

**4/03985/15/ROC - VARIATION OF CONDITION 2 (APPROVED PLANS) ATTACHED TO PLANNING PERMISSION 4/03613/14/FUL (DEMOLITION OF EXISTING HOUSE AND REPLACEMENT WITH 2 DETACHED DWELLINGS WITH ASSOCIATED ACCESS ARRANGEMENTS (REVISED SCHEME)).
27 HALL PARK GATE, BERKHAMSTED, HP4 2NL.
APPLICANT: MR JUMP.**

[Case Officer - Jason Seed]

Conclusion

This application is recommended for approval for the following reasons:

The proposed variation of Condition 2 (approved plans of planning permission 4/03613/14/FUL) is considered to consist of minor amendments which would not adversely impact upon the visual amenity of the immediate street scene, or the residential amenity of neighbouring properties. The proposed minor material amendments therefore remain in accordance with saved appendixes 3, 5 and 7 and policies 21, 58, 99 of the Dacorum Local Plan (1991), policies CS1, CS4, CS11, CS12 of the Core Strategy (2013), the NPPF (2012) and the BCA1 Hall Park Area Character Appraisal (2004).

Site Description

The application site is located on Hall Park Gate Road in Berkhamsted and resides within the BCA1 Hall Park Area Character Appraisal. The application site comprises of an end plot occupied by a detached bungalow which is set well back from the road.

The surrounding area is characterised predominantly by individually designed, detached, two storey dwelling houses which have a linear relationship to the street and large front gardens. The area has a verdant character emphasised by the generous garden plots serving the properties and countryside views.

Proposal

Consent is sought to vary Condition 2 of planning permission 4/03613/14/FUL, which relates to the granted plans for the demolition of the existing bungalow and replacement with two detached dwelling and associated access arrangements.

Condition 2 reads as follows:

“The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan Drawing No 1935/101, Site Layout Plan Drawing No 1935/102C, Upper Hall Park Street Elevation Drawing No 1935/105B, Hall Park Gate Street Elevation Drawing No 1935/106B, Extended Street Elevations Drawing No 1935/107B, House 1 Floor Plans and Elevations Drawing No 1935/103B, House 2 Floor Plans and Elevations Drawing No 1935/104B.”

The proposed variation seeks the following revisions to the two dwellings:

House 1

- Enlargement of utility room

House 2

- Relocating 0.60 metres further away from Upper Hall Park Road
- Repositioning of utility room window from SW to NE elevation

Referral to Committee

The application is referred to the Development Control Committee due to the contrary views of Berkhamsted Town Council.

Planning History

4/03613/14/FU DEMOLITION OF EXISTING HOUSE AND REPLACEMENT WITH
L 2 DETACHED DWELLINGS WITH ASSOCIATED ACCESS
ARRANGEMENTS (REVISED SCHEME).
Granted at Appeal
06/03/2015

4/01812/14/FU DEMOLITION OF EXISTING HOUSE AND REPLACEMENT WITH
L 2 DETACHED DWELLINGS WITH ASSOCIATED ACCESS
ARRANGEMENTS
Refused
06/10/2014

4/01121/93/4 FORMATION OF PITCHED ROOFS OVER EXISTING DORMERS
Granted
22/09/1993

Policies

National Policy Guidance (2012)

National Planning Policy Framework (NPPF)

Dacorum Core Strategy (2013)

CS1- Distribution of Development
CS4 - The Towns and Large Villages
CS11 - Quality of Neighbourhood Design
CS12 - Quality of Site Design

Saved Policies of the Dacorum Borough Local Plan (1991-2011)

Appendix 3 - Gardens and Amenity Space
Appendix 5 - Parking Provision
Appendix 7 - Small-scale House Extensions

Policy 21 - Density of Residential Development
Policy 58 - Private Parking Provision
Policy 99 – Preservation of Trees, Hedgerows and Woodlands

Supplementary Planning Guidance (2004)

BCA1 Hall Park Area Character Appraisal

Summary of Representations

Thames Water - The application does not affect Thames Water and as such we have no comments to make.

