

**4/01353/16/ROC - VARIATION OF CONDITIONS 3, 4, 7, 8 AND 11 RELATING TO PLANNING PERMISSION 4/03375/14/FUL (DEMOLITION OF TWO TIMBER GARAGES AND CONSTRUCTION OF ONE 4-BED DWELLING).
LAND ADJ HOLLY HOUSE, DOCTORS COMMONS ROAD, BERKHAMSTED, HP4 3DR.**

APPLICANT: Mr and Mrs Gerry.

[Case Officer - Intan Keen]

Summary

The application is recommended for approval. The proposed amended development for a single dwelling is acceptable in principle. The amendments from the previous application would not have an adverse impact on the appearance of the building or the street scenes, and would meet the objectives of conserving the Berkhamsted Conservation Area. The development would not have an adverse impact on the residential amenity of neighbouring properties. The car parking and access arrangements are sufficient.

The proposal is therefore in accordance with Policies CS12 and CS27 of the Core Strategy and saved Policy 120 of the Local Plan.

Site Description

The application site is currently occupied by an infill dwelling currently under construction, located on the south-eastern side of Doctors Commons Road and in the Berkhamsted Conservation Area.

Works to trees to the south-western side boundary have been carried out, and one of the trees (in the space beyond the side wing of Darul Aman) has been felled.

Proposal

Planning permission is sought for minor amendments to the approved development for a single dwelling under 4/03375/14/FUL, varying conditions 3 (landscape proposals), 4 (retention of trees), 7 (car parking spaces), 8 (vehicle crossovers) and 11 (approved plans).

E-mail confirmation was received on 22 June 2016 confirming the withdrawal of the variation of conditions 2 (materials) and 9 (side-facing windows).

As such, the approved timber cladding will remain and the ground floor side-facing (slit) windows shall be obscure-glazed.

Letter notification of the amended proposal description (withdrawing variation of conditions 2 and 9 from the original description) has been carried out on 23 June 2016.

This correspondence also confirmed proposed planting to the south-western side boundary.

The amendments sought under the current application therefore include:

- Omission of the brick wall to the front boundary, to be replaced with planting of a (Photenia "Red Robin") hedge (condition 3);
- Position of external steps to the south-western side of the dwelling has been amended instead of curving around the rear corner of the building they will follow the linear arrangement, rear patio has also been reconfigured to take into account this change (condition 3);
- The south-western side boundary hedge has been subject to lopping and one tree has been cut down (condition 4);
- Subsequent to the point above, replacement planting of one 2m high Leylandi has been proposed (condition 3);
- Three car parking spaces reconfigured to accommodate proposed front hedge (condition 7);
- Removal of condition 8 which requires the stopping up of two vehicle accesses to the corners of the application site;
- Reduction in building width by 0.35m (condition 11);
- Repositioning of building 0.12m closer to the south-western side boundary (condition 11);
- Increase in width of four ground floor rear windows by 0.1m each (condition 11);
- Removal of window to side of front door (condition 11);
- Omission of glass lantern and changes to roof lights (condition 11).

Referral to Committee

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

Planning History

Application 4/03375/14/FUL for demolition of two timber garages and construction of four bedroom house was granted (the application seeks to vary conditions and remove one condition from this permission).

Previously, application 4/01721/14/FUL for demolition of two garages and construction of four bedroom house was granted.

Prior to this, application 4/02317/13/FUL for proposed new dwelling was refused and subsequently dismissed at appeal. The reasons for dismissal were that the proposal would materially detract from the character and appearance of the site and the Berkhamsted Conservation Area, the positive qualities of which would not be preserved by the proposal, and due to the topography of the area, the dwelling would appear overall as a large, stark and bulky addition to the area, that would also be prominent on the skyline. The second reason for dismissal related to the impact on living conditions of No. 29 Kings Road (adjoining property to the rear).

Policies

National Policy Guidance

National Planning Policy Framework (NPPF)
National Planning Policy Guidance

Adopted Core Strategy

NP1 - Supporting Development
CS1 - Distribution of Development
CS4 - The Towns and Large Villages
CS8 - Sustainable Transport
CS11 - Quality of Neighbourhood Design
CS12 - Quality of Site Design
CS17 - New Housing
CS18 - Mix of Housing
CS27 - Quality of the Historic Environment
CS29 - Sustainable Design and Construction
CS31 - Water Management
CS35 - Infrastructure and Developer Contributions

Saved Policies of the Dacorum Borough Local Plan

Policies 10, 13, 18, 21, 51, 57, 58, 63, 99, 100, 101
Appendices 1, 3 and 5

Supplementary Planning Guidance / Documents

Environmental Guidelines - Development in Residential Areas
Conservation Area Character Appraisal for Berkhamsted
Water Conservation & Sustainable Drainage (June 2005)
Energy Efficiency & Conservation (June 2006)
Accessibility Zones for the Application of car Parking Standards (July 2002)
Planning Obligations (April 2011)
Affordable Housing (Jan 2013)

Advice Notes and Appraisals

Sustainable Development Advice Note (March 2011)

Summary of Representations

Darul Aman

Background:

As you are aware, the original application was strongly objected to by 6 neighbours and Berkhamsted Town Council. It was then refused by Dacorum Borough Council Development Control Committee. This decision was appealed by the developer and his appeal was subsequently dismissed by the planning Inspectorate.

