

Delegated Report

Non-Material Amendment Application

Planning Application No: 20211463

Location: Ringland Pear Tree Lane Shorne Gravesend

Description: Application for non-material amendment to planning permission reference number 20180629 to allow new and/or altered window/door openings and fenestration, revised central feature to front elevation and render detailing, revised flat roof eaves detail, revised pitched roof covering, external lighting, extractor fans, flues, CCTV and rear boundary walls/steps.

Applicant: Mr Jaswinder Rana

Site Visit Date: 02 February 2022

Proposal

Application for a non-material amendment to planning permission reference 20180629 (for the erection of part two storey and part single storey extensions to the north and south side elevations, alterations to door/window openings and new window/door installation, alterations to the roof eaves/verges and formation of a front gable, alterations to the porch and new cornice fascia/perimeter detail, new render finishes and detailing) to allow for new and/or altered window/door openings and fenestration, a revised central feature to front elevation and render detailing, revised flat roof eaves detail, revised pitched roof covering, external lighting, extractor fans, flues, CCTV and rear boundary walls/steps.

The application consists of the following;

Non-material amendment application form;
Drawing no. 15031-01 Rev. R Previously approved layout and elevations;
Drawing no. 15031-04 Rev. T Proposed layout and elevations;
Lighting specification for Messina 160 II Astro; and
Lighting specification for Timeguard compact LED PIR.

The following plan has been superseded;

Drawing no. 15031-04 Rev. R Proposed layout and elevations.

Procedural issues

Following a site visit, the applicant provided an amended drawing including two walls and steps at the rear of the application site. Following this, the description of the proposed development was amended from;

'Application for non-material amendment to planning permission reference number 20180629 to allow new and/or altered window/door openings and fenestration, revised central feature to front elevation and render detailing, revised flat roof eaves detail, revised pitched roof covering, external lighting, extractor fans, flues and cctv.'

to that shown above.

Relevant Planning History

Reference	Description	Decision	Decision Date
20221023	Retention of a shed in the rear garden	Pending consideration	
20220790	Retention of 3 no. externally mounted air conditioning units	Pending consideration	
20210236	Variation of condition 2 of planning permission reference number 20180629 for the erection of part two storey and part single storey extensions to north and south side elevations alterations to door and window openings and new window and door installation, alterations to roof eaves and verges and formation a front gable alterations to porch and new cornice, fascia and perimeter detail, new render finishes and detailing to allow the removal of drawing no. 15031-01 Rev. R proposed layout and elevations for drawing no. 15031-01 Rev .S proposed layout and elevations for the pitched roof covering.	Withdrawn	25.03.2021
20190688	Application for a Lawful Development Certificate in respect of the proposed erection of a two storey rear extension.	Refused	19.09.2019
20180629	Erection of part two storey and part single storey extensions to north and south side elevations alterations to door/window openings and new window/door installation, alterations to roof eaves/verges and formation a front gable alterations to porch and new cornice fascia/perimeter detail, new render finishes and detailing.	Permitted	21.09.2018

Development Plan

As an application under Section 96A of the Town and Country Planning Act, the considerations turn to whether the proposals are non-material. The application is not assessed under the development plan.

Consultations, Publicity and Representations

There is no statutory requirement to undertake any consultations or publicity for a NMA application. However in this instance the following responses have been received;

GBC – Environmental Protection Team (Regulatory Services)

From the information provided by the applicant I believe there is potential for unreasonable light pollution that could affect their neighbours on either side. The flood lights at the front and rear are at a height that could cause light to spill onto adjacent properties in particular the one to the north, if not facing sufficiently down towards the ground, and the presence of lights down either side of the property could also impact the neighbours depending on the heights of the walls/fences. I have no information as to the heights of the walls that separate the properties and we have to assume that any vegetation in neighbouring gardens that could mitigate light could be cut down by the current or future neighbours therefore should not be relied upon to block light.

If no changes are made we would be requesting the following condition is placed in respect of lighting;

Due to the potential light pollution that may affect neighbouring properties from the extensive lighting

scheme proposed, we recommend the following condition is placed should the LPA be minded to approve the application.

