

SITE PLAN ATTACHED

9 SEBASTIAN AVENUE SHENFIELD BRENTWOOD ESSEX CM15 8PN

VARIATION OF CONDITION 2 OF APPLICATION 21/00645/HHA (GARAGE CONVERSION TO HABITABLE ACCOMMODATION. TWO STOREY REAR EXTENSION AND SINGLE STOREY REAR EXTENSION TO INCLUDE ROOF LANTERN. ALTERATION TO FENESTRATION) TO ALLOW CHANGES TO THE LAND LEVELS TO THE REAR TO CREATE A PATIO AREA WITH ACCESS STEPS TO THE SIDE AND REAR, BOUNDARY FENCING, CHANGES IN HEIGHT OF THE SINGLE STOREY REAR EXTENSION, AND ALTERATIONS TO THE FENESTRATION FROM DARK GREY WINDOWS AND DOORS TO WHITE ALUMINUM (PART RETROSPECTIVE).

APPLICATION NO: 22/00445/FUL

WARD	Shenfield	8/13 WEEK DATE	2 June 2022
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PARISH

CASE OFFICER	Miss Georgia Taylor	01277 312620
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Drawing no(s) relevant to this decision:	SA.007.PAS.001/REV D; SA.007.PAS.003/REV D;
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The application is reported to the Planning and Licencing Committee as referred by Councillor Thomas Heard for the following reason:

Last July, plans were approved for an extension at 9 Sebastian Avenue. Building work started in the Autumn and is continuing. At the time of the original approval residents in neighbouring properties identified to the Planning department that they believed the approved plans were flawed in that they were inaccurate and confusing. There have been many issues of concern since building started, not least that some of the building work was in breach of the original plans (enforcement have been involved). There have been 14 revised plans submitted. Neighbours have been in lengthy communication with Brentwood Planning concerning, amongst other things, the inaccuracy of plan measurements and accompanying statements and establishing a clear view of what it is we are supposed to be reviewing as neighbours.

1. Proposals

A variation of condition 2 of application 21/00645/HHA (Garage conversion to habitable accommodation. Two storey rear extension and single storey rear extension to include roof lantern. Alteration to fenestration) to allow changes to the land levels to the rear to create a patio area with access steps to the side and rear, boundary fencing, changes in height of the single storey rear extension, and alterations to the fenestration from dark grey windows and doors to white aluminium (part retrospective). Condition 2 of permission 21/00645/HHA stated:

The development hereby permitted shall not be carried out except in complete accordance with the approved documents listed above and specifications.

2. Policy Context

The Brentwood Local Plan 2016-2033

The Plan was adopted as the Development Plan for the Borough on 23 March 2022. At the same time the Brentwood Replacement Local Plan, August 2005 (saved policies, August 2008) was revoked.

National Planning Policy and Guidance

- National Planning Policy Framework (NPPF)
- National Planning Practice Guidance (NPPG)
- Policy BE14: Creating Successful Places

3. Relevant History

- 21/00645/HHA: Garage conversion to habitable accommodation. Two storey rear extension and single storey rear extension to include roof lantern. Alteration to fenestration. -Application Permitted
- 21/00645/NON/1 Non material amendment to application 21/00645/HHA (Garage conversion to habitable accommodation. Two storey rear extension and single storey rear extension to include roof lantern. Alteration to fenestration) for the removal of the chimney, removal of full height window, patio doors to be altered to a window, obscure window to first floor, remove top glazing panels, and rear access steps to be altered. – Application Permitted.

4. Neighbour Responses

No. 7 Sebastian Avenue

References have been made to regarding the inadequacies and inaccuracies to the previous HHA application.

- “For this development, the dual level aspect of the site where the house is built above a much lower garden has been and continues to be largely ignored e.g., how much higher is the patio from that previously approved/how much higher is the actual/proposed patio from the garden level – who knows?”

The current application seeks to allow changes to the land levels to create a rear patio area, and the proposed height will be addressed within the report.

- “The drawings do not show the increase in the single extension heights – they remain at the render line height.
LHS extension - The Case Officer’s report stated, *the proposal will not result in a harmful impact upon the living conditions of the neighbouring occupiers by way of overbearing impact, loss of privacy or loss of light.* Nevertheless, the latest proposals show the extension being heightened even more. RHS extension – here the revised floor level should have had no impact (the RHS extension is over a garage floor/old patio). It, as well as the patio adjoining it, have nevertheless still been heightened.”

As has been previously explained, the change in render line is not relevant to the height of the single storey rear extensions, as this is a change in fenestration material.

- “No information is shown in the drawings to show the relative height and area of the patio let alone any comparison with neighbouring buildings.”

The height of the patio is clearly shown on the proposed elevation drawings and the area of the patio is shown on the block plan.

