Officer Report

Application No.	21/1484/FH
Site Address	9 Tolsford Close, Etchinghill, Folkestone, CT18 8BU
Officer Name	Piran Cooper
Proposal	Section 73 application for the variation of condition 4 (obscure glass windows) of planning permission 20/1789/FH (Proposed first floor Extension) to provide clear glazing rather than obscured to improve the appearance.

Recommendation

Report Number	RD-426338
Recommended Decision	Recommended to be Approve with Conditions
Recommendation Date	08 October 2021

Report

21/1484/FH – 9 Tolsford Close, Etchinghill, Folkestone, CT18 8BU

Performance data:-

Date application valid: 09.07.2021
Applicable 8/13/16 week target date: 03.09.2021 (EOT 08.10.21)
Planning Performance Agreement (PPA) or Planning Extension Agreement (PEA)? N
If Yes, revised 8/13/16 week target date: n/a
Is the application being determined after 26 weeks without a PPA or a PEA? No

SITE VISIT
2nd September 2021

SITE
The application property is located within the settlement of Etchinghill, on Tolsford Close which is a residential area characterised primarily by detached bungalows and chalet bungalows. The application property was a detached chalet bungalow now extended (under 20/1789/FH), which has increased the size of the gable to the front elevation to facilitate the provision of an En Suite bathroom to bedroom 2. The dwelling is constructed with facing brickwork, plain concrete roof tiles with white uPVC windows. There is an attached single storey garage to the side of the dwelling with a driveway forward of this which provides off-street parking. The application site is located within a Special Landscape Area and the Kent Downs AONB.

RELEVANT HISTORY

20/1789/FH – Householder Planning permission for proposed first floor extension – Approve with Conditions

PROPOSAL
Section 73 application for the variation of condition 4 (obscure glass windows) of planning permission 20/1789/FH (Proposed first floor Extension) to provide clear glazing rather than obscured to improve the appearance

CONSULTATION RESPONSES
Lyminge Parish Council – No objection subject to no overlooking issues with neighbours

REPRESENTATIONS
None.

PUBLICITY
Neighbours notified by letter. Expiry 05.08.2021

RELEVANT POLICIES
Places and Policies Local Plan: HB1, HB8

Shepway Core Strategy Local Plan: DSD

Core Strategy Review Submission Draft 2019:

The Folkestone & Hythe District Core Strategy Review Submission Draft was submitted to the Secretary of State on 10 March 2020. Inspectors were appointed to examine the plan on 19th March 2020 and public hearings were held from 15th to 18th December 2020, from 5th to 12th January 2021 and from 29th June to 1st July 2021. The Inspectors wrote to the council on 1st July 2021 to state that the Core Strategy Review complies with the duty to cooperate and can be made 'sound' by amendment through main modifications. The Inspectors followed up their initial assessment by letter on 16th July 2021, stating that, subject to main modifications concerning detailed policy wording, they consider that the plan's spatial strategy and overall approach to the district's character areas and settlements is sound. The Inspectors find that the housing requirement is justified and that the Core Strategy Review will provide an adequate supply of housing over the plan period and at least a five year supply of housing land at the point of adoption. In accordance with National Planning Policy Framework (2021) paragraph 48, the policies in the Core Strategy Review should therefore be afforded significant weight, having regard to the Inspectors' outline of main modifications required.

National Planning Policy Framework (2021)

National Planning Policy Guidance

APPRAISAL

The application seeks the variation and amendment of condition 4 of planning permission 20/1789/FH for the erection of a first floor extension. Condition 4 of planning permission 20/1789/FH states:

The first floor front facing window shall be fitted with obscure glass and apart from any top hung light that has a cill height of not less than 1.7m above the internal finished floor level of the room

that it serves shall be non-opening. This work shall be carried out and completed before the room is occupied and shall thereafter be retained at all times.

Reason: To ensure the development does not prejudice conditions of amenity by reason of unneighbourly overlooking of the adjoining property, in accordance with Local Plan Policy HB8.

This application seeks planning permission for the removal of the above referenced condition. The main issues to be considered are design and visual impact and the impact on amenities of the neighbouring properties, in term so f potential for overlooking.

Design and Appearance
Full consideration of the design and appearance of the two storey extension was given during consideration of 20/1789/FH. The removal of the condition 4 relating to the use of obscure glazing does not alter the consideration of the acceptability of the wider scheme. The benefit to the appearance of the property from the use of opaque glass as opposed to clear is considered to be minimal and that overall, the use of clear glazing would not detract from the character and appearance of the development overall. The main design related consideration is that the window frame should reflect the characteristics of the other windows on the front elevation. This has already been agreed within the terms of the parent application (20/1789/FH).

No objection in relation to design and appearance.

Amenities of neighbouring occupiers
In the opening paragraph of policy HB8 is it stated that - *Alterations and extensions should protect the residential amenity of the occupants of neighbouring properties and ensure avoidance of unacceptable overlooking and inter-looking.*

Full consideration as to the impact of the two storey extension on the amenities if neighbouring properties in terms of overbearing impact, loss of light, overlooking and privacy has been given through the consideration of the original submission. Consideration here focuses on the impact clear glass would have within the first floor front facing window as apposed to obscure.