- External lighting must not be intrusive on neighbouring properties and cause light nuisance. The positioning and lux levels of the lights therefore must be set so as not to cause light to spill past the curtilage of the applicant's land and light up neighbouring land/properties to a level that is likely to cause a nuisance. The applicant must not rely on hedges or other similar features on neighbouring land to block light as these features may be removed by their neighbours who would still have a reasonable expectation of not being unreasonable disturbed by a neighbour's lights. If motion sensors are used the applicant must ensure that the sensitivity and area covered by the sensors are not likely to be activated by local wildlife, which would be prevalent at this location.

We would also include the following informative;

- In the event of a light nuisance complaint against the property, the above condition does not prevent the Environmental Protection from considering action to require abatement/mitigation of a light nuisance.

Should the applicant increase their lighting scheme beyond what has currently been provided then we may consider requiring a suitable lighting scheme impact assessment that shows compliance with the Institution of Lighting Professional (ILP) Guidance note for the reduction of Obtrusive Light.

Shorne Parish Council

This property has been the subject of many planning applications and undergone a variety of building works. Two plans have been submitted with this application. For comparison purposes 15031-01R of June 2018 is taken as being the existing plan, and 15031-04R of November 2021 is taken as being the proposed plan.

This latest application has a number of elements, and the Parish Council has the following comments:

- 1) New and/or altered window/door openings and fenestration:
 - a) Windows at front – changes are noted that appear to be mostly raising the sill height, which is accepted, however a full height window is introduced on the first floor – this would preferably also have a raised sill height. The overall appearance is negatively altered from the original proposed plan due to more randomly mixed window shapes and placements.
 - b) Windows at rear – the ground floor windows now have very large panes, which is accepted. Similarly to the front, a full height window has been introduced on the first floor, which might preferably have a standard sill height.
 - c) Rooflights in front roofslope – two shown and accepted, already installed after April 2020.
 - d) Attic level windows in rear box dormers – these have already been installed. This took place after the latest Google aerial view which was dated April 2020.
- 2) Revised central feature to front elevation and render detailing, revised flat roof eaves detail, revised pitched roof covering:
 - a) Revised central feature – The porch door is noted to be moved to the very front where it will not have any weather protection.
 - b) Revised render detailing – accepted
 - c) Revised flat roof eaves detail – accepted
 - d) Revised pitched roof covering – accepted
- 3) Exterior Lighting:
 - Floodlighting – this should be motion and daylight sensitive and directed so that the lights do not shine outside of the property. They should also include timers to switch the lights off again after they have been triggered.
 - Other exterior lights – these should be at low light intensity levels, daylight sensitive and motion activated to time controlled greater intensity level.
- 4) Extractor fans and flues:
 - Extractor fan positions – these are accepted however operationally they must not cause noise and other nuisance to neighbouring properties.

- (See also air-conditioning below)
- 5) CCTV:
- CCTV – the installation must conform to national guidelines on range of view, storage and retention of images.
- 6) Other points:
- Fire safety – the access to and escape from the attic floor requires expert fire safety input as there may need to be a fire door protecting the bottom of the access stairs, which are assumed to be walled off from the atrium.
 - External air-conditioning units – it is understood that several air-conditioning units have also been installed, including on the north side close to the boundary and neighbouring property. These are not shown on the plans but should be. They must not encroach within 1m of the boundary or cause noise nuisance to neighbours.
 - Two-storey rear extension – the present plans show a two-storey rear extension however this would more accurately be described as a single storey rear extension with creation of a basement underneath:
 - Previous application refused - application Ref 20190688 for a lawful development certificate in respect of the already built rear two-storey extension was refused. Despite already existing it was not included in the title or plans of withdrawn application Ref 20210236. The two-storey rear extension is again not mentioned in the title of this present application Ref 20211463 but has now been shown on the plans. It should be officially included and properly considered at this time, otherwise its depiction in this present application could infer that planning permission has been granted.
 - Basement level – the basement level has windows shown. Plans for this level, detailing its use and function, need to be submitted.
 - Engineering works – there has been excavation at the rear and some raising of land levels at the northern end of the house, which have involved engineering works including building of retaining walls and new boundary treatments. These works should have required planning permission.
 - Flights of steps – these have been introduced on both sides at the rear.
- 7) Closing comments:
- In view of the large amount of development that has taken place to this property, we request that permitted development rights should be withdrawn for the whole site, to ensure that it is explicitly understood that all future/further alterations must be subject to planning permission.