A revised application was submitted by the developer, taking into account some of the comments made by the Planning Inspectorate. This application was approved, only after conditions added by Dacorum Borough Council that directly related to key points made by the Planning Inspectorate.

We would like to strongly object to the variation of these conditions for the following reasons:

Variation of Condition 2.

The proposed slate cladding will neither enhance or preserve the conservation area. Western Red Cedar was approved in the original application to ensure a satisfactory appearance to the development and in the interests of the visual amenities of the Conservation Area in accordance with Policies CS12 and CS27 of the Dacorum Core Strategy (September 2013) and saved Policy 120 of the Dacorum Borough Local Plan 1991-2011. The developer states he wants to differentiate the house from other houses on the street, this is clearly contrary to the aims of the conservation area policies noted above.

Variation of Condition 3.

As clearly shown on drawing 13 399 PL20A. Replacing the proposed low brick wall with hedging will reduce the space available for off street parking. The entrance to the parking area has been narrowed (as stated by the developer in variation of condition 7). This will compromise access to the parking area. The addition of the planted area on the Holly House side further reduces space for parking. Also worth noting are the comments of conservation officer, Sally-Ann Hirst, in regard to the original approved plan, who expressed a preference for a solid brick wall as a boundary finish she would support in a conservation area, particularly to the roadside. (22/01/14). The proposed changes will restrict both the usage of the off street parking facility and the available space to park. It is therefore contrary to Policy CS12 of the Dacorum Core Strategy (September 2013) and saved Policy 58 of the Dacorum Borough Local Plan 1991-2011.

Variation of Condition 4

Condition 4 clearly states that the existing Cyprus hedge is a retained tree and as such should not 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. The developer has chosen to breach this condition, cutting all the lower branches right back to the trunk. This has removed any screening between the new-build and Darul Aman.

In the appeal dismissal report, the Planning Inspectorate recommend that the hedge be protected by a planning condition to ensure privacy to Darul Aman. It is a condition that both Berkhamsted Town Council requested and Dacorum Borough Council imposed.

Condition 4 also states that 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. The developers arboriculturalist has already commented that these once healthy trees have 'now seen better days'. The trees were healthy prior to works beginning - see photo 1 -These trees have been compromised, and remedial action may need to be taken as stated in section b of Condition 4.

The developer has also breached condition 4C which requires The erection of fencing for the protection of any retained tree shall be undertaken in accordance with the approved plans and particulars before any equipment, machinery or materials are

brought on to the site for the purposes of the development, and 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 and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the written consent of the local planning authority.

The developer has also clearly breached condition 5 which requires the trees shown for retention to be protected during the whole period of site excavation and retention of a 1.5 metre high chestnut paling fence on a scaffold framework positioned beneath the outermost part of the branch canopy. This was to ensure that damage does not occur to the trees during building operations in accordance with saved Policy 99 of the Dacorum Borough Local Plan 1991-2011.

It is imperative this condition remains to ensure that the developer is held accountable for the damage done to the retained trees. The developer has chosen to breach clear planning conditions, and this is obviously not acceptable.

Variation of Condition 7

The proposed change to the boundary treatment will reduce the space available for parking, this is clearly shown on drawing 13 399 PL20A. Doctors Commons Road is heavily parked and is particularly busy with pedestrians and schoolchildren at key times during the day. Condition 7 of the original approved plans sought to ensure the adequate and satisfactory provision of off-street parking facilities in accordance with Policy CS12 of the Dacorum Core Strategy (September 2013) and saved Policy 58 of the Dacorum Borough Local Plan 1991-2011.

Furthermore, this configuration formed part of the plan that was rejected at Development Control Committee and on appeal by the planning inspectorate. This is a clear attempt by the developer to change conditions to that of a scheme that has already been refused (4/02317/13/FUL drawing 13 399 PL01B). Reasons for refusal in the original planning document state 'The proposed development, by reason of its layout and associated vehicle crossover would result in substandard and unacceptable parking and access arrangements with limited manoeuvring space to the parking area. Due to the existing highway conditions in the area the proposal is likely to result in conditions prejudicial to pedestrian and highway safety contrary to Policies CS8 and CS12 of the Dacorum Core Strategy (September 2013) and saved Policies 51 and 54 of the Dacorum Borough Local Plan 1991-2011'.

The proposed changes are contrary to the above policies and will compromise both the usage of the parking facility and the actual available space to park.

