Order 2015 - Part 6, Article 35**

The Council acted pro-actively through positive engagement with the applicant during the determination process which led to improvements to the scheme. The Council has therefore acted pro-actively to secure a sustainable form of development in line with the requirements of the Framework (paragraph 38) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015.

DECISION

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