The Parish Council questions whether, taking all the above works and installations into account, the nature and extent of the changes that have been made from what has been permitted might be assessed as significant enough to not qualify as non-material amendments but instead to require a full planning application.

Dickens' Country Protection Society

In the Society's view the proposed changes exceed what would normally be regarded as 'non-material amendment' and revised detailed planning application should be submitted to enable the details to be evaluated.

Officer's Analysis

The procedure for allowing the consideration of non-material amendments to planning permissions is set out in Section 96A of the Town and Country Planning Act 1990 (as amended). An important consideration in determining this application, is whether or not the proposed amendment would constitute a form of development that may be reasoned to be a non-material amendment in the context of the previously approved scheme, such that a separate application for planning permission need not be required.

There is no statutory definition of 'non-material'. This is because it is so dependent on the context of the overall scheme – what may be non-material in one context may be material in another. The Local Planning Authority must be satisfied that the amendment sought is non-material in order to grant an application under s.96A.

Background

Planning permission 20180629 was granted in September 2018 for the erection of part two storey and part single storey extensions to the northern and southern side elevations, alterations to door/window openings and new window/door installation, alterations to the roof eaves/verges and formation of a front gable, alterations to the porch and new cornice fascia/perimeter detail, new render finishes and detailing at the application site. The permission was implemented but the works undertaken to the application property were not entirely in accordance with the approved plans. In addition, a two storey rear extension (basement and ground floor) was erected and air conditioning units were installed on the side and rear elevations of the application property and a shed was erected in the rear garden, all without planning permission.

It should be noted that a loft conversion with three dormer windows in the rear roof slope and two velux windows in the front roof slope was undertaken at the application property using permitted development rights. These roof alterations, the two storey rear extension and the air conditioning units are shown on the proposed plans for the current application for illustrative purposes only. They do not form part of proposed development.

Following an enforcement investigation and the refusal of a lawful development certificate for the two storey rear extension, three applications have recently been submitted in an attempt to regularise some of the unauthorised works at the application site. Application reference 20220790 relates to the air conditioning units and application reference 20221023 relates to the shed. These are both pending consideration.

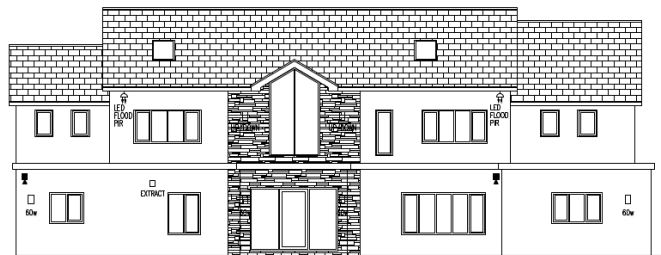
Officer Analysis

This application relates to proposed alterations to allow for new and/or altered window/door openings and fenestration, a revised central feature to front elevation and render detailing, revised flat roof eaves detail, revised pitched roof covering, external lighting, extractor fans, flues, CCTV and rear boundary walls/steps.

