



Delegated Report

Variation of Condition Application

Application No:	20240286
Location:	Land Adjacent To 55 Forge Lane, Higham, Rochester, Kent, ME3 7AH
Description:	Application for variation of condition 2 attached to planning permission reference 20200234 for erection of a three bedroomed detached dwelling; to allow a lower roof line.
Applicant:	Mr Manjit Singh Johal
Site Visit:	20 May 2024

Submitted Documents/Plans

- Application Form – dated 26 March 2024;
- Drawing no. FLP.01 – Floor Plans as Approved and as Built;
- Drawing no. FLP.02 – Elevations as Built;
- Drawing no. FLP.03 – Street Scene Elevation as Approved;
- Drawing no. FLP.04 – Street Scene Elevation as Built;
- Drawing no. FLP.05 – Site Location Plan (scale – 1:1250);
- Drawing no. FLP.06 – Block Plan (scale – 1:500);
- Drawing no. FLP.07 – Section as Built;
- Drawing no. FLP.08 - Proposed Street Scene and Block Plan (showing parking).

Relevant Planning History

Reference	Description	Decision	Decision Date
20230733	Application for the approval of condition 3 attached to planning permission 20200234 relating to details of all facing materials.	APPROVAL OF DETAILS	29.08.2023
20200234	Erection of a three bedroomed detached dwelling.	PERMITTED	02.06.2020

Development Plan

Gravesham Local Plan Core Strategy (September 2014):

- CS01 – Sustainable Development
- CS02 – Scale & Distribution of Development
- CS12 – Green Infrastructure
- CS18 – Climate Change
- CS19 – Development & Design Principles

Gravesham Local Plan: First Review (1994)

- P3 – Vehicle Parking Standards

Paragraph 33 of the NPPF (2023) sets out that policies within adopted local plans should be reviewed to assess whether they need updating at least once every five years, and should then be updated as necessary. Such reviews are also a legal requirement as set out in Regulation 10A of the Town and Country Planning (Local Planning) England Regulations 2012.

The Council undertook such a review in September 2019 and found that the adopted Local Plan Core Strategy is in need of a partial review in terms of Policy CS02, due to the increased need for housing since the Local Plan Core Strategy was adopted and the need to ensure that a sufficient land supply exists to meet this need. Whilst saved policies from the Local Plan 1st Review (1994) generally conform with the NPPF (2023), the Council will also seek to replace these.

National Planning Policy Framework (2023)

- Section 2 – Achieving Sustainable Development
- Section 12 – Achieving Well-Designed and Beautiful Places

Supplementary Planning Guidance

- SPG 2 - Residential layout guidelines including Housing Standards Policy Statement October 2015 Adopted 1996 – amended June 2020
- Technical Housing Standards – Nationally Described Space Standard (2015)
- SPG 4 - KCC Parking Standards (2006)
- Householder Extensions/Alterations Design Guide (2021)
- Gravesham Landscape Character Assessment (2009)

Consultations, Publicity and Representations

External Consultees

Higham Parish Council – As a Parish Council, we feel it is in the best interest of our village and fellow residents to provide our concerns and objection to the proposed planning application that has been submitted for the above property for the ‘application for variation of condition 2 attached to planning permission reference 20200234 for erection of a three bedroomed detached dwelling; to allow a lower roof line.’

Our councillors have several concerns about this planning application. Firstly, their main concern is that the property hasn’t been built to the originally permitted planning permission (reference 20200234).

Secondly, the proposed planning application 20240286 made on 27/03/2024 is retrospective as the ‘lower roof line’ has already been erected.

Thirdly, as the property has been erected, we feel this does have a negative impact on the street scene and is unfitting to the adjacent properties.

Internal Consultees

Local Ward Councillors – No comment received.

Neighbouring properties

Fourteen surrounding properties were consulted and four representations were received. The representations were received from the same residence, but from different individuals. The concerns raised have been summarised below and separated into material and non-material planning considerations (please note only the material considerations are relevant to this decision):

Material Planning Considerations

- Impact on the street scene – no longer matching the height of properties on either side
- Building is larger than was approved and what is shown on plans
- Building should be constructed in accordance with previously approved plans
- Impact on neighbouring amenity
- Procedural concerns – what is the point of having a planning system when builders know they can submit retrospective planning variations after they build it incorrectly

Non-Material Planning Considerations

- Matters controlled under building regulations – structural stability
- Safety of workers on site – no PPE, injuries, etc.

The consultation period expired 19th April 2024.

Procedural Matters

The procedural process was raised as an area of concern by a neighbouring resident, querying how the planning system allows for variation applications following errors by a builder.