- “Although no height dimensions for the patio were required by the Planners, the patio being at the same level as the bifold doors was approved. Yet, this configuration is completely different from the patios at No 7 and No 11. Here, neighbours’ privacy concerns were recognised and there are steps down from the houses onto the patio. The patio at this lower height only extends about 1.4m from the maximum extension line and steps then go down directly to the garden level. This contrasts with No 9 proposals where no consideration is given to any neighbour privacy concerns. Instead, a patio of even greater height than was approved is being proposed all to ensure it is in line with the bifold doors.”

The impact of the increase in height of the patio will be assessed within the report below. Height dimensions have been provided to the neighbouring occupiers in the form of an email to confirm the measurements. The patio

will be set away from the boundary shared with No.7 and No.11 as shown on the block plan.

- “In March and again in May 2022 new drawings were published yet these too are wrong. Amongst other things they show the previous actual patio’s height being higher than was the case and a lower level to the RHS of the property (as demonstrated in sales literature photographs publicly available). Indeed, the drawings even show that No 9 has a patio on the RHS boundary line. It does not.”

During an enforcement exercise, anomalies were picked up and the site has now been surveyed as confirmed with the applicant and correct measurements now shown on the plans.

- “In the new proposal and despite the heightened patio height not being known a fence line of only 1.8m will be required from the end of the new patio. As mentioned above there is already a fence line of 1.8m on the RHS which, although providing some privacy with the original patio height and area, will no longer fulfil this function if the proposed patio height is approved. As explained above, the patio will be much higher and extend further into the garden at this new height. We would therefore not support a reduction in the height of the fences, whilst still preferring a much lower patio configuration.”

Under the Non-material amendment application, the proposed patio steps were removed from either side of the patio, and were permitted to be central to the patio area. The boundary fence has been altered as the steps have been altered, and this will be addressed within the report.

- “We are concerned about where the water run off for the RHS single height extension will go.”

This is a Building Control issue, not a material planning concern.

- Plan Inaccuracies within the FUL application –
 - “Red roof tiles - These coloured tiles have already been used for the extension whereas dark brown tiles (which would match the current 30 years plus old roof tiles and those of the neighbouring properties) had been approved. We do not know whether the intention is to change the whole roof to red coloured tiles or if red has been chosen as a design statement. Even if the red tiles somehow weather to become dark brown the Planners have been unable to confirm how long this would take. We do know that the red

- tiles can be viewed from Hunter Avenue and amused comments have been passed to us about this choice of tile colour. We simply ask why approved dark brown tiles cannot be used (as we ourselves did when part of our roof was replaced)
- Fenestration - (which can be defined as the arrangement, proportioning, and design of windows and doors in a building). White windows and doors have been used in the development. This colour was approved. We therefore do not understand why the plans state that a dark grey colour had also been approved. It had not.”

As previously explained, the Red Roof tiles were permitted under the original HHA application as the materials were to match the existing dwelling, which the tiles do. In relation to the fenestration and the window colours, white UPVC was permitted, and although the ‘specification’ on the drawing states ‘dark grey’ this is incorrect, and the proposed development seeks to alter to White PPC Aluminium. This will be discussed within the report.

No. 11 Sebastian Avenue

- “The apparent height of the patio for No 9. If this is any higher than our patio it will create considerable loss of privacy for us who have been resident here for nearly 50 years. Our patio is two steps below our house floor level, and we consider that No 9 patio should be no higher.”

The impact of the proposed patio level will be addressed within the report.

- “An adequate fence provision will be essential between the rear of the houses to preserve both visual and sound privacy for each property - the present fence is poor and unstable. We consider that a new fence height of at least 2 metres above the new patio level will be an essential condition of the planning approval.”

The impact of the new boundary fence will be addressed within the report.

5. Consultation Responses

- No Comments Received.

6. Summary of Issues

This application follows approval in 2021 for the conversion of the garage into habitable accommodation, the construction of single and two storey extensions to the rear of the property. It seeks to vary a planning condition attached to that permission, in this case, replacing one set of plans with another.

On such an application the local planning authority shall consider only the question of the conditions subject to which planning permission should be granted, and if they decide that planning permission should be granted subject to conditions differing from those subject to which the previous permission was granted, or that it should be granted unconditionally, they shall grant planning permission accordingly.

It is noted that planning permission cannot be granted under S.73 to extend the time limit within which a development must be started or an application for approval reserved matters must be made.

Where an application under section 73 is granted, the effect is the issue of a new planning permission, sitting alongside the original permission, which remains intact and unamended.

Planning permission is sought for the Variation of Condition 2 of planning application 21/00645/HHA, to address changes in land levels to the rear of the property creating a patio area with access steps, changes to boundary fencing, changes in height of the single storey rear extensions, and alterations to the fenestration. The building works have commenced.