The following images compare the approved (under 20180629) and proposed elevations of the application property;



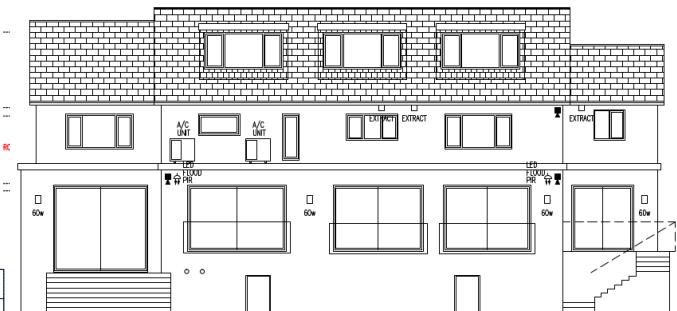
20180629 approved front elevation



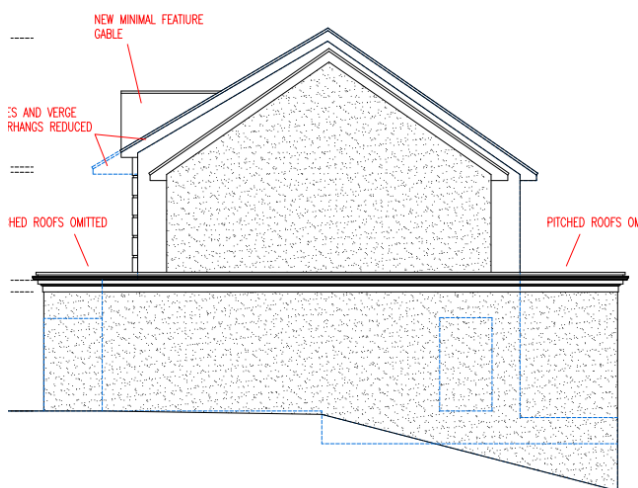
Proposed front elevation



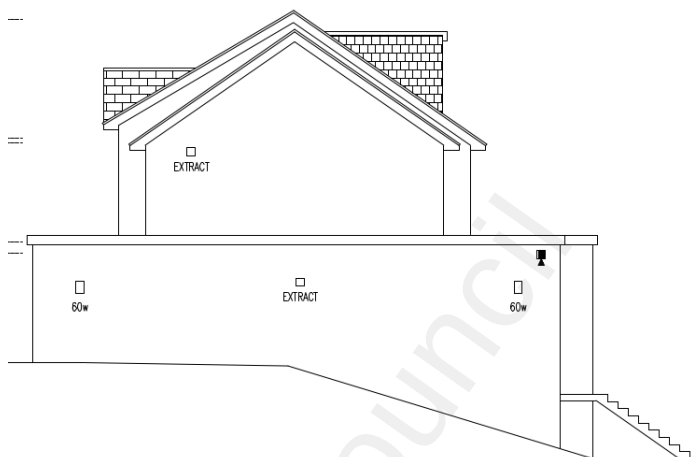
20180629 approved rear elevation



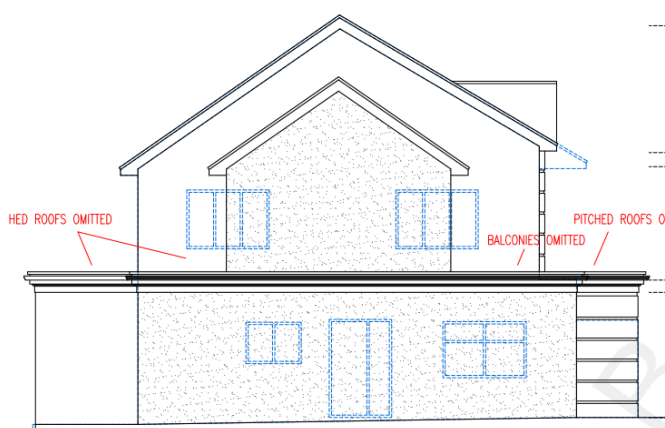
Proposed rear elevation



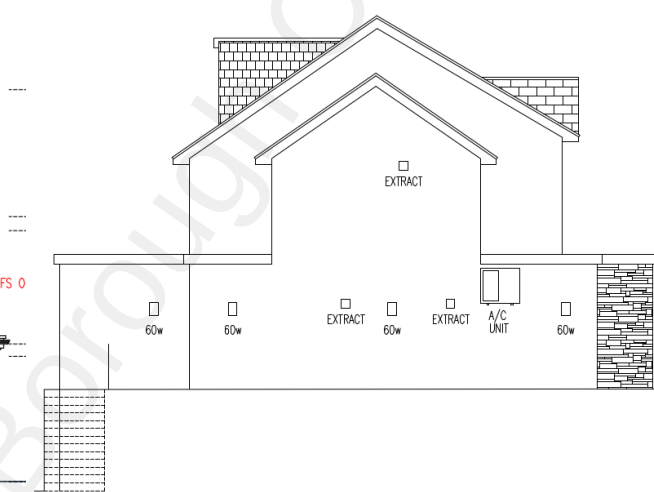
20180629 approved southern elevation



Proposed southern elevation



20180629 approved northern elevation



Proposed northern elevation

The above images illustrate that the proposed development would affect every elevation of the building and the rear garden. In addition, the proposed northern boundary wall and rear steps would require planning permission in themselves.

It should be noted that even if the boundary walls and steps were to be omitted from the application, due to the extent of the proposed alterations to the building, it is considered that they would fundamentally change the design and impacts of the original proposal, such that a full assessment of the proposed revisions would be required. As part of this assessment, the views of the occupiers of neighbouring properties should be taken into consideration.

It is noted that Shorne Parish Council and the Dickens' Country Protection Society both consider the proposed development would not result in a non-material amendment to application 20180629.

It is considered that cumulatively, the proposed amendments would be material in the context of the previously approved scheme and as such, they cannot be determined under Section 96A of the Town and Country Planning Act 1990 (as amended).

Other considerations

Notwithstanding the above, for completeness, the following paragraphs will consider the appropriateness of the proposed amendments which the applicant may find useful moving forward;

Green Belt Issues

The proposed alterations to the front porch have increased the habitable floor area of the ground floor of the building by 3.5 square metres. Although essentially, the works have fully enclosed a front porch that was already enclosed on three sides and so there would be minimal adverse impacts to the openness of the Green Belt.