Variation of Condition 8

The reason for this condition was to ensure pedestrian safety by providing a level surface and to assist highway efficiency by ensuring vehicles cannot use the crossovers in accordance with Policy CS8 of the Dacorum Core Strategy (September 2013) and saved Policies 51 and 54 of the Dacorum Borough Local Plan 1991-2011.

Doctors Commons Road gets extremely busy with school traffic and it is important to ensure the safety of pedestrians and school-children at all times.

This condition was also requested by the Highways Authority (29/01/14)

There is no reason why these curbs cannot be re-instated as requested in the condition. The curbs are not shared. The pavement and existing curb has been damaged during the construction of the property and should be re-instated as detailed in Condition 8.

Variation of Condition 9

This is another clear attempt by the developer to change conditions to that of a scheme that has already been refused. Condition 9 clearly states that windows facing both Darul Aman and Holly House should have obscured glazing. This is also recommended by the Planning Inspectorate in the appeal dismissal report. It is also included in the Planning Officers report relating to the approved plans. The windows directly overlook both Darul Aman and Holly House. The window facing Darul Aman looks directly onto our patio, living space, dining room, living room and bedroom. Darul Aman has large floor to ceiling windows on both floors facing the new-build and the opaque glazing was specifically requested by Berkhamsted Town Council and Dacorum Borough Council to mitigate this. The overlooking and loss of amenity has been exacerbated due to the house being built 200mm closer than detailed in the approved plans. This in itself is a breach of condition 2. It is crucial that this condition is retained, windows should also be non-opening and obscure glazed as stated in the original condition. The changes would be contrary to the original reason for the condition which was added in the interests of the amenity of adjoining residents in accordance with Policy CS12 of the Dacorum Core Strategy (September 2013).

Variation of Condition 11.

There is one point mentioned here that we would like to object to. The statement that the building has moved 120mm closer to Darul Aman. Our measurements show that the actual measurement between the two buildings is 2.5 metres, meaning that the building has actually moved 200mm closer to Darul Aman. This is a clear breach of condition 2 and goes some way to explaining why the trees have been damaged and why the steps had to be moved.

This discrepancy regarding this measurement is clearly mis-leading and calls into question whether other measurements detailed in the approved plans have been adhered to. Due diligence suggests other key measurements should be checked.

In summary, the conditions were imposed for sound clear-cut reasons. They satisfy the NPPF six tests for validity, that of being necessary, relevant to planning, relevant to the development to be permitted, enforceable, precise and reasonable. In the DETR Circular 10/97 it states that the Secretaries of State take the view that conditions should not be added unless they are both necessary and effective. This was the case when the conditions were stipulated, they tackle specific problems with the original plans, they were considered necessary and effective by Dacorum Borough Council at the time and nothing has changed to alter this situation.

Section 171A of the T&C Planning Act 1990 establishes thatthe failure to comply with any condition or limitation subject to which planning permission has been granted constitutes a breach of planning control.

The developer has already blatantly chosen to breach conditions 2, 4, 5 & 9. Conditions recommended by the Planning Inspectorate and requested by Berkhamsted Town Council and imposed by Dacorum Borough Council, in the interests of the amenity of adjoining residents, in accordance with Policy CS12 of the Dacorum Core Strategy (September 2013). Our own amenity has been severely compromised by the destruction of the lower part of the cypress hedge (from ground level to the height of the new build) and both Holly House and Darul Aman are now faced with clear glazed windows looking directly into our bedrooms and living rooms when these windows should have obscured glazing. Note that the 1.7m in the original condition only relates to the windows being non-opening. We ask that this is increased by 200mm due to the new-build being 200mm closer stipulated in the approved plans.

The NPPF guidance on ensuring effective enforcement suggests that it would be more appropriate to serve a breach of condition notice (section 187A of the T&C Planning Act 1990), setting out the necessary remedial action to ensure compliance with the condition being breached.

To actually just remove the conditions that have already been breached makes a mockery of the whole planning system and completely undermines all the time and effort local residents, Berkhamsted Town Council, Dacorum Borough Council and the Planning Inspectorate spent getting the plans to a stage where they were approved.

The other proposed changes will compromise off street parking, pedestrian safety and the conservation area and are clearly contrary to Policies CS12, CS8 and CS27 of the Dacorum Core Strategy (September 2013) and saved Policy 120, 51 and 54 of the Dacorum Borough Local Plan 1991-2011 and will neither enhance or preserve the conservation area.

Through this application, the developer is trying to re-introduce parts of the original scheme refused by the planning inspectorate and parts of the subsequent scheme that were only approved after the addition of clear planning conditions requested by Berkhamsted Town Council and Dacorum Borough Council, conditions that were recommended by the Planning Inspectorate.

The developer didn't achieve what he wanted first time round and is now trying to bypass the original decision. A decision that was extensively debated at the time. This is contradictory to the principals of the planning process. Removal may make things easier for the developer by removing his accountability for conditions already breached, but that is not a valid reason for the conditions to be removed.

The NPPF states that effective enforcement is important as a means of maintaining public confidence in the planning system, and to maintain the integrity of the decision-making process. What confidence can we have in this system if these conditions are removed?