The changes proposed have been made under a Section 73 application which allows for conditions attached to the original planning permission to be removed or varied. The original planning permission will continue to exist whatever the outcome of the Section 73 application.

Background

Planning permission has been previously approved under planning application 21/00645/HHA.

The application site also been subject to a non material amendment permission, which agreed the removal of the chimney, removal of a full height window to the side elevation, patio doors changed to a window, removal of top glazing over annexe doors, addition of an obscure first-floor window to the side elevation, and rear access steps altered.

The current application has been submitted as part of an enforcement investigation carried out on site to alterations made to the initial planning permission and those proposed as the development has not yet been completed. The application seeks to vary Condition 2 of Planning permission 21/00645/HHA which states:

'The development hereby permitted shall not be carried out except in complete accordance with the approved drawing(s) listed above and specifications.'

Reason: To ensure that the development is as permitted by the local planning authority and for the avoidance of doubt.'

Amendments

The current application is to seek permission for changes carried out on site, the principle of development has already been accepted for a 'garage conversion to habitable accommodation, two storey rear extension, single storey rear extensions and alterations to the fenestration', and therefore only changes to the original permission will be assessed and considered.

Patio Level Changes –

The patio levels are proposed to increase by 250mm above the original patio height. The patio area will be set in from both side boundaries and is a common garden element within the surrounding area due to the significant drop in land levels from the front to the rear of the property.

The increase in patio level will require additional fencing to the side boundaries - 1.8 metres from the top of the new patio level which is set 1.34 metres lower than the single storey extension adjacent to No.7 and No.11. The patio will be set off from the side boundaries with steps down to the side to access the side alleyway and steps into the rear garden. The addition of the fence particularly along the boundary with No.11 will improve the level of privacy to both properties.

It is considered that the change in level is relatively insignificant or 'de minimis', and not harmful to the character of the area or have a harmful effect upon the surrounding neighbours. Therefore, the change in site levels are compliant with Policy BE14.

Increase in height of the single storey rear extension adjacent to No.7 Sebastian Avenue -

The proposal seeks to increase the height of the single storey rear extension by 250mm. The extension will be of the same design and materials as approved, and the increase in height will not have a detrimental impact upon the character or appearance of the surrounding area.

The increase in height will be adjacent to the common boundary with No.7. The proposed increase in height is not considered to result in an overbearing impact, loss of light or loss of privacy.

Alterations to the fenestration –

Alterations to the fenestration include changes to the approved windows and doors, which were 'White UPVC'. The specification on the drawing indicates the approved windows and doors were to be 'Dark Grey Windows', however this was not approved under 21/00645/HHA. The proposed change is to alter the material of the windows and

doors to 'White PPC Aluminium'. It is considered the change to 'White PPC Aluminium' would be acceptable.

Other Matters

The neighbour objections have been mostly considered within the report; however, it is clear that the objections received largely relate to the original plans and development approved under 21/00645/HHA. Inaccuracies or discrepancies that have been identified do not go to the 'heart' of the intent of that approval. The current application seeks to regularise the need for the increase in height.

Conclusion

The changes result in the patio level and single storey rear extension being increased in height, changes to the boundary fence and alterations to the windows and doors, and it is considered that those revisions will not have a harmful effect on the living conditions of the neighbouring occupiers by way of overbearing effect, loss of privacy or loss of light.

The proposal is compliant with Policy BE14 of the local plan, the NPPF and the NPPG. This application is recommended for approval.

7. Recommendation

The Application be APPROVED subject to the following conditions:-

1 DRA01A Development in accordance with drawings

The development hereby permitted shall not be carried out except in complete accordance with the approved documents listed above and specifications.

Reason: To ensure that the development is as permitted by the local planning authority and for the avoidance of doubt.

2 U0046541

This permission only relates to the variation of condition 2 of the permission granted under reference 21/00645/HHA and all other conditions, i.e. conditions 1, and 3 to 5, of that permission shall continue to apply in full unless otherwise discharged.

Reason: To ensure that the development is as permitted by the local planning authority and for the avoidance of doubt.

Informative(s)

1 INF04

The permitted development must be carried out in accordance with the approved drawings and specification. If you wish to amend your proposal you will need formal permission from the Council. The method of obtaining permission depends on the nature of the amendment and you are advised to refer to the Council's web site or take professional advice before making your application.

2 INF05

The following development plan policies contained in the Brentwood Local Plan 2016-2033 are relevant to this decision: BE14 National Planning Policy Framework (NPPF) and National Planning Practice Guidance (NPPG).

3 INF22

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

BACKGROUND DOCUMENTS

DECIDED:

