

Development Management
South Derbyshire District Council
Civic Offices
Civic Way
Swadlincote
Derbyshire
DE11 0AH

Date: 26th November 2020
Our Ref: PH/258/20

Dear Sir/Madam

FULL PLANNING APPLICATION FOR THE DEMOLITION OF THE EXISTING BUNGALOW AND OUTBUILDING AND THEIR REPLACEMENT WITH A MODERN DETACHED BUNGALOW (RESUBMISSION), THE CROFT, 4 MAIN STREET, AMBASTON, DERBYSHIRE, DE72 3ES.

Our clients have instructed us to resubmit this full planning application to you for your consideration, following on from the original approval of planning permission for the development on the 3rd November 2020, under application DMPA/2020/0751.

Whilst the Applicants were very pleased that planning permission was granted for the replacement bungalow in the first instance, they queried the need for 3 further submissions to the Council in order to discharge the 5 'pre-commencement' conditions, discharge the 3 'pre-occupation' conditions and to remove Condition 15, by way of a s73 application, as this is deemed to be overly restrictive.

We advised that a 'resubmission' planning application could be submitted to the Council, which would serve to not only address as many of the 'pre-commencement' and 'pre-occupation' conditions as possible, through the submission of further information and details, but to provide our arguments for the removal of Condition 15 from any subsequent approval of planning permission.

The application would not change the scale, design or detail of the replacement bungalow in any way; it would simply provide further information and details to support the proposal, thus allowing the Council to subsequently issue a 'clean' planning permission, without the requirement to discharge 'pre-commencement' conditions, and allowing a swift commencement of the development on site.

This approach will eliminate the need for 3 separate submissions to the Council, which will save time and resources accordingly, and will allow for the Applicants to start work on site as soon as the re-submission application is determined. It is also hoped that the 'pre-occupation' conditions can be addressed too, thus saving a further 'discharge of conditions' application prior to the Applicant's moving in to the completed property.

The remainder of this letter is set out in to order to explain how each of the relevant Conditions can be addressed through the details provided. We look first at the 'pre-commencement' conditions, then the 'pre-occupation' conditions, before commenting on Condition 15 accordingly.

Pre-Commencement Conditions:

Condition 3. This condition requires the provision of fencing to be provided on the site in order to protect the retained trees, and the trees identified within the recent Tree Preservation Order (TPO No.536, 2nd November 2020) on the site, in accordance with the given recommendations of the 'Arboricultural Impact Assessment' and 'Arboricultural Method Statement' of the Tree Report. The condition required the protective fencing around trees T1 and T2 to extend to the full 'root protection areas' (RPA) of 3.2m and 5.8m respectively.

The submitted Tree Protection Plan, which is resubmitted as part of this planning application, shows a line on the plan, in orange, which is where the protective fencing is to be located on site. The applicant has provided this fencing accordingly, as can be seen in the photographs at **Appendix A** to this letter.

However, the protective fencing cannot be positioned at 3.2m from the trunk of T1 and 5.8m from the trunk of T2 as this will interfere not only with the existing access point into the site, which will be used by construction vehicles, but also the line/edge of the proposed driveway to the front of the bungalow, which is clearly shown on the submitted drawings. The driveway cannot be constructed if the protective fencing is provided in this location. It is therefore respectfully requested that acceptance is given to the location of the protective fencing on the site in accordance with the submitted Tree Protection Plan (Ramm Sanderson Drawing No. RSE_3830_TPP Rev V1).

Condition 4. This condition requires the submission and approval of details of the facing materials to be used in the proposed development. The following materials are proposed for use in the development, and copies of the manufacturer's details are provided in order that these can be assessed accordingly:

- Ecco Antique Azure Grey facing bricks
- Monocouche 'Colour Through' Render in an Ivory White finish
- Randers Tegl Ultima RT153 Stone
- Del Carmen natural Spanish slates

- The bricks within the existing outbuilding will be re-used in the walls of the proposed garage (and supplemented where necessary)

We do not consider that it is necessary to provide samples of these materials as we are not trying to harmonise the proposed development with particular materials that prevail within the area. There is a general mix of building materials in this part of the village and those chosen for use in this development will be sympathetic to the general character and appearance of the area. It is therefore requested that the chosen materials are approved for use in the proposed development.

Condition 5. This condition requires the submission and approval of details of any wall, fences or gates, and their completion on advance of the first occupation of the dwelling.