It is crucially important that the original conditions are retained. The request for removal shows contempt for neighbours, and the opinions of Berkhamsted Town Council, Dacorum Borough Council and the Planning Inspectorate.

They are there to tackle specific problems with the original scheme, pointed out by the planning inspectorate in the appeal refusal report, conditions requested by Berkhamsted Town Council and imposed by Dacorum Borough Council. We ask that

the application for variation of conditions is refused. The developer must be held accountable for conditions that he has already breached. Dacorum Borough Council must surely stand by the conditions the originally imposed on this development and must not concede to the demands of the developer.

29 Kings Road

This application is an illustration of the disdain of the developer for process and the decision making authority of the Council.

The builder (Frithsden Construction) is none other than the developer, His application for variation of conditions at this stage in the build process is premised on the logic that the Council will roll over rather than enforce previously debated and strongly stipulated build conditions which are of relevance and importance.

The architect who did the original drawings was referenced as both qualified as well as competent and yet basic errors such as these mentioned in this planning variation have occurred? This was a deliberate misleading of the appeals panel by Frithsden Construction in a drive to get this contentious building passed through the Dacorum Borough Council's process, despite both Berkhamsted Council's and the six adjoining neighbours strong contrary objections.

As directly affected neighbours, our objections to the specific variations of the Conditions are as follows:

Condition 2 – Slate Cladding

Slate cladding is inappropriate to the stated objective of DBC and the Berkhamsted residents as they relate to the protection of the Conservation area in the town. The Red Cedar cladding should be retained.

Condition 3 – Hedge vs. low wall

The matter of off street parking and safety for pedestrians was a hotly debated area of concern in the original planning process. The final approved design of this area was in mitigation of these concerns. The hedge (though cheaper and perhaps more pleasing to the eye) further compromises the off street parking and makes vehicle turning into the demarcated parking spaces impossible. Accordingly, this is not an acceptable variation.

Condition 4 – Step Positioning

This is something that should have been dealt with by the developer and architect ahead of the commencement of the construction and should also have been referred back to the affected neighbours. It is commonly known that once this type of Cyprus hedge is cut deeper that the surface leaves it does not grow back and the only solution is to replace it – something that was probably intended by the developer at the start of the project as he did not heed the carefully constructed warnings contained in Condition 4 and Condition 5.

Condition 7 – Car Park Spaces

See Discussion in Condition 3. I challenge the developer to park his vehicle in these tight spaces, especially when constrained by visibility around the proposed hedge.

Condition 8 – Vehicle Access

This condition was agreed to by the developer to mitigate the parking and highways access and safety issues. The condition must hold.

Condition 9 – E & W facing windows

A variation of this condition is inappropriate as this was deemed as necessary for purposes of privacy to the neighbours. Amendment will enable both overlooking and loss of amenity.

Condition 11 - Multiple

Bullet 2 of the applicant's letter is mischievous in intent – the only reason that the building is closer to Darul Anan is that the builder has attempted to claw back some footprint space (lost on the Holly House side).

Bullet 5 and the applicant's reference to the need to adapt the rear ground floor window sizes to allow for "emergency egress" to meet Building Regulations illustrates just how disingenuous an application this has been at every stage (see para 1). If the Council does accept the logic that the width of the windows must increase (which is in itself debatable) then it is only appropriate that the previously agreed screening on all of the ground floor rear facing windows be reinstated (refer to photo).

We would also like to draw the attention of the DBC to the fact that the screening on the very large glass window at the rear stairwell facing into our home has not yet been installed. This window creates a continuous light-source that we see from all north facing rooms in our home. It is possible for us to see straight through this window into several of the rooms within the new building and all of the way to the front door (please refer to the attached photograph as taken today and note the presence of the developer (Anthony Hayes) at the Doctors Commons entrance as seen through the rear ground floor window). The new residents will in turn look directly into our own property, hence our own amenity and privacy is compromised. It is appropriate that the developer and applicant be reminded that the screening is an absolute Condition which also cannot be removed post completion or by any future resident.

31 Kings Road

Once again we are writing to object to the revised conditions recently submitted for Holly House.

We spent a considerable amount of time, last year, reaching an agreement for a proposal that was suitable for neighbours and for the Conservation Area so are somewhat disappointed that we are having to spend time objecting again.

We are objecting as follows:

Variation of Condition 2: the proposed cladding is not in keeping with any neighbouring properties or the aesthetics of Doctor Commons Road. It was agreed that Western Red

Cedar was the most suitable. This is the view from our back garden so as you can see the house is fairly imposing and to clad the outside in a rather austere grey slate is not suitable for this area (see photos attached)

Variation of Condition 4: there has been a breach to Dacorum Borough Council rules about pruning trees. The house is in the Conservation Area and an application for tree work should have been submitted. I had to wait six weeks for a small amount of lopping to trees that were affecting my satellite dish. Surely the rules are set for all?

