

Delegated Report

Variation of Condition Application

Planning Application No: 20230304

Location: Mid Kent Golf Club Singlewell Road Gravesend Kent

Description: Application for a variation of condition 2 to planning permission reference 20220795 for the erection of a two storey side extension on the western side of the existing club house and including the refurbishment of the club house; to allow the removal of the first floor extension and viewing gallery from the application.

Applicant: Mr MKA Architects, MKA Architects LTD

Submitted Documents/Plans

Planning Application Form;
Planning Statement;
Drawing No. 01 – Site Location Plan;
Drawing No. LUG/9.0 – Site Survey;
Drawing No. LUG/9.1 – Existing Floor Plan;
Drawing No. LUG/9.2 – Existing Roof Plan;
Drawing No. LUG/9.3 – Existing Elevations;
Drawing No. 10 Rev A – Proposed Found Floor Plan;
Drawing No. 11 Rev A – Roof Plan;
Drawing No. 15 Rev A – Proposed North & West Elevations; and
Drawing No. 16 Rev A – Proposed East & South Elevations.

Relevant Planning History

Reference	Description	Decision	Decision Date
20220795	Erection of a two storey side extension on the western side of the existing club house and including the refurbishment of the club house.	Permission	06.10.2022

Development Plan

Gravesham Local Plan Core Strategy (September 2014):

- CS01 – Sustainable Development
- CS02 – Scale & Distribution of Development
- CS11 – Transport
- CS12 – Green Infrastructure
- CS13 – Green Space, Sport and Recreation
- CS18 – Climate Change
- CS19 – Development & Design Principles

Gravesham Local Plan: First Review (1994)

- P3 – Vehicle Parking Standards

- T1 – Impact of Development on the Highway Network
- TC7 – Other Archaeological Sites

Paragraph 33 of the NPPF (2021) 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 (2021), the Council will also seek to replace these.

National Planning Policy Framework (2021)

- 2 – Achieving Sustainable Development
- 4 – Decision Making
- 8 – Promoting healthy and safe communities
- 9 – Promoting Sustainable Transport
- 12 – Achieving sustainable development and well-designed places
- 14 – Meeting the Challenge of Climate Change, Flooding and Coastal Change

Supplementary Planning Guidance

- SPG 4 - KCC Parking Standards (2006);
- Kent Design Guide (SPG 5 published December 2005, adopted July 2006);
- Vehicle Accesses on Classified Highways (SPG6 November 1992).

Consultations, Publicity and Representations

Consultees

Neighbouring properties

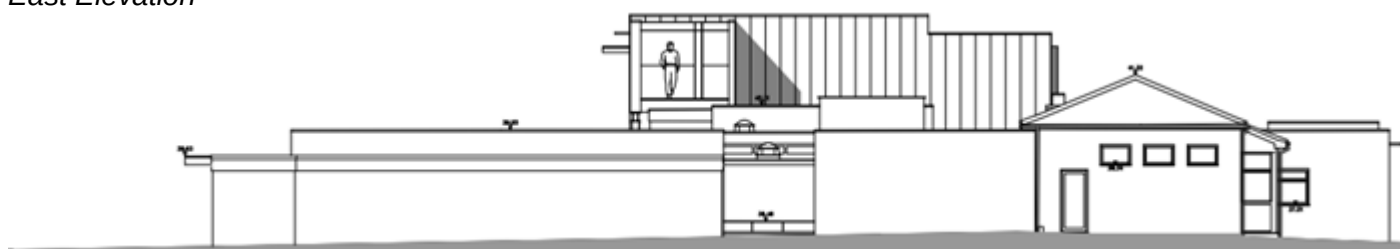
Consultation was by way of the displaying of a site notice and letters sent to 22 surrounding properties were consulted with an overall consultation expiry date of 5th May 2023. No comments have been received.

Officer's Analysis

This application seeks for a variation of condition 2 to planning permission reference 20220795 for the erection of a two storey side extension on the western side of the existing club house and including the refurbishment of the club house; to allow the removal of the first floor extension and viewing gallery from the application. In the interest of transparency, this type of variation can also be referred to as a minor material amendment.