The proposed walls and steps in the rear garden are significant features, which add to the amount of built development at the rear of the dwelling. The northern boundary wall is 0.5 metres above the height allowable for permitted development and as such, would need planning permission in itself. However the southern boundary wall is within permitted development limits. The steps are bulky features which also need planning permission in themselves and are detrimental to the openness of the Green Belt.

Overall, concerns are raised that the proposed alterations would consolidate and extend the amount of built development at the application site to an unacceptable level and would be detrimental to the openness of the Green Belt and contrary to national and local Green Belt policies.

Design, Character and Appearance

The front elevation of the application building is visible from Pear Tree Lane at the site entrance but the rear and side elevations of the application building are not publicly visible. The following images illustrate the front and rear elevations of the building on 02 February 2022;



Northern side

Southern side



Southern side

Northern side

The proposed rear boundary walls and steps are illustrated in the above image (it should be noted that the steps in the centre of the rear garden do not form part of this application). Concerns are raised that the proposed walls and steps are finished with materials that match with the dwelling but that do not reflect the rural location of the application site. They are subservient in scale to the building and are not visible from public vantage points but are bulky and urban in appearance.

Concerns are raised that the proposed alterations to the windows on the front elevation would result in a dwelling with fenestration that has little symmetry and appears somewhat disordered. Whereas the approved fenestration was symmetrical and more visually appropriate to the building. It is noted that Shorne Parish Council states that the overall appearance of the front windows is negatively altered from the original proposal due to there being more randomly mixed window shapes and placements.

The proposed development would fully enclose a front porch that was already enclosed on three sides, which would not be out of character with the building.

The proposed alterations to the roof of the front gable feature, the facing materials and the eaves and fascias of the building would simplify their design and would not look out of character with the building.

The proposed front elevation would include an extraction flue, external lights and CCTV units but these would not be excessive in number or appear incongruous.