Variation of Condition 9: this should be objected on condition of privacy for neighbours as this will ensure further overlooking.

Variation of Condition 11: the house has been built closer to Darul Aman which in turn affects us as the house overlooks our garden, restricting our privacy. The building has been incorrectly built in its original position.

Wayside, Doctors Commons Road

Please find my responses to each variation request below:

Variation of Condition 2 - No objection

The current application indicates timber western red cedar either side of the front entrance in accordance with the rear elevation. The new proposals are for the cladding to be changed to Marley Eternit Vertigo "Slate" cladding, colour anthracite,

Variation of Condition 3 – No objection

The new proposal simplifies and softens the front boundary treatment by omitting the brick wall and piers and planting a hedge either side of the entrance.

Variation of Condition 4 – Objection – Please enforce condition 4 (b) from original approval

The size, density and position of the original Cyprus hedge meant that the proposed house could not be built without locally lopping back the lower branches of the trees. This was done for two reasons, to provide a scaffolding zone to enable the construction of the house and to ensure future access to the rear garden. Whilst we acknowledge that permission should have been sought to carry out the work, the extent of the lopping back has been kept to a minimum and at low level to ensure the privacy of the occupants of Darul Aman. As mentioned previously the external staircase has been moved to avoid the removal of the Cyprus trees completely. As per CONDITIONS APPLICABLE TO APPLICATION: 4/03375/14/FUL (28 January 2015)

4(b) 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. Reason: To ensure a satisfactory appearance to the development and to safeguard the visual character of the immediate area in accordance with Policy CS12 of the Dacorum Core Strategy (September 2013) and saved Policy 99 of the Dacorum Borough Local

Plan 1991-2011.

Variation of Condition 7 – No objection

The current application indicates 3No. car parking spaces on the site. The new proposals still maintain 3 No. spaces on the site.

Variation of Condition 8 – Objection – Kerbs should be reinstated - original conditions are still valid

The existing two vehicle accesses to the northern and western corners of the site to Doctors Common Road are shared dropped kerbs with Darul Aman and Holly House respectively and as such cannot be reinstated. As such we would ask for this condition to be removed.

As per CONDITIONS APPLICABLE TO APPLICATION: 4/03375/14/FUL (28 January 2015)

The existing two vehicle accesses to the northern and western corners of the site to Doctors Commons Road must be closed off permanently and the footway on Doctors Commons Road shall be reinstated prior to the first occupation of the development hereby permitted.

Reason: To ensure pedestrian safety by providing a level surface and to assist highway efficiency by ensuring vehicles cannot use the crossovers in accordance with Policy CS8 of the Dacorum Core Strategy (September 2013) and saved Policies 51 and 54 of the Dacorum Borough Local Plan 1991-2011.

Variation of Condition 9 - not applicable to Wayside (but request is in direct opposition to original planning consent)

Variation of Condition 11 – see separate comments below:

- Building at lower ground floor kitchen area adjacent to Holly House reduced in width by 350mm to allow for piling construction zone – No Objection
- Building moved 120mm closer to Darul Aman to allow for piling construction zone adjacent to Darul Aman. – Objection

It is quite obvious from the two points above that this retrospective application is to account for the fact that the house has been built in an incorrect location – directly impacting the neighbouring property - Darul Aman.

- Side window of front door removed to allow privacy of hall – No Objection
- Glass lantern omitted and changes to roof lights – No Objection
- Rear ground floor windows increased in width to allow for emergency egress of Bedrooms in accordance with Building Regulation requirements. Windows are the smallest width to allow for a 450mm clear egress width – if required to meet Building Regulation requirements - No Objection

Berkhamsted Town Council

It was Resolved to suspend standing orders to allow members of the public to speak.

Mr D Willis of Doctors Common Road stated that he and many other residents

objected strongly to the application. A previous application had been dismissed following an appeal to the planning inspectorate. Permission was only granted by Dacorum Borough Council for a revised application after the addition of clear planning conditions. Mr Willis was of the view that the developer was now attempting to reintroduce features previously rejected for valid reasons which had satisfied tests set out in the National Planning Policy Framework. The current application to amend the conditions imposed made a mockery of the planning process and undermined its integrity. Mr Willis' own amenity had already been compromised by the removal of part of the cypress hedge. The proposal for larger, clear glazed windows in overlooking elevations would impact severely on that of other neighbours. Parking would also be compromised in the road and pedestrian safety jeopardised. He requested that measurements and positioning of the build to date also be checked against the plans. In conclusion he urged that the application be refused.

Mr C Wiggill, also of Doctors Common Road, supported Mr Willis' objections. He hoped the representations made by neighbours demonstrated the continuing strength of feeling regarding the development and the proposed variations. He similarly urged refusal.

Thanking members of the public for their contributions, the Chairman reinstated standing orders.