Below is a comparison of the approved and proposed schemes:

Approved under reference 20220795:
East Elevation



This architectural elevation drawing illustrates the proposed facade materials and features for the building. The drawing includes the following callouts:

- Substrate dry standing seam zinc cladding
- Aluminium water walling to windows and doors
- Horizontal timber cladding - species to be determined
- Fabric, exposed stainless steel
- Pine & oak bonded brickwork
- Exposed exterior cladding gallery
- White rendered elevations
- Timber cladding
- Fabric, exposed stainless steel
- Glass substrate
- Timber cladding to existing facade
- Fabric, exposed stainless steel

Architectural elevation drawing of the proposed building. The drawing shows a long, low structure with a flat roof and a taller section on the right. Labels indicate the 'entrance bay area' and 'new seating wall'.

This architectural drawing shows the elevation of the building facade. It features a series of interconnected volumes with varying roof heights. From left to right, there is a low section, a taller section with a flat roof, a central section with a slightly higher roof, and a section with a gabled roof containing three small square windows. To the right of the gabled section is another section with a flat roof and a set of stairs leading up to it. The drawing uses simple lines to represent the building's form and includes some dimension lines and annotations.

South Elevation:

Architectural drawing of the South Elevation of the building. The drawing shows a long, low-profile structure with a flat roof. On the left, there is a section with a gabled roof and a small entrance. The main body of the building has large windows and a central entrance. To the right, there is a taller section with a flat roof and a small entrance. The drawing includes various annotations and dimensions.

Architectural elevation drawing of the building facade, showing a long, low structure with a series of vertical elements and a small figure for scale.

The proposed changes for this application are the removal of the first floor extension incorporating a viewing gallery over the existing west side of the building and the alteration of the part single, part two storey side extension to single storey only, as shown in the drawings above. Overall, the proposed design of the side extension with canopy and external facing materials are unchanged.

Design, Character and Appearance

As can be seen from a comparison of the approved and proposed amended schemes above, the proposed alteration for a single storey side extension, whilst incorporating a similar design concept and use of the same external materials, would have less bulk and massing than the approved scheme and therefore there would be a significant alteration in terms of its scale and design.

In terms of external footprint, the single storey side extension would have the same footprint as the approval and therefore would have no further projection and is essentially only the first floor elements being removed.

The proposed materials of yellow and red bonded brickwork, a combination of grey zinc and horizontal timber cladding, exposed steelwork and aluminium solar shading windows and doors are the same materials as the approved and therefore are acceptable.

Application for removal or variation of condition following grant of planning permission may also be referred to as a section 73 application. Section 73 of the Town and Country Planning Act 1990 states an amendment would be considered a “minor material amendment” if its scale and nature results in a development which is not substantially different from the one that has been approved. Minor material amendments may include small reductions or increases to the scale, height or footprint of a development. It also states that a Section 73 application cannot be used to change the description of the development.

Whilst the amended scheme would have less bulk and massing than the approved scheme, due to the significant changes proposed by the removal of both first floor elements, would result in a fundamental change to the overall design and appearance of the building from the approved scheme and cannot be considered as a ‘small reduction’ to the scale and height of the development and therefore not a “minor material amendment”.

In a recent High Court case of Mikael Armstrong and Secretary of State for Levelling Up, Housing and Communities (2) Cornwall the Inspector concluded “that the nature of the development proposed would be substantially different to that allowed by the existing permission. Consequently it goes beyond the parameters of a minor material amendment and cannot be considered under section 73”.

The judgement also acknowledges the relationship between the decision in *Finney* which confirmed that a S73 cannot be used to vary the operative part of a planning permission. This established that one cannot use S73 to vary or impose a condition where the resulting condition would be inherently inconsistent with the operative part of the planning permission; that would also involve effective variation of the operative part of the planning permission as well.

Variation of Condition 2

Condition 2 of Planning Permission Ref. 20220795 reads;

2. *The development hereby permitted shall be carried out only in precise accordance with the following approved details, plans and specifications:*

Supporting Documents

Planning Application Form and Certificates

Planning Statement by MKA Architects, July 2022

Design and Access Statement by MKA Architects (ref 23353 July 2022)

Lighting Impact Assessment and External Lighting Design by BSG (13 July 2022, ref 22-9026 rev

R01)

Energy Statement by MES Building Solutions 25 May 2022

Sun Studies Document by MKA Architects March 2022

Transport Statement by Considine 25th April 2022 (Report No: 4942 TS P01)

Travel Plan by Considine 25th April 2022 (Report No: 4942 TP P01)

Noise Assessment by Lustre Consulting (Report Ref 4301_AC_1.0)

Watching Brief by Lustre Consulting 27/04/2022 (Ref: 4301 - 220419 - AR)

Townscape and Visual Impact Assessment July 2022 by Louise Hooper Landscape Architect