Building Control - Depending on the sloping nature of the site consideration may be given to a level access from the parking spaces to the front entrance doors.

Highway Authority - The above condition that the applicant is wishing to have removed is unlikely to have a detrimental impact on the adjacent highway.

78 Upper Hall Park - I refer to the above proposed variation to Condition 2 of Planning Permission 4/03613/14/FUL. We strongly object to the proposed planning variation as it appears to breach the Conditions attached to the approved planning permission (as defined at the Appeal stage). The proposed variation application appears to include a significant upscaling of both properties and a significant amendment to their setting. From the new information provided and our calculations (set out below), the square footage of both properties is significantly greater than that contained within the original approved plans. As you will see from the case file, the original planning application in July 2014 was refused and the second submission in December 2014 reduced the square footage by a very small amount. This application was also refused. However, as you will be aware, this was overruled at the Appeal stage. However, within the Planning Inspectorate's appeal document it clearly states under point 24 of Conditions: "I have restricted extensions to the new dwellings which, it appears to me, could otherwise be enlarged excessively in relation to their plots". Also, within the Schedule of Conditions, point 10 clearly states that "*the new dwellings hereby permitted shall not be enlarged under the provisions of Schedule 2*" As you can see from the table set out below the proposed increase in square footage is significant for both House 1 and 2, being 12% and 15% respectively. In addition, within the site and block plans, the rear of House 1 (HPG) the approved plans showed 12400 cm to the boundary of House 2 (UHP). House 2 then had 900 cm to the boundary. However, this has now changed within the new plans to 12135 cm and 1165 cm respectively. This therefore looks as though the garden has once again been reduced on House 1 which is the executive style house. House 2 is only able to be pushed back from the road due to 25 HPG removing a large Oak tree.

84 Upper Hall Park - Please find overleaf comparisons in respect of the square footage of the properties. You will see that the square footage is far greater than the original plan. Therefore, the application appears to be less a variation of a condition but an attempt to amend the scale of the properties and their settings. As you will see from the case file, the original planning in July 2014 was refused and the second submission in December 2014 reduced the square footage by a very small amount. This application was also refused. However, as you will be aware, this was overruled by an Appeal. However, within the Planning Inspectorate's appeal document it clearly states under point 24 of Conditions *"I have restricted extensions to the new dwellings which, it appears to me, could otherwise be enlarged excessively in relation to their plots"*.

Also, within the Schedule of Conditions, point 10, it clearly states *"the new dwellings hereby permitted shall not be enlarged under the provisions of Schedule 2"*

As you can see from the numbers the increase in square footage is significant for both House 1 and 2 being 12% and 15% respectively.

I appreciate that modifications may take place as all best laid plans do change, but feel that the new plans are changing the "goal posts" significantly.

Another element to raise which I cannot understand is, within the site and block plans, the rear of House 1 (HPG) showed 12400 to the boundary of House 2 (UHP). With House 2 then having 900 to the boundary. However, this has now changed within the new plans to 12135 and 1165 respectively. This therefore looks as though the garden has once again been reduced on House 1 which is the executive style house.

House 2 is only able to be pushed back from the road due to 25 HPG removing a large Oak tree.

Also below (on the third page) you will see a layout of House 1 which is currently being advertised on Fine & Country's website and including the garage adds up to 1,988 as shown below in the table. If I have misinterpreted anything from the documents available on the website, please let me know otherwise I should be grateful if you would log the above as an objection to the proposed variation to planning application.

32 Hall Park Gate - We refer to the above application. We wish to object to the planning variations being put forward due to the following observations

The initial two requests for development of the site were refused by Dacorum and only granted following appeal granted with the following conditions within the Planning Inspectorate's appeal document it clearly states under point 24 of Conditions *"I have restricted extensions to the new dwellings which, it appears to me, could otherwise be enlarged excessively in relation to their plots"*. Yet looking at the revised plan from Dec 2015 it appears that both houses square footage have increased by 12% & 15%. Therefore, the application to us appears to be less of a variant of a condition but rather more an attempt to amend the scale of the properties. The scale of which previously was a concern, and an increase in size would make the property of house 1 in particular more dominating and overbearing in size, and if this is the case contravenes the condition of the successful appeal.