The Local Planning Authority have received a valid variation of condition application and mechanisms are available for applicants to make amendments/vary conditions under section 73 of the Town and County Planning Act 1990. Therefore, the application is a procedurally correct under S73 and should be determined against local and national planning policy.

Officer's Analysis

The application site contains the shell of a two storey dwellinghouse, with habitable rooms within the loft space. The majority of the external elements of the build are complete, with the roof installed and the upper floors fenestration installed, however the height of the property is lower than was originally approved in ref. 20200234.



This application seeks to vary condition 2 attached to the original planning permission, to allow for the lower ridge height.

The principle considerations in the assessment of this application are as follows:

- Design, Character and Appearance
- Future Occupiers Amenity
- Neighbouring Amenity
- Impact on the Landscape

Design, Character and Appearance

Policy CS19 (Development and Design Principles) (LPCS) states that new development will be visually attractive and locally distinctive. It should also conserve and enhance the character of the local built and natural environment and integrate well with the surrounding area. Moreover, Section 12 (Achieving well-designed and beautiful places) of the NPPF (2023) sets out that developments should function well and add to the overall quality of the area, be visually attractive and sympathetic to local character.

As aforementioned, the approved dwelling (ref. 20200234) had a ridge height that matched the adjacent semi-detached dwellings and during the building process the overall ridge and eave heights have been reduced by approx. 400mm. The plan extracts below demonstrate the difference between the approved dwelling and the building as constructed:



Although continuity of design in terms of the roof heights would have been preferred, the new building dwelling would have had a contrasting and more contemporary appearance than the existing semi-detached properties on either side. Therefore, even though the ridge height as constructed is lower than the properties on the eastern side of Forge Lane, this is not considered to have a detrimental impact on the street scene by virtue of the clear differences in design and character between the new infill dwelling and existing properties. It is also key to note that the new dwelling will retain certain characteristics which tie in with the adjacent properties, in the form of the bay window/open porch which has not been constructed at this point.

Further to the height change, concerns have been raised by surrounding residents that the property has been constructed larger than originally approved in ref. 20200234. This concern was originally investigated by Planning Enforcement who measured the building and confirmed that the property was dimensionally correct, with the exception of the lower ridge. As part of this application, an additional visit was undertaken and the building seemed to be visually accurate in terms of the footprint to what was originally approved. Therefore, the Local Planning Authority have investigated the size of the building as constructed and consider the footprint to be accurate to that approved in ref. 20200234.

Overall, the reduced ridge height of the dwelling as constructed is not considered to have a detrimental impact on the character of the street scene by virtue of the contrast between the new build and more historic neighbouring dwellings. Therefore, it is considered that the proposal is in accordance with Policy CS19 (LPCS) and Section 12 of the NPPF (2023).

Amenity of Future Occupiers

Policy CS19 (LPCS) requires that all development should be 'fit for purpose' and be 'adaptable to allow changes to meet the need of users'.

The lower ridge height raised concerns with the amount of usable space within the habitable rooms in the loft space, and as such the agent was contacted to submit additional information in the form of floor plans and section drawings. The drawings demonstrate that the overall height of the building has not changed, with the pitch of the roof matching the approval, meaning that the bedroom and ensuite within the loft maintain the same usable space as the 2020 approval. Therefore, there are no objections to the development in terms of future occupiers amenity and the application is in accordance with Policy CS19 (LPCS) and Section 12 of the NPPF (2023).

Neighbouring Amenity

Policy CS19 (LPCS) requires new development to safeguard the amenity, including privacy, daylight and sunlight, of its occupants and those of neighbouring properties and land and paragraph 135 of the NPPF (2023) requires development to have a high standard of amenity for existing users (in this case surrounding properties).

As aforementioned in this report, the dwelling as constructed has been measured on site by Planning Enforcement Officers and is in accordance with the approved plans in terms of depth, width and overall footprint. Therefore, the assessment in the previous delegated report is relevant and the new building will not have any detrimental impact on the amenity of neighbouring properties in terms of loss of light, privacy, outlook or sense of enclosure.



Although a non-material planning consideration, concerns have been raised by neighbouring residents that the excavation and construction of the new building at a lower level, without reinforcement, would create structural stability issues. As referenced in the Consultee section above, this is a matter controlled by

Building Regulations and is not a planning consideration.

Overall, the dwelling as constructed will not have any detrimental impact on the amenity of neighbouring properties and is in accordance with Policy CS19 (LPCS) and Section 12 of the NPPF (2023).

Impact on the Landscape

The site is located within the Higham Arable Farmlands Landscape Character Area. This area is characterised by very gently undulating topography of open arable farmland with pockets of orchards and garden nurseries. The developments spread from the original Saxon settlement of Lower Higham in the North, with more contemporary developments in the South around main road networks.