Discounting the windows in the dormers and two storey rear extension, the proposed alterations to the windows on the rear elevation would result in a dwelling with fenestration that has little symmetry and appears somewhat disordered. Although it is noted that the approved fenestration was similarly asymmetrical and the alterations are located at the rear of the property and not widely visible.

The proposed rear and side elevations would include a number of extraction flues, external lights and CCTV units but these would not be excessive in number or appear incongruous.

Amenity of Future Occupiers

The proposed alterations would not result in any adverse impacts to the residential amenity of future occupiers and would improve security at the application site.

Neighbouring Amenity

The closest residential properties to the application site are Badgers Wood (located immediately to the north of the application site) and Tilsmore (located immediately to the south of the application site).

The proposed alterations would result in external lights and extraction flues being installed on every elevation of the application property. These would have the potential to cause adverse noise/disturbance and light pollution impacts to the occupiers of surrounding dwellings.

In terms of noise/disturbance, it is considered that flues would be located on every elevation and serve a variety of rooms (including a kitchen, utility room, en-suite, w.c. etc). No flue specifications have been provided and as such, it is impossible to assess their individual or cumulative noise impacts.

In terms of lighting, Shorne Parish Council consider that the floodlighting should be motion and daylight sensitive, directed so that the lights do not shine outside of the property and include timers to switch the lights off again after they have been triggered. For other exterior lights they consider that they should be at low light intensity levels, daylight sensitive and motion activated.

The GBC Environmental Protection Team (Regulatory Services) has raised concerns regarding the potential for adverse light pollution impacts on the occupiers of both neighbouring properties and suggest a planning condition, which could be used to mitigate the effects. However the wording of the suggested condition would not be precise or enforceable and would not meet the tests set out in paragraph 003 of the National Use of Planning Conditions Guidance (2019).

Therefore, in order to be able to adequately assess the lighting impacts, it would be necessary for the applicant to provide additional lighting details, which include the method(s) for mitigating light spill to neighbouring properties.

The proposal would also amend the locations and sizes of numerous windows/doors in the application property. However due to their design and location (with none being located in side elevations), there would be no adverse overlooking impacts.

Overall it is considered that the proposal contains insufficient information to allow the noise and lighting impacts of the proposal on the residential amenity of the occupiers of the adjacent properties to be adequately assessed.

Other Matters

Shorne Parish Council have raised a number of issues, most of which are covered by the above discussion. The outstanding issues are summarised and commented upon below;

- Fire safety for the attic floor – this is not a planning matter and would be dealt with under building regulations.
- Removal of permitted development rights – condition 6 of planning permission 20180629 removed permitted development rights for the application property. The applicant is aware that future extensions/alterations would require planning permission.
- The CCTV must conform to national guidelines on range of view, storage and retention of images -- this is not a planning matter.
- There has been excavation at the rear and some raising of land levels at the northern end of the house, which have involved engineering works including building of retaining walls and new boundary treatments – GBC Planning Enforcement are investigating all the unauthorised works at the application site. This application includes the rear boundary walls and steps only.

Conclusion & Recommendation

Cumulatively, the proposed amendments would be material in the context of the previously approved scheme (planning permission reference 20180629) and as such, they cannot be determined under Section 96A of the Town and Country Planning Act 1990 (as amended).

Refusal on the following grounds;

- (1) This application has been determined pursuant to Section 96A of the Town and Country Planning Act 1990. It is resolved that the proposal to allow new and/or altered window/door openings and fenestration, revised central feature to front elevation and render detailing, revised flat roof eaves detail, revised pitched roof covering, external lighting, extractor fans, flues, CCTV and rear boundary walls/steps cannot be regarded as a non-material amendment to planning permission reference 20180629. The reason for this being that the alterations would fundamentally change the design and impacts of the proposal and include a wall/steps that would require planning permission in themselves. As such, the non-material amendment procedure is inappropriate.

(For detailed reasons for refusal and informatives, see draft Decision)

Case Officer:	Mrs Kelly Joyce	Team Leader:	Miss Faye Hobbs
Signed:		Signed:	
Dated:	15th November 2022	Dated:	22 November 2022