Also, within the Schedule of Conditions, point 10, it clearly states *“the new dwellings hereby permitted shall not be enlarged under the provisions of Schedule 2”*

We appreciate that modifications may take place as other parties become interested in purchasing the proposed house, but feel that the new plans, if indeed are larger in size are changing the “goal posts” significantly. Indeed Fine & County estate agents, who are marketing house 1, refer to it as a 4 bed house that could be extended to 5 bed which is not what it has planning for and this concerns us.

Another element which my neighbour raised is, within the site and block plans, the rear of House 1 (HPG) showed 12400 cm to the boundary of House 2 (UHP). With House 2 then having 900 cm to the boundary. However, this has now changed within the new plans to 12135 cm and 1165 cm respectively. This therefore looks as though the garden has once again been reduced on House 1 which is the executive style house and is therefore not in keeping with the garden sizes of the other properties on the road. Moving a house and adjusting share of garden size does not seem a “minor adjustment”.

House 2 is only able to be pushed back from the road due to 25 HPG removing a large Oak tree.

21 Hall Park Gate - The size of House 1 has increased from 184.8 sq m to 206 sq m. The size of House 2 has increased from 151.4 sq m to 174.5sq m. The changes to achieve this increase have not been documented in the amendments list or consulted on. The roof profile of House 1 and House 2 has changed and not been documented in the amendments list or consulted on. The garage for both properties is 2m by 5m, only fractionally larger than the average family car and therefore unlikely to be used to park a car. Therefore both properties require more car parking space to avoid cars being parked on the road.

12 Fieldway - Comments received in respect of reduction in amenity of House 1, impacts associated with house 2 relocation.

80 Upper Hall Park - I am concerned to see from the submitted plans that the applicant appears to be using this new application to increase the area of the 'as built' units and as such it would seem that the development footprint appears to be increasing by some 10% overall from the plans submitted.

Mr. P Tyler - It appears from calculations regarding the proposed revision to the floor plans that the properties will increase in size. The size and scale of this proposed development has been a continuing topic of objection by more than 20 local households, across many amended applications, and these concerns have been upheld throughout the planning application process. Eventually the final rejected application was overturned by the appeal process however, this decision to grant was constrained by significant compliance requirements. The Planning Inspectorate's appeal document states under Conditions point 24 'I have restricted extensions to the new dwellings which, it appears to me, could otherwise be enlarged excessively in relation to their plots'. Further, Schedule of Conditions point 10 identifies 'the new dwellings hereby permitted shall not be enlarged under the provisions of Schedule

2'. Unless I have missed something, for which I apologise, I deduce from the documents and information available on-line that the approximate proposed increase in floor space for House 1 is 12% and House 2 is 15%. I propose that this planning revision is not in compliance with a condition set by the Planning Inspectorate, it is an application to significantly amend the scale of both the properties.

84 Upper Hall Park - The original planning application in July 2014 was refused and the second amended application in December 2014 which showed a very small reduction in area of both houses was also refused. Unfortunately this refusal was overturned on appeal.

The Planning Inspectorates ruling made a number of observations and conditions. One of the conditions, point 10 clearly states "*the new dwellings hereby permitted shall not be enlarged under the provisions of Schedule 2*"

The application for variation applies for a substantial increase in size of both houses of around 12% for house 1 and 15% for house 2. Also both houses have been repositioned which appears to reduce the size of the garden for house 1.

23 Hall Park Gate - The original plans were subjected to detailed scrutiny at each stage of the planning process and the Planning Inspector was clear when giving judgement on appeal that there were to be no enlargement permitted to the plans. To permit the Revised Scheme would go against the Schedule of Conditions itemised in the Appeal decision.

