

**BABERGH DISTRICT COUNCIL**

<b>From: Head of Economy</b>	<b>Report Number: N47</b>
<b>To: Planning Committee</b>	<b>Date of meeting: 7 August 2013</b>

**PROPOSED NON MATERIAL AMENDMENT – AMEND CROSS SECTIONAL DRAWING ‘SECTION A-A’ REDUCING RIDGE HEIGHT IN LINE WITH THOSE OF APPROVED ELEVATION DRAWINGS, AND PROVISION OF PRECISE DETAILS OF LOCATION OF INTERNAL DOOR GIVING INTERNAL ACCESS FROM FIRST-FLOOR LANDING TO BEDROOM 3.**

**1. Purpose of Report**

- 1.1 On 26 March 2013, planning permission was granted, under delegated authority, for the “Erection of one and a half storey rear/side extension and rear conservatory” (B/13/00127/FHA).
- 1.2 Following the grant of planning permission three separate written complaints were received from three residents (two of which responded to this proposed non material amendment). Considering these complaints, it became clear that the sectional drawing A-A was inconsistent with the height of the approved extension and a internal door leading to bedroom 3 was missing on the approved plans. The agent was advised of these inconsistencies.
- 1.3 The non material amendment (described above) is proposed by the applicant who wishes to correct inconsistencies in the approved drawings and to provide full details of proposed internal access arrangements (as described in 1.2 above).
- 1.4 The purpose of the report is to provide Members with information in order to assess and determine this non material amendment.

**2. Recommendations**

- 2.1 That the proposed non material amendment for planning permission B/13/00127/FHA; to amend cross sectional drawing ‘Section A-A’ reducing ridge height in line with those of approved elevation drawings, and provision of precise details of location of internal door giving internal access from first-floor landing to Bedroom 3 at St Hilda, Bourne Hill, Wherstead be approved.

The Committee is able to resolve this matter.

**3. Financial Implications**

- 3.1 There are no financial implications arising directly from this report.

**4. Risk Management**

- 4.1 There are no significant risks arising directly from this report.

## 5. **Consultations**

- 5.1 Wherstead Parish Council
- 5.2 The Archaeological Service
- 5.3 Four Neighbouring Properties
- 5.4 Four members of the public who made representations on the original planning application, (in addition to the 4 neighbours consulted under 5.3 above).

## 6. **Equality Analysis**

- 6.1 There are no equality and diversity implications arising directly from this report.

## 7. **Shared Services/Partnership Implications**

- 7.1 There are no shared services implications arising directly from this report.

## 8. **Key Information**

- 8.1 The proposed amendments to the approved plans have been the subject of consultation with the Parish Council, neighbouring properties, and those who provided representations regarding the 'host' planning permission. The following responses have been received:
- 8.2 PC (Wherstead) :- Has no objection to the amendment to show the precise location of the internal door to bed 3 from the landing; Welcome the reduction in ridge height but still feel that the ridge is too high and totally out of character with the adjoining property; and raise concern with regards proposed ceiling heights and room dimensions and whether these would meet building control requirements.
- 8.3 Neighbour (Orchard Lea) – The reason for this application being submitted is the case officer's lack of attention to detail when considering the original application and therefore granting planning permission against inconsistent and incorrect drawings. The fact that the original permission was flawed does not stop it being implemented just because a Non Material Amendment is sought. The original permission can still be implemented and as a result the proposal can be built with a much higher ridge height than shown on the elevations with little recourse for either myself as a neighbour or the Council's Planning Enforcement Team. This would have a significantly higher effect on the amenity of my proposal and the impact the proposal will have on both myself and the owners of Brookley. It is my opinion that the original permission needs to be revoked and a whole new application made to stop this from happening. A change in the ridge height shown on the cross section is obviously a Material Amendment and once again a new application must be sought, as stated above this is only of any use if the original flawed permission is revoked.
- 8.4 Neighbour (Al Chiba) – The height of the ridge running east – west should not be above the original ridge height. This will help at least some vague form of 'in keeping'. The proposed reduction is not enough. The Plans are still seriously flawed, in that, amongst other issues, there is still no elevation shown to the South face. This could have yet more features that are highly contentious. There is no way your 'planning officers' can make a reasoned decision without this detail.