Objection. The original conditions were imposed for clear and valid reasons and all conditions currently in place must be adhered to and not varied. Furthermore, the Committee asks that the planning officer, together with an enforcement officer, visit the site at the earliest opportunity. This would enable them to appreciate thoroughly the detrimental impact on neighbours and monitor the accuracy of construction to date against the approved plans.

Contrary to CS 11, CS12 and saved Local Plan Policy 120.

Conservation and Design

I went out to look at this one earlier. Regarding the change of material to the front elevation, the use of timber cladding (as approved) would be preferred in this Conservation Area location.

However due to the relatively limited amount of slate cladding to the single storey front elevation – panels either side of the front door and below the rendered cornice, the slate will not be a highly visible element and is fairly limited in amount. It would be useful to know how the slate will be applied to the walls, ie will it overlap or will the slate cladding be applied flat to the wall?

On balance the use of slate is not considered to have a detrimental impact upon the character or appearance of the Berkhamsted Conservation Area.

Trees and Woodlands

It is possible to plant another Leylandii tree to replace the one that has been removed but establishment would be difficult and cannot be guaranteed. But it is worth trying. I agree with you that a condition requiring replacing this tree if it dies within 5 years, is reasonable and appropriate.

Hertfordshire Highways

Decision

Notice is given under article 18 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 that the Hertfordshire County Council as Highway Authority does not wish to restrict the grant of permission.

Decision Hertfordshire County Council has no objection to the ROC application (conditions 3, 7 and 8) of planning consent 4/00293/14/FUL at land adjacent to Holly House, Doctor's Common Road, Berkhamsted

Description The above application is for the variation of the above conditions and removal of condition 8. The above approved application is for the demolition of two timber garages and construction of one 4 bedroom dwelling, C3, with off street parking.

Analysis

Condition three is to replace the boundary wall with brick piers to a hedge. As there are no plans submitted, it is important that the hedge does not reduce any agreed vehicular visibility splay when exiting onto the highway network. Conditions 7 and 8 are concerned with off street parking and the existing second existing vehicle crossover. The proposed variation to Condition 7 is acceptable along with the removal of condition 8 that affects the adjacent property. It would appear to the highway authority that all of the above variations would have little impact on the highway network are being proposed.

Conclusion The assessment does not indicate any significant issues with the request to change the above mentioned conditions The highway authority would not wish to restrict the grant of permission

Building Control

Regarding the proposed development, I confirm that I have no issues or further comments and proposal is satisfactory.

Considerations

Policy and principle

The principle of the development of the site with a single dwelling has been established in previous application referenced above. The proposal would be acceptable in principle under Policies CS1 and CS4 of the Core Strategy.

The main considerations in the determination of this application are the impact on the street scene and Conservation Area, the impact on neighbouring properties, and the impact on car parking.

Impact on site layout and appearance of building

The proposed alterations to the siting and form of development would be acceptable.

The repositioning of the building 0.12m closer to the south-western side boundary leaving a separation of 2.58m would be allow sufficient space around the dwelling.

The reduction in width of the building by 0.35m would not raise any concerns. The increase in window width to the rear elevation is also considered acceptable noting appropriate wall to window proportions would be achieved.

The removal of the window to the side of the front door, removal of the roof lantern and repositioning of roof lights would not raise any objections.

Car parking provision would remain to the front of the dwelling as appropriate.

The proposed amendments particularly the reconfiguration of the steps would not significantly affect the functionality of the rear private open space to the dwelling.

The proposal is therefore in accordance with Policies CS12 and CS27 of the Core Strategy and saved Policy 120 of the Local Plan.

Impact on appearance of street scene and Conservation Area

The reduction in width of the building and the siting of the dwelling slightly to the south-west would not raise any concerns with respect to the impact on the street scene (when viewed from Doctors Commons Road or Kings Road). Adequate separation between buildings would still be achieved with a gap of 2.58m between the dwelling and Darul Aman.

The replacement of the approved front brick wall is considered satisfactory. Comments previously received from Conservation and Design (in relation to previous application 4/02317/13/FUL) discouraged a close boarded timber fence to the street frontage. The proposed front hedge would soften the appearance of the development from Doctors Commons Road and also provide sufficient screening to the forecourt parking. As such, this element of the proposal is acceptable.

The proposed amendments would not be contrary to the objectives of Policies CS12 and CS27 of the Core Strategy or saved Policy 120 of the Local Plan.

Impact on trees and landscaping

Planting of one Leylandi tree at 2m high is proposed to offset the loss of one of the trees within the south-western boundary hedge originally conditioned for retention. Comments from Trees and Woodlands have not been received in relation to the proposed planting. It is considered reasonable to request additional planting to replace the loss of vegetation along this boundary to assist with softening the appearance of the building including from neighbouring properties. As such, if planning permission is granted, a condition would be attached requiring details of planting to this boundary. As such, the proposal would be in accordance with Policy CS12 of the Core Strategy.

Impact on neighbouring properties

The application site has five directly adjoining properties, including the dwellings either side at Holly House and Darul Aman, and three dwellings to the rear at Nos. 27, 29

and 31 Kings Road.