The Applicants have no intention to change any of the existing boundaries to the site, so these will all remain 'as existing' for the purposes of this planning application and will avoid the need for this condition to be repeated on any new decision notice. However, the Applicants may wish to provide new gates to the existing and proposed openings onto Main Street at some point in the future. In order to allow the type and design of any such entrance gates to be assessed by the Council, it is suggested that a condition such as that below be imposed accordingly:

'Prior to their positioning and erection on site, full details of any new entrance gates, to include their exact location, sizes, materials and type of operation, shall be submitted to and approved in writing by the Local Planning Authority.'

Condition 9. This condition requires the submission and approval of details of any biodiversity enhancements, in accordance with the Bat Survey Report, prior to construction of the development above foundation level. Paragraph 4.4 of the submitted and approved Bat Survey states:

'4.4. Where feasible within the development design, consideration should be given to the provision of bird/bat boxes or bat bricks on the new buildings and/or retained trees once works are completed. This would increase the availability of nesting/roosting opportunities within the local area. The provision of such features would be in accordance with Planning Policy helping to enhance biodiversity within the local area.'

The recommendations of the Bat Survey are non-specific and do not indicate the numbers of bat or bird boxes required, or their specific locations. Notwithstanding this, we are looking to provide 2 bat boxes within the roof of the proposed garage, using the Bat Access States as proposed, and 2 Eco Starling Nest Boxes within 2 of the retained trees within the rear of the site. The location of the bat tiles and the bird boxes are shown on the submitted drawings. The approval of these details will avoid the need to repeat this condition on any new decision notice.

Condition 11. This condition requires the submission and approval of details of the proposed eaves, verges, cills and headers to a scale of 1:10 but, rather strangely, references these details in relation to '*...the incorporation in to the extensions hereby approved*'. This would appear to be a condition specified for 'extensions' as opposed to 'replacement dwellings' which has been pasted onto the decision notice without any necessary revision?

Notwithstanding this, all the proposed door and window headers will be concealed and the cills will be formed Jowett Stone, a pdf example of which is submitted as part of this application. The Architect for the proposed development has provided details of the proposed eaves details on the submitted drawing, in order to avoid the duplication of this condition on any new decision notice.

Pre-Occupation Conditions:

Condition 6. This condition requires the submission and approval of any proposed hard and soft landscaping details, with the hard landscaping completed on site prior to the occupation of the new bungalow and any soft landscaping carried out in the first planting season following the occupation of the bungalow.

The hard landscaping proposed is as follows, pdfs of which have been submitted as part of this resubmission application:

- Clearstone Resin Bound Gravel (or similar) to the driveway, parking and turning areas to the front of the bungalow, in either a 'Metro' or Luna' finish.
- Quorn Stone Dijon Limestone Pavers

The proposed pathways and patio area have now been shown on the 'Proposed Site Layout Plan' as submitted. Other than grass seeding around the undeveloped parts of the site, where the existing grass has been lost due to construction works, there will be no additional landscaping proposed for the site. The site will remain well landscaped with hedges and trees and a good expanse of grassed garden to the front and rear, which do not need to be supplemented with additional planting.

Condition 7. This condition requires the completion and provision of the access, parking and manoeuvring areas within the site prior to the occupation of the bungalow. It is noted that this condition does not require the submission of any additional details for approval and, as a 'compliance' condition, does not need to be formally discharged through the submission of a 'discharge of conditions' application.

Condition 17. This condition requires the provision of a charging point for electric vehicles prior to the first occupation of the bungalow, which should remain available for use throughout the life of the development.

In this instance, we are proposing the provision of a Wallpod EV Tethered, Type 2 EV charger within the proposed garage, in the location shown on the submitted drawing. The manufacturers details of this charger are submitted as part of this resubmission planning application.

'On-Going' or 'Compliance' Conditions:

The original conditions as set out below need to be complied with during the development and once the bungalow is completed, and do not need to be addressed through the submission of a 'discharge of conditions' application. There is no issue with these conditions being repeated on any new decision notice.

1. Standard 3-year time limit condition.
2. The construction and completion of the development in accordance with the approved drawings.
8. The construction and completion of the development in accordance with the mitigation measures with the submitted Flood Risk Assessment.
10. The protection of trees, hedges, scrubs or ivy during the bird nesting season.
12. The removal of 'permitted development' for extensions, alterations, garden buildings and enclosing structures.
13. No burning of vegetation or other the disposal of any other materials by burning.
14. No construction works other than between 0730 and 1800-hours Monday to Friday and 0800 and 1300-hours on Saturdays. There shall be no works on Sundays or public holidays
16. The construction of the dwelling in order to conform to current Building Regulations in terms of water consumption

The Removal of Condition 15

Condition 15 requires the provision of non-openable, obscure glazing to the windows within the utility room and WC on the north facing elevation of the proposed bungalow.