Indeed, the plans cannot even be followed, as guess work has to be used. Where are the daylight calculations?; the original ones, and revised ones, and the effect of maintaining the original ridge height. This is, as you state, a time sensitive matter. Why is it therefore, that the case officer has been away from the office, and no one has been able to get any questions answered, as the matter is under the case officer's control? It is suggested that, especially in view of the extreme impact that this debacle is going to have on the neighbourhood, and extreme distress the original (illegal) consent has caused, ongoing, that the deadline is extended. Notes on the consultation letter refer to the issue of material, or non material consent. It appears that this can be categorised as the case officer likes. I cannot see that the changes are not fundamentally material. If this application is classified as such, that may give the Council the chance to redeem itself, and the original serious objections aired to a sensible and satisfactory conclusion for all. The whole redevelopment (no way can 'extension' be applied to this debacle) is not in keeping. The balcony to the rear is completely and utterly unacceptable. Comment has been made to the effect that it is acceptable as it is within the roof footprint. This is a 'stupid' comment, as it still assumes non usage. Such use will cause serious loss of amenity to surrounding properties, and when in use will cause ongoing distress and lack of privacy to neighbours. The detrimental effect of the balcony is vastly increased due to the extreme length of the redevelopment down the garden, becoming an eyesore, and devaluing nearby properties. There is still no detail shown for the positioning of soak-aways etc. The property is still on septic tank and it should be a condition that the option of mains sewage be insisted upon being taken up, as a pre condition to occupancy, given the immense extra loading that an already struggling system will have. A site visit is suggested with the neighbouring property owners before and final decisions are made.

## 9. **Assessment**

- 9.1 Section 96a of the Town and Country Planning Act 1990 (as amended) sets out the following when considering an application for a non material amendment: - "In deciding whether a change is material, a Local Planning Authority must have regard to the effect of the change, together with any previous changes made under this section, on the planning permission as originally granted".
- 9.2 There is no clear definition of what can or cannot be considered as a non material amendment as each case should be judged on its merits but to assist Members the tests that are normally applied when considering a proposal for an amendment are:
- If any proposed amendments are so slight (de minimis) and do not amount to a 'material' change from the approved plan, it is likely that the proposed alterations could be considered to be lawful within the scope of the existing planning permission
  - The question as to whether the development now proposed is the same development as that granted permission
  - Consideration of whether the description for the development would need to be changed as a result of the amendment, and,
  - What external impact the changes now proposed might have – i.e. would the proposed change be contrary to any planning policy of the Council?
- 9.3 Each request will be considered on its merits having regard to all relevant circumstances.

- 9.4 In this case, it is the consideration of your planning officers that, the proposed amendments would not substantially alter the development from that granted and would address the inconsistencies described in paragraph 1.2.
- 9.5 The proposed amended drawing 'Section A-A' would reduce the maximum ridge height of the proposal shown on this sectional drawing so as to conform with the proposed elevation drawings already approved.
- 9.6 The proposed amended first floor plan details the precise location of the proposed internal doorway between the approved first-floor landing and bedroom no. 3. Both elements of the proposal are regarded as non material and there are no planning policy issues arising as a result of this proposal. The proposed amendment would not materially affect the external character or appearance of the building and would address the inconsistencies described in paragraph 1.2 above.
- 9.7 Although representation received discuss the impact of the proposal, they also refer to matters which have been responded to under the complaints procedure.
- 9.8 Given all the planning considerations, there is no sustainable objection to this proposal and the recommendation is one of approval.

10. **Appendices**

10.1 None.

11. **Background Papers**

11.1 Relevant papers on Planning File B/13/00127/FHA.

Authorship:



Name: Christine Thurlow  
Title: Corporate Manager – Development  
Manager