Preliminary Ecological Appraisal Report by KB Ecology 29th April 2022 (Ref No 2022/02/07)

Bat Survey by KB Ecology 1st July 2022 (ref 2022/02/07)

Archaeological Watching Brief Written Scheme of Investigation by Canterbury

Archaeological Trust Ltd April 2022 (Ref WB MGCSRG 22)

Drawings

Drawing No LUG/9.0: Site Survey

Drawing No LUG/9.1: Existing Floor Plan

Drawing No LUG/9.2: Existing Roof Plan

Drawing No LUG/9.3: Existing Elevations

Drawing No 2353/01: Site Location Plan

Drawing No 2353/10: Proposed Ground Floor Plan

Drawing No 2353/11: Proposed First Floor & Roof Plans

Drawing No 2353/12: Existing & Proposed Block Plans

Drawing No 2353/15: Proposed North & West Elevations

Drawing No 2353/16: Proposed East & South Elevations

and those approved pursuant to any conditions contained herein after and there shall be no deviation therefrom.

Reason: *In order to ensure the development is implemented on the basis of the scheme as submitted and assessed in the interests of proper planning and in accordance with Policy CS19 of the Gravesham Local Plan Core Strategy (September 2014).*

Condition 2 lists all of the submitted documents that were taken into consideration when assessing the scheme for planning application 20220795. The first floor layout include a bar/private function room and spectators viewing gallery and the submitted supporting documents such as the Travel Plan, Transport Statement, Sun Studies Document, Lighting Impact Assessment and Energy Statement all refer to the operation and function of the golf club with the use of the bar/function room and viewing gallery. None of these documents have been revised and submitted as part of this current application. By removing the first floor elements which include the bar/private function and viewing gallery, these documents become either inaccurate or redundant and would therefore require revision or removal. As part of this current application, only revised plans showing the removal of the first floor elements were submitted. It would therefore not be possible to vary condition 2 without all of the documents that relate to the operation and function of the proposal being revised and included within the submission.

Condition 6

Condition 6 of Planning Permission Ref. 20220795 reads;

6. *The two-storey side extension hereby permitted shall be used for additional accommodation and facilities, including function room, ancillary to the use of the existing golf club house and it shall not be occupied or run separately or independently therefrom.*

Reason: *In order that any alternative use of the extension hereby permitted may be the subject of a separate planning application that the Local Planning Authority would wish to determine on its merits having regard to issues of local amenity, traffic safety, parking provision and the prevailing planning policies and notably Gravesham Local Plan Core Strategy Policy CS11: Transport and Policy CS19:*

Development and Design Principles.

Condition 6 directly refers to the function and operation of the bar/private function room which is shown on the first floor plan of the approved drawings. The current application has not sought to vary or remove this condition which would need to be addressed.

Condition 9

Condition 9 of Planning Permission Ref. 20220795 reads;

9. *The lighting to the exterior of the extension hereby permitted and the immediate surroundings shall be undertaken in accordance with the approved details as set out in the Lighting Impact Assessment and External Lighting Design document by BSG (13 July 2022, ref 22-9026 rev R01) accompanying this planning application, before the development is first brought into use. Thereafter no additional lighting shall be installed on the ground or building unless a specific grant of planning permission has been given by the Local Planning Authority.*

Reason: *In the interests of visual amenity and avoiding light pollution and pursuant to Policy CS19: Development and Design Principles of the Gravesham Local Core Strategy, September 2014.*

Condition 9 refers to lighting that was laid out within the Lighting Impact Assessment, submitted with planning application 20220795. The Lighting Impact Assessment directly refers to the bar/private function room and viewing gallery and the external design and would therefore also require varying as part of the revised scheme.

Condition 11

Condition 11 of Planning Permission Ref. 20220795 reads;

11. *Notwithstanding the details in the approved detailed drawings or the Noise Assessment by Lustre Consulting (Report Ref 4301 AC 1.0) accompanying this application, no development above ground level, shall take place until full details of the installation of any external plant and servicing equipment on the building including roof top plant, lift overruns if required, solar PV or solar thermal equipment and kitchen extraction equipment or other ventilation, and the sound properties of any such plant and equipment, have been submitted to and approved, in writing, by the Local Planning Authority. The details shall include the siting, external appearance and any proposed screening. Those works shall thereafter be carried out in accordance with the approved details, to be completed prior to first occupation of the building and retained and maintained thereafter.*

Reason: *In the interest of the amenities of residential properties and the area generally and in accordance with Policy CS19 (Development and Design Principles) of the Gravesham Local Plan Core Strategy, September 2014 and section 12 (Achieving well-designed places) of the National Planning Policy Framework (NPPF), 2021.*

Condition 11 refers to details relating to the roof top plant and kitchen extraction and ventilation which would form part of the first floor and two storey extension roof plan and operation of the bar/private function room. This condition would therefore need to be amended or removed as part of the revised scheme.