When assessing the Case Officer's report for the original planning application it is clear that he was not concerned with the dwelling overlooking the neighbouring property to the north or that the proposed bungalow would have a visual impact upon it. As stated in the penultimate paragraph of the Officer's report, this is due to the proposed bungalow being set back some 5m from the common boundary and as a result of the '*...tall vegetation which runs along the entire boundary*'. The report is concluded with the Officer stating that no neighbours would be impacted as a result of the development.

We are therefore concerned that Condition 15 was unreasonable for the following reasons:

1. These north facing window serve a WC and a utility room, which are not considered to be 'habitable' rooms within the dwelling. The rooms will be infrequently used by the future occupiers of the dwelling.
2. They are actually more than 7m from the boundary to the north as they are set underneath the roof overhang.
3. They will remain the other side of the aforementioned 'tall vegetation' that forms the dense landscaping to the boundary, which is all to be retained as part of the development and will act as a dense boundary screen.
4. If there was a view through the boundary hedge (which there isn't) these windows would only overlook the neighbour's driveway and garage. There would be no view into any windows of the adjacent property and no view into private (rear) garden space.
5. The windows need to be openable in order to allow natural ventilation to these 2 rooms.
6. There will be a full height glazed door to the utility room in any case, so why is there a concern that the window to the utility room should be obscure glazed and non-openable, when the full height door can be clear glazed and fully openable (as approved)?
7. We are of the understanding that the owners of the property directly to the north of the application site did not raise any objections in terms of overlooking or a loss of privacy, so we cannot understand why these 2 small windows are of a concern to the Council.

For these reason it is respectfully requested that Condition 15 is not repeated on any new decision notice as the Applicants would like to have both of these windows openable and would want the choice as to whether they are fitted with obscure glazing or not.

Conclusions

The application has been submitted electronically and comprises of copies of the following documents and plans in addition to this letter. Unless stated, all drawings are by Martin Tucker Ltd.:

- Planning application forms and site ownership certificates*
- Site location plan at 1:1250 scale*
- Topographical Survey and Existing Elevations by Greenhatch*
- Existing and Proposed Site Layout Plans (as revised) at 1:200 scale*
- Proposed Layout Plan and Elevations (as revised) at 1:100 scale*
- Planning Statement (as revised) by The Planning Hub*
- Tree Reports by Ramm Sanderson*
- Flood Risk Assessment by Ramm Sanderson*
- Bat Survey Report by JJH Consulting*

Details to avoid the need for the imposition of repeat conditions, numbered in accordance with the conditions listed on the original planning permission:

- 4 Ecco Antique Azure Grey facing bricks*
- 4 Monocouche 'Colour Through' Render in an Ivory White finish*
- 4 Randers Tegl Ultima RT153 Stone*
- 4 Del Carmen natural Spanish slates*
- 6 Clearstone Resin Bound Gravel*
- 6 Quorn Stone Dijon Limestone Pavers*
- 9 Bat Access Slate*
- 9 Eco Starling Bird Box*
- 11 Window Cill by Jowett Stone Ltd*
- 17 Wallpod EV Charger*

*Denotes an electronic submission via the Planning Portal.

There is no planning application fee for this submission as it has been made within 12-months of the determination of the original planning application DMPA/2020/0751, as approved on the 3rd November 2020.

The proposed development is considered to accord with the provisions of the National Planning Policy Framework and the National Planning Practice Guidance at a national level, along with the relevant policies contained within the Development Plan at a local level, for the reasons set out in the submitted Planning Statement.

I trust that this application is complete and can be registered without delay.

I look forward to the receipt of your acknowledgement of the registration of the application in due course and it would be appreciated if you could keep me informed on the progress of the application as it moves forwards.

Yours faithfully



Matt Hubbard

PG Dip TP, MRTPI
Director

CC - Clients by email
Encs - Details as listed above

Appendix A

Photographs to Show the Tree Protection Fencing in Situ



View looking west from within the site with T1 and T2 visible.



View looking south west from within the site, with T1 and T2 visible.



View looking east from alongside T10, T11 and T12, with T14 to T18 in the background.



View looking into the south east corner of the site, containing T18 to T24.



View looking east into the site from the existing entrance point, with T19 to T26 behind the existing garage.