With respect to the impact on No. 29 Kings Road, the Inspector noted in the previous appeal decision that

12. ...in practise, I consider that the extensive amount of full height glazing that is proposed would give rise to an undue amount of overlooking and consequent loss of privacy in the lower property. The top of the new house would be well below a 25 degree line of sight from the ground floor of no. 29, but the prominence and width of the new building in outlook from the house would no doubt add to the perceived negative effect on its occupiers.

The scheme considered at appeal incorporated a significant amount of glazing in relation to wall space on the rear elevation at upper-floor level, which together with the building width (and its position on higher ground relative to No. 29 Kings Road) would have an adverse impact on the outlook of this neighbour.

The enlargement of the upper floor (ground floor level) windows by 0.1m each, would give these openings a width of 0.5m. This represents a cumulative increase of 0.4m additional window space, when spread out over four windows (excluding the unchanged central window partly concealed by a 'hit-and-miss' timber screen) across the rear of the upper floor at 14.5m wide. This is not considered to result in a harmful level of visual intrusion or overlooking between the application site and neighbours on Kings Road, particularly No. 29.

As follows, the proposal would also not result in adverse levels of visual intrusion or overlooking to neighbours at Nos. 27 and 31 Kings Road.

The proposed building would be brought 0.12m closer to the shared side boundary with Darul Aman. The proposed resiting would not infringe upon the 45° line taken from the nearest habitable room window of this neighbouring property (on plan view) and therefore would not be harmful in terms of loss of light. This test is also a good indication as to whether the proposal would result in a significant level of visual intrusion from the neighbouring property. It is considered that as the resiting of the development closer to Darul Aman would satisfy the 45° test, together with proposed planting adjacent to the common boundary, the proposal would not have an adverse impact with respect to visual intrusion from the perspective of this neighbour.

(As noted above, the side-facing ground floor windows of the development shall be obscure-glazed and condition 9 of planning permission 4/03375/14/FUL shall be attached if planning permission is granted.)

The proposed dwelling would be sited slightly further from Holly House (due to repositioning on the site and reduction in building width). Therefore, the proposed amendments would not give rise to any concerns relating to visual intrusion, loss of light or overlooking from the perspective of Holly House.

The proposal would not have an adverse impact on the residential amenity of neighbouring properties in accordance with Policy CS12 of the Core Strategy,

Impact on car parking

No concerns have been raised from the highway authority with respect to the proposed amendments. Specifically, the altered parking configuration has not raised any objections. The following extract from the previous appeal decision is relevant to this matter:

15. The proposed layout shows that up to 3 cars could be accommodated on the site. I am not persuaded to differ from the views of highways officers that the provision would be adequate for the size of house in this location. The replacement of two existing access points by one would also give rise to some increase in the availability of kerbside parking. I consider that the amount of parking would be adequate.

16. The full use of onsite parking spaces would require some reversing manoeuvres from or onto the highway. Concerns have been raised that this would pose risks for pedestrians and vehicle safety, especially when parking peaks in association with the school further along the road. However I noted that most of the domestic vehicular accesses along Doctors Commons Road (garages or driveways) would similarly involve reversing manoeuvres. I have been presented with no evidence that there is a significant risk to highway users from these many existing accesses. Consequently I am not persuaded that the appeal proposal would materially worsen the situation.

17. I conclude that the proposal would not have a harmful effect on parking and highway safety on Doctors Commons Road. There would be no conflict in this respect with Core Strategy Policies CS8 & CS12, or with Policies 51 & 54 in the local plan. These policies seek to ensure the provision of adequate parking and safe means of access.

Based on the above, it is not considered that the altered parking layout within the forecourt would give rise to any highway safety concerns.

Additionally, the highway authority have raised no objections with respect to the removal of condition 8 requiring the two vehicle accesses to be closed and the kerb reinstated.

As such, the proposal would not conflict with the objectives of Policies CS8 and CS12 of the Core Strategy and saved Policy 58 of the Local Plan.

Community Infrastructure Levy (CIL)

Contributions were sought under the previous application (4/03375/14/FUL) under a completed Section 106 agreement. The current proposal represents a decrease in floor area and as such no contributions are required.

RECOMMENDATION - That determination of the application be **DELEGATED** to the Group Manager, Development Management and Planning, following the expiry of the consultation period and no additional material considerations being raised, with a view to grant for the following reasons.

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of planning permission 4/03375/14/FUL.**

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 The development hereby permitted shall be constructed in accordance with the materials specified on the approved drawings and e-mail dated 22 June 2016.**

Reason: To ensure a satisfactory appearance to the development and in the interests of the visual amenities of the Conservation Area in accordance with Policies CS12 and CS27 of the Dacorum Core Strategy 2013 and saved Policy 120 of the Dacorum Borough Local Plan 1991-2011.

- 3 All hard and soft landscape works including the planting of a 2m high leylandi tree on the south-western side boundary shall be carried out in accordance with the approved details (including e-mail from TW-2 Architects dated 22 June 2016). 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 Policy CS12 of the Dacorum Core Strategy 2013.

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

(a) 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: 1989 Recommendations for Tree Work.

(b) 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.

(c) The erection of fencing for the protection of any retained tree shall be undertaken in accordance with the approved plans and particulars before any equipment, machinery or materials are brought on to the site for the purposes of the development, and 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 and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the written consent 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 Policy CS12 of the Dacorum Core Strategy 2013.

- 5 **Any tree or shrub which forms part of the approved landscaping scheme which within a period of five years from planting fails to become established, becomes seriously damaged or diseased, dies or for any reason is removed shall be replaced in the next planting season by a tree or shrub of a species, size and maturity to be approved by 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 Policy CS12 of the Dacorum Core Strategy 2013.

- 6 **No materials, plant, soil or spoil shall be stored underneath the canopy of any tree on the site which is shown for retention on the approved Drawing No. 13 399 PL20B.**

Reason: In order to ensure that damage does not occur to the trees during building operations in accordance with Policy CS12 of the Dacorum Core Strategy 2013 and saved Policy 99 of the Dacorum Borough Local Plan 1991-2011.

- 7 **Pedestrian visibility splays of 2 m x 2 m shall be provided before any part of the development is first brought into use, and they shall thereafter be maintained, on both sides of the entrance to the site, within which there shall be no obstruction to visibility between 600 mm and 2 m above the carriageway.**

Reason: In the interests of highway safety in accordance with Policy CS12 of the Dacorum Core Strategy 2013.

- 8 **The development hereby permitted shall not be occupied until the arrangements for vehicle parking shown on Drawing No. 13 399 PL20B shall have been provided, and they shall not be used thereafter otherwise than for the purposes approved.**

Reason: To ensure the adequate and satisfactory provision of off-street vehicle parking facilities in accordance with Policy CS12 of the Dacorum Core Strategy 2013 and saved Policy 58 of the Dacorum Borough Local Plan 1991-2011.

- 9 **The windows at ground floor level in the north-eastern and south-western side elevation of the dwelling hereby permitted, shall be non-opening below a height of 1.7m from finished floor level and shall be permanently fitted with obscured glass.**

Reason: In the interests of the amenity of adjoining residents in accordance with Policy CS12 of the Dacorum Core Strategy 2013.

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

13 399 PL20B (site location plan, proposed block plan, floor plans and roof plan);

13 399 PL21A (proposed elevations);

13 399 PL22A (proposed rear elevation and site section);

Sustainability Statement contained in Design and Access Statement approved under 4/03375/14/FUL; and

E-mail from TW-2 Architects dated 22 June 2016.

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

Article 31 Statement

Planning permission has been granted for this proposal. The Council acted proactively through positive discussion with the applicant during the determination process which led to improvements to the scheme. The Council has therefore acted proactively 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.

HERTFORDSHIRE HIGHWAYS INFORMATIVE

The highway authority require the construction of the vehicle crossover to be undertaken by approved contractors so that the works are carried out to their specification and by a contractor who is authorised to work in the public highway. The applicant will need to contact www.hertsdirect.org or telephone 0300 1234 047 for further information. This may mean the developer will have to enter into a Section 278 agreement.

All areas for storage and delivery of materials associated with the construction of this development shall be provided within the site on land, which is not public highway, and the use of such areas shall not interfere with the use of the public highway.

THAMES WATER INFORMATIVE

Waste Comments

Surface Water Drainage - With regard to surface water drainage it is the responsibility of a developer to make proper provision for drainage to ground, water courses or a suitable sewer. In respect of surface water it is recommended that the applicant should ensure that storm flows are attenuated or regulated into the receiving public network through on or off site storage. When it is proposed to connect to a combined public sewer, the site drainage should be separate and combined at the final manhole nearest the boundary. Connections are not permitted for the removal of groundwater. Where the developer proposes to discharge to a public sewer, prior approval from Thames Water Developer Services will be required. They can be contacted on 0845 850 2777. Reason - to ensure that the surface water

discharge from the site shall not be detrimental to the existing sewerage system.

Thames Water would advise that with regard to sewerage infrastructure capacity, we would not have any objection to the above planning application.

Legal changes under The Water Industry (Scheme for the Adoption of private sewers) Regulations 2011 mean that the sections of pipes you share with your neighbours, or are situated outside of your property boundary which connect to a public sewer are likely to have transferred to Thames Water's ownership. Should your proposed building work fall within 3 metres of these pipes we recommend you contact Thames Water to discuss their status in more detail and to determine if a building over / near to agreement is required. You can contact Thames Water on 0845 850 2777 or for more information please visit our website at www.thameswater.co.uk

Water Comments

With regard to water supply, this comes within the area covered by the Affinity Water Company. For your information the address to write to is - Affinity Water Company The Hub, Tamblin Way, Hatfield, Herts, AL10 9EZ - Tel - 0845 782 3333.