No 9 Tolsford Close (application site) forms a corner plot directly opposite No 8 Tolsford Close, on the opposite side of the road. Both houses are situated on a slope with No 8 sitting below No 9. Given the nature of the topography the new first floor window on the front elevation of No 9 can be seen from the rear/side garden of No. 8. Under the approved scheme, obscure glass was required to be fitted to ensure that the front extension did not affect neighbouring amenity by way of overlooking or loss of privacy.

The proposal to remove the condition requiring the fitting of obscure glazing was the subject of neighbour representation, particularly from neighbours opposite at no. 8 Tolsford Close. Concern has been raised regarding the potential insertion of clear glazing resulting in increased overlooking and invasion of privacy.

Whilst these concerns are noted. the extended front gable to No 9 Tolsford Close, including the first floor window that is the subject of this application is approximately 23.3 m from the building line of No. 8 Tolsford Close at the closest point. The distance from the extended front gable of No 9 Tolsford Close is approximately 17m from the front boundary of No 8. Tolsford Close at the closest point. Whilst the new first floor window to No 9 Tolsford Close is visible from the enclosed side/rear garden of No 8. Tolsford Close the distance between the two is such that the potential for visual

intrusion is not considered to be significant enough to warrant refusing the application and would result in minimal disturbance to neighbouring privacy overall. In addition the room to the window in question is an En Suite bathroom, which is not considered to be a habitable space and as such is not likely to be occupied for extended periods of time.

In light of the above, no objection is raised to the removal of condition 4 on amenity protectiongrounds.

Highways Issues
There would be no impact from the proposal in terms of parking or the use of the public highway.

No objection is raised in relation to this issue.

Other Matters
Concern has been raised via representation to this planning application with regard to the manner in which the original 2020 application was advertised. No. 8 Tolsford Close, directly opposite the application site, was in error, not amongst those neighbouring properties that were notified of the original application and as such occupants were not able to make comment. Whilst regrettable, this current application seeking removal of condition 4 under section 73 enables consideration to be given to the wider scheme a fresh, and as no.8 received notification of this current submission, the LPA has been able to address their concerns directly as a result. Notwithstanding the concerns raised regarding privacy, and which have been addressed above, it is not considered that a different outcome would result with regard to the two storey front extension as a result of these further representations. Full consideration of the development's impacts on all neighbours was given during the consideration of the previous submission.

RECOMMENDATION
In light of the above, it is considered the removal of condition 4 would not affect the acceptability of the wider development which remains sustainable development that complies with development plan policy and the NPPF and is therefore recommended for approval.

Environmental Impact Assessment
In accordance with the EIA Regulations 2017, this development has been considered in light of Schedules 1& 2 of the Regulations and it is not considered to fall within either category and as such does not require screening for likely significant environmental effects.

HUMAN RIGHTS
I have also taken into account the human rights issues relevant to this application. In my view, the Assessment section above and the Recommendation represents an appropriate balance between the interests and rights of the applicant (to enjoy his land subject only to reasonable and proportionate controls by a public authority) [and the interests and rights of those potentially affected by the proposal (to respect for private life and the home and peaceful enjoyment of their properties)] and the wider public interest.

PUBLIC SECTOR EQUALITY DUTY
In determining this application, regard has been had to the Public Sector Equality Duty (PSED) as set down in section 149 of the Equality Act 2010, in particular with regard to the need to:
- Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;

- Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
- Foster good relations between persons who share a relevant protected characteristic and persons who do not share it. It is considered that the application proposals would not undermine objectives of the Duty.

It is considered that the application proposals would not conflict with objectives of the Duty.

Duty to cooperate
In accordance with paragraph 38 of the National Planning Policy Framework (NPPF), February 2019 the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and creative way by offering a pre-application advice service and, where possible, suggesting solutions to secure a successful outcome and as appropriate, updating applicants / agents of any issues that may arise in the processing of their application. In this instance the application was acceptable as submitted.

Report and draft decision notice completed and passed to senior officer.

Name: Piran Cooper Position: Landscape and Urban Design Officer Date: 08.10.2021

Report and draft decision notice amended (if appropriate)

Name: Position: Date:

Senior Officer

Report not agreed. Details of further work required as follows:

Name: Position: Date:

Report and draft decision notice agreed and file passed to admin to issue decision.

Name: Helena Payne Position: Strategic Sites Team Leader Date: 08.10.2021

Recommended Conditions (3)

1

The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which the permission is granted.

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

2

The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans:

- Drawing 01 Existing plans: received 17th November 2020
- Drawing 02 Proposed plans: received 17th November 2020

Reason: For the avoidance of doubt and in order to ensure the satisfactory implementation of the development in accordance with the aims of the Places and Policies Local Plan.

3

The materials to be used on the external surfaces of the extension hereby permitted shall match those on the existing building in terms of type, colour, and texture.

Reason: In the interest of visual amenity.