Policy CS12 (LPCS) seeks to protect the green infrastructure within the Borough and states at 5.7.26 the overall landscape character and valued landscapes will be conserved, restored and enhanced.

The proposal is not considered to impact on the character of the Higham Arable Farmlands as the location of the proposed dwelling is within the rural settlement and is therefore in accordance with Policy CS12 (LPCS).

Conclusion

The application has been fully considered and is in accordance with local and national planning policy.

The lower height of the building will not have any detrimental impact on the character or appearance of the street scene, the amenity of future occupiers, neighbouring properties or the Higham Arable Farmlands.

Therefore, it is recommended that planning permission is granted.

Suggested Conditions

The conditions below will be attached to the decision notice for this minor-material amendment. Condition 3 (materials) attached to permission ref. 20200234 has been removed as this has been approved in a discharge of conditions application (ref. 20230733).

Note: conditions 4 and 5 have been changed as the plans supporting 20200234 conflict with the revisions submitted in this application. Therefore, these conditions have also been revised with the new plan (drawing no. FLP.08) included within the condition. The details relating to the hard and soft landscaping have not been changed and are as approved in ref. 20200234.

Time Limit

1. The development to which this permission relates must be completed no later than the 21st June 2027.

Reason In pursuance of Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

Approved Plans

2. The development hereby permitted shall be carried out in accordance with the following approved plans:

Application Form – dated 26 March 2024;
Drawing no. FLP.01 – Floor Plans as Approved and as Built;
Drawing no. FLP.02 – Elevations as Built;
Drawing no. FLP.03 – Street Scene Elevation as Approved;

Drawing no. FLP.04 – Street Scene Elevation as Built;
Drawing no. FLP.05 – Site Location Plan (scale – 1:1250);
Drawing no. FLP.06 – Block Plan (scale – 1:500);
Drawing no. FLP.07 – Section as Built.

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

Hard Landscaping

3. The details of the hard landscaping scheme shown on 'Drawing no.FLP.08 - Proposed Street scene and block plan (showing parking)' shall be implemented prior to the first occupation of the dwelling hereby approved.

Reason In order to ensure a satisfactory standard of development upon completion, in accordance with Policy CS19 of the Gravesham local Plan Core Strategy (September 2014).

Soft Landscaping

4. The details of the soft landscaping scheme shown on 'Drawing no.FLP.08 - Proposed Street scene and block plan (showing parking)' shall be carried out in full during the first available planting season following first occupation of the dwelling hereby approved. Any trees or plants that die, are damaged, removed or become diseased within five years from the date that the soft landscaping scheme is implemented shall be replaced with a species of a similar size and species during the next available planting season.

Reason To ensure that the landscaping is maintained in the long term in the interests of the visual amenity of the development and the wider area, in accordance with Policy CS19 of the Gravesham local Plan Core Strategy (September 2014).

Vehicular Parking

5. The vehicle parking areas shown on the approved plans shall be formed, surfaced and drained prior to first occupation of the dwelling hereby approved. Thereafter, notwithstanding the provisions of the Town and Country (General Permitted Development) Order 1995 as amended, or any provision equivalent to it in any statutory instrument revoking and re-enacting that Order, no development shall be carried out on the site in such a manner or in such a position as to preclude the use of or access to the vehicle parking areas.

Reason To ensure sufficient off street car parking provision to serve the development, in accordance with Policy CS11 of the Gravesham Local Plan Core Strategy (September 2014).

Watching Brief (Contaminated Land)

6. The applicant shall undertake a watching brief during construction in case any unexpected contamination issue is encountered. If during development any contamination is found, the Local Planning Authority should be informed as soon as practical and the work shall not continue until written agreement is provided by the Local Planning Authority as to the appropriate measures to be taken to resolve the matter and they are satisfied that those measures have been carried out.

Reason To safeguard human health and the natural environment, in accordance with adopted Local Plan Core Strategy Policy CS19 of the Gravesham Local Plan: Core Strategy (September 2014).

Removal of PD Rights

7. Notwithstanding the provisions of Article 3, and Part 1 Classes A and G of Schedule 2 to the Town and Country Planning (General Permitted Development)(England) Order 2015, as amended, or any

provision equivalent to those Classes in any statutory instrument revoking and re-enacting that Order, with or without modification, no window, door or other form of opening shall be formed in either flank elevation of the dwelling hereby permitted.

Reason In order to protect the amenity and privacy of the occupants of the neighbouring properties in accordance with Policy CS19 of the Gravesham Local Plan: Core Strategy (September 2014).

Recommendation

Permission

(For detailed conditions and informatives, see draft Decision)

Case Officer:	Mr Ethan Bonthron	Team Leader:	Miss Faye Hobbs
Signed:		Signed:	
Dated:	21 st June 2024	Dated:	21 June 2024