Condition 15

Condition 15 of Planning Permission Ref. 20220795 reads;

15. *The Travel Plan measures as set out in the approved Travel Plan, the details of which are designed to help and thereafter maintain a modal shift in favour of a reduction in car usage for travel to and from the development for staff and visitors, including the appointment of a Travel Plan Co-ordinator, objectives and modal-split targets, programme of implementation and provision for monitoring, review and improvement, shall be fully implemented before the first occupation of the development. All elements of the Travel Plan shall continue to be implemented and adhered to at all times for as long as any part of the development is occupied or used.*

Reason: *To encourage the use of sustainable and more environmentally acceptable modes of transport, and in accordance with Gravesham Local Plan Core Strategy Policy CS11: Transport and Section 9: Promoting sustainable transport of the National Planning Policy Framework (NPPF), 2021.*

Condition 15 relates to the Travel Plan which formed part of the original assessment and directly refers to the operation and function of the bar/private function room and gallery. It would therefore be necessary for the travel plan and condition 15 to be revised to address the changes in the operation of the golf club as proposed.

Variation of Condition Change of Description

In addition to the above, the description of the approved scheme (20220795) reads;

Erection of a two storey side extension on the western side of the existing club house and including the refurbishment of the club house.

The planning application description is for two storey, as defined in the description, and therefore that is what the permission is for and removing the two storey from the proposal would be beyond the scope of S73 as it would impact on the nature of the development in the description (operative development). Furthermore, and as stated above, a S73 application cannot be used to change the description of the development. A change in description would fall under Section 96a of the Town and Country Planning Act 1990.

It is therefore considered that the proposed development seeks to change the scale and design of the extensions to the building by removing the first floor viewing gallery and the first floor element of the side extension. The proposed revised design completely alters the nature, operation and function of the development and would result in a development that would differ materially from the approved permission. As a result this proposal goes beyond the scope of Section 73 of the Town and Country Planning Act 1990 and is contrary to guidance within the National Planning Practice Guidance, specifically paragraph 001 Reference ID: 17a-001-20140306.

Amenity of Occupiers

The proposed amendment would remove all first floor elements, resulting in a significant reduction in height and scale and no first floor windows or viewing platform. This would result in much less impact on both visual amenity and potential loss of privacy than the approved scheme.

With the reduction in the size of the building overall, it is considered to remain the case that there would be no harmful impact on neighbouring amenity. In respect of neighbouring amenity the proposal is considered compliant with Policy CS19 (LPCS).

Parking and Highway Safety

In application Ref. 20220795 it was deemed that the proposals would accord with local and national policy in terms of impact on parking and highway safety and the proposal for a reduced size of the development does not raise any issues regarding parking or highway safety either. In respect of parking and highway safety the proposal is therefore considered compliant with saved Policy P3 (LPFR).

Any Other Material Planning Considerations

None.

Conclusion & Recommendation

The proposal seeks to vary planning condition 2 of planning permission 20220795, however only revised plans have been submitted and it would require for all documents and drawings listed in condition 2 that

refer to the two storey extension and the operational use of the proposed bar/private function room and viewing gallery to be revised and submitted in support of the application.

In addition, conditions 6, 9, 11 and 15 of planning permission 20220795 specifically refer to details and particulars directly relating to the submitted documents and drawings of the two storey proposal and its function and operation. These conditions would also need to be either varied or removed.

It is therefore considered that that the proposed development seeks to change the scale and design of the extensions to the building by removing the first floor viewing gallery and the first floor element of the side extension. The proposed revised design completely alters the nature of the development and would result in a development that would differ materially from the approved permission. As a result this proposal goes beyond the scope of Section 73 of the Town and Country Planning Act 1990 and is contrary to guidance within the National Planning Practice Guidance, specifically paragraph 001 Reference ID: 17a-001-20140306.

For these reasons the application is recommended for refusal and a planning application should be submitted.

Recommendation: Refusal

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

Case Officer:	Mrs Amanda Grout	Team Leader:	Richard Hart
Signed:	<i>A Grout</i>	Signed:	<i>R Hart</i>
Dated:	22 nd May 2023	Dated:	24th May 2023