The Planning Inspector, in considering the original plans, took into account the positioning of the two houses on the plot. Repositioning of the houses as proposed in the planning variations will diminish the distance between the two houses and further reduce the size of the garden to House 1.

There is a considerable slope on Fieldway / Hall Park Gate. Any repositioning of House 2 closer to the boundary with 25 Hall Park Gate will have an adverse effect on my property, 23 Hall Park Gate.

12 Fieldway - Objections on the following grounds:

- 1) The square footages of BOTH proposed properties (Houses 1 and 2) have significantly increased – from those originally rejected by all planning committees around July 14 – how on earth the applicant thinks that this is going to pass unnoticed I'm really not sure:-
 - a. House 1 **PLUS circa 12%**
 - b. House 2 – **PLUS circa 15%**
- 2) This is certainly a 'material' planning change and not a so called variation. It is effectively a 'new' scheme altogether and therefore **MUST** go through the complete planning/approval process again.
- 3) The garden size on house number 1 has reduced in size from the approved proposal, making it far too small for the size of proposed dwelling.

- 4) One of the conditions of 'approval' was "dwellings permitted shall not be enlarged" – therefore this is an obvious breach.

Berkhamsted Town Council - Considered that this was not a minor variation. The proposal increased the scale of the development and reduced the amenity space. If this amendment were to be allowed, the Inspector's recommendations will be disregarded.

8 Fieldway - The revision of plans proposes houses that are larger in area than those approved on appeal despite the provisions of the approval not permitting any enlargement of the properties. It looks as if the size of garden for house 1 "the executive home" has been reduced thus increasing housing density.

Constraints

No specific policy designations, established residential area of Berkhamsted

Key Considerations

Principle of Development

The principle of the development was confirmed as acceptable by virtue of the previously approved appeal (ref: APP/A1910/W/15/3028164) which granted permission for 2 detached dwellings with associated access arrangements. As such, the main issues to the consideration of this application relate to the impact of the proposed minor alterations upon the character and appearance on the immediate street scene, the residential amenity of neighbouring properties, proposed parking provision and Trees and Landscaping.

Effect on Appearance of Building and Street Scene

Saved appendix 7 of the Dacorum Local Plan (1991), policies CS11, CS12 of the Core Strategy (2013) and the NPPF (2012) all seek to ensure that any new development/alteration respects or improves the character of the surrounding area and adjacent properties in terms of scale, massing, materials, layout, bulk and height.

Furthermore, the Area Character Appraisal for BCA1 Hall Park highlights that new dwellings should be two storey in height and detached in form; maintaining a separation distance between neighbouring properties of 5 - 10 metres and featuring generous front gardens.

House 1

The proposed amendment for House 1 would marginally alter its external appearance by adding 0.67 metres in width to the ground floor utility room. This would result in an

increase in dwelling house size by 1.27m², or 0.6% (approximately). Furthermore, this addition would not project beyond the flank North East elevation, maintaining the originally proposed separation distance from House 2, and size of surrounding external amenity space.

In addition to this the only other change would be an alteration to the internal ground floor layout or the study, downstairs toilet and added storage cupboard. Internal alterations to any dwelling which is not Listed would not require planning consent.

House 2

The main visual alteration to House 2 would be the proposed repositioning 0.6 metres further away from Upper Hall Park Road. Such an amendment would marginally increase the size of the front garden serving the dwelling. Such an alteration is encourage within the Hall Park Area Character Appraisal and would enhance the visual appearance of the proposed dwelling from the street scene.

No increase in dwelling size would result. Changes to the internal layout of the property would not require planning consent.

In sum, the minor variations to the approved scheme would not further impact upon the character, appearance or pattern of the proposed dwelling houses within the immediate street scene.

Effect on Amenity of Neighbours

The NPPF outlines the importance of planning in securing good standards of amenity for existing and future occupiers of land and buildings. Appendix 3 of the Local Plan (1991) and policy CS12 of the Core Strategy (2013), seek to ensure that new development does not result in detrimental impact upon neighbouring properties and their amenity space. Thus, the proposed should be designed to reduce any impact on neighbouring properties by way visual intrusion, loss of light and privacy. It is noted that adequate amenity space for a unit of this size is provided and is comparable to other garden sizes within the locality.

House 1

The proposed increase in width to the ground floor utility room would not have any further adverse impacts to the residential amenity or privacy of surrounding properties.

House 2

The proposed repositioning of the dwelling house would not result in a further loss of outlook or privacy to neighbouring residents at 25 Hall Park Gate, due to retaining the 17 metres (approximate) separation distance between both properties.

The second alteration to House 2 involving the relocation of the utility room window

from the South East side elevation to rear (North East) elevation would not result in a loss of privacy to neighbouring residents. It is important to note that the proposed alteration reduces the window's size and that the utility room is not a habitable room.

A maximum 10 metre deep (approximate) garden would be preserved as a result of the repositioning of the dwelling house. Although this falls short of the external amenity standard set out in saved appendix 3 of the Local Plan, garden depth would only be reduced by 0.6 metres. Furthermore, significant additional external amenity provision is available to the side of the dwelling; accommodated by the removal of the retaining wall between Houses 1 and 2), in addition to the cut back of the rear hedge in order to accommodate further garden space. As a result this shortfall is not considered sufficient reason to refuse the application as an adequate functional garden area will be provided particularly bearing in mind the minor differences compared to the extant approval.

In sum, no further impact to the outlook, light or privacy serving neighbouring residents would result from the proposed minor amendments.

Impact on Trees and Landscaping

Saved policy 99 of the Dacorum Local Plan (1991) and Policy CS12 of the Core Strategy (2013) seek to ensure that retained trees are protected during development and that new planting is a suitable replacement for any removed trees.

The proposed minor amendments would result in the loss of the neighbouring properties' (27 Hall Park Road) tree- T7. Although, loss of existing vegetation is discouraged by the LPA, removal of Trees which fall outside a Conservation Area or Tree Protection Order can be carried out without formal consent. The site would retain a sufficient level of vegetation to maintain the verdant character aspect of the area.

Impact on Parking and Access

In terms of parking provision, Appendix 5 requires a maximum standard of 3 spaces for a 4 bed house (3 spaces are provided for the 4 bed House 1) and 2.25 spaces for a 3 bed dwelling. House 2 has 3 beds and is provided with 2 on-site spaces. As these figures relate to maximum standards and not minimum standards, then the provision of 2 spaces for House 2 could not justify a refusal on these grounds. Furthermore, House 2 is provided for cycle storage to the rear of the garage.

House 2

The proposed minor amendment to House 2 would ensure a more functional and generously sized parking bay serving this property.

Hertfordshire Highways were consulted and provided the following conclusive

comments:

“The assessment does not indicate any significant issues with the request and therefore the highway authority would not wish to restrict the grant of permission.”

Bearing in mind the above and the fact that the proposal does not change the number of bedrooms/amount of parking grounds for refusal relating to parking could not be sustained.

Other Matters

It is important to emphasise that the floorspace size of the two dwellings stated on the amended plans has increased due to the proposed garages floorspace being included within the measurements. The reason for this change in calculation is because the CIL charge relates to floor area including garages. When the application was originally submitted CIL had not been implemented.

The objections received note that Permitted Development rights for Class A extensions were removed in the planning permission granted by the Inspectorate, and refer to paragraph 24 where the Inspector reasoned that the houses could be enlarged excessively in relation to their plots. The enlargement of approximately 1 m² proposed for House 1 is not considered the quantum of extension that the Inspector was envisaging under Class A.

Community Infrastructure Levy (CIL)

Policy CS35 requires all developments to make appropriate contributions towards infrastructure required to support the development. These contributions will normally extend only to the payment of CIL where applicable. The Council's Community Infrastructure Levy (CIL) was adopted in February 2015 and came into force on the 1st July 2015. This application is CIL Liable.

Conclusion

No impact upon key planning considerations has resulted from the proposed material amendments. As a result the proposed variations are all considered minor in nature and acceptable.

RECOMMENDATION - That planning permission be **GRANTED** for the reasons referred to above and subject to the following conditions:

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.**

Reason: To comply with the requirements of Section 91 (1) of the Town and Country Planning Act 1990 as amended by Section 51 (1) of the Planning and Compulsory Purchase Act 2004.

- 2 **No development shall take place until samples of the materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.**

Reason: To ensure a satisfactory appearance to the development; in accordance with policy CS12 of the Core Strategy.

- 3 **No development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. These details shall include:**

- proposed finished levels;
- means of enclosure;
- hard surfacing materials;
- proposed trees;
- shrubs; and
- hedgerow planting.

Reason: To ensure a satisfactory appearance to the development and to safeguard the visual character of the immediate area; in accordance with policies CS11 and CS12 of the Core Strategy (20130).

- 4 **All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with a programme agreed with the local planning authority.**

Reason: To ensure a satisfactory appearance to the development and to safeguard the visual character of the immediate area; in accordance with policies CS11 and CS12 of the Core Strategy (2013).

- 5 **In this condition “retained tree” means an existing tree which is to be retained in accordance with the approved plans and particulars; and paragraphs (i) and (ii) below shall have effect until the expiration of 5 years from the date of the occupation of the building for its permitted use.**

i) No retained tree shall be cut down, uprooted or destroyed, nor shall any retained tree be topped or lopped other than in accordance with the approved plans and particulars, without the written approval of the local planning authority. Any topping or lopping approved shall be carried out in accordance with British Standard 3998 (Tree Work).

ii) If any retained tree is removed, uprooted or destroyed or dies, another tree shall be planted at the same place and that tree shall be of such size and species, and shall be planted at such time, as may be specified in writing by the local planning authority.

iii) No development shall take place and no equipment, machinery or materials shall be brought on to the site for the purposes of the development until (a) precise details and a specification of the fencing for the protection of any retained tree has been submitted to and approved in writing by the local planning authority; and (b) the erection of protective fencing has been undertaken in accordance with the approved details. The fencing shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition or under the canopy of any tree to be retained and the ground levels within those areas shall not be altered without the written approval of the local planning authority.

Reason: To ensure a satisfactory appearance to the development and to safeguard the visual character of the immediate area; in accordance with saved policy 99 of the Local Plan (1991) and policy CS12 of the Core Strategy (2013).

- 6 Prior to the commencement of development, details of a 2m x 2m pedestrian visibility splay at the access to house 2 shall be submitted to and approved in writing by the local planning authority. The scheme shall be implemented before the building is occupied. Development shall be carried out in accordance with the approved details and the visibility splays shall thereafter be kept free of all obstructions over a height of 600mm above the adjacent footway level.**

Reason: In the interests of highway safety.

- 7 Development shall be carried out in accordance with the approved parking layout plans and the car parking spaces shall be retained for this use thereafter.**

Reason: To ensure the adequate and satisfactory provision of off-street vehicle parking facilities; in accordance with saved appendix 5 and policy 58 of the Local Plan (1991).

- 8 None of the buildings shall be occupied until details for the disposal of surface water from the new and altered parking areas have been submitted to and approved in writing by the local planning authority and these works shall be carried out as approved before the buildings are occupied.**

Reason: To ensure that the site is subject to an acceptable drainage system serving the development; in accordance with policy CS12 and CS29 of the Core Strategy (2013).

- 9 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification), the new dwellings hereby permitted shall not be enlarged under the provisions of Schedule 2, Part 1, Class A of that order.**

Reason: To enable the local planning authority to retain control over the development in the interests of safeguarding the residential and visual amenity of the locality; in accordance with policies CS11 and CS12 of the Core Strategy (2013).

- 10 **The development hereby permitted shall be carried out in accordance with the following approved plans/documents:**

1925/104C

1935/103

1935/109A

Reason: For the avoidance of doubt and in the interests of proper planning.

Article 35 Statement:

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 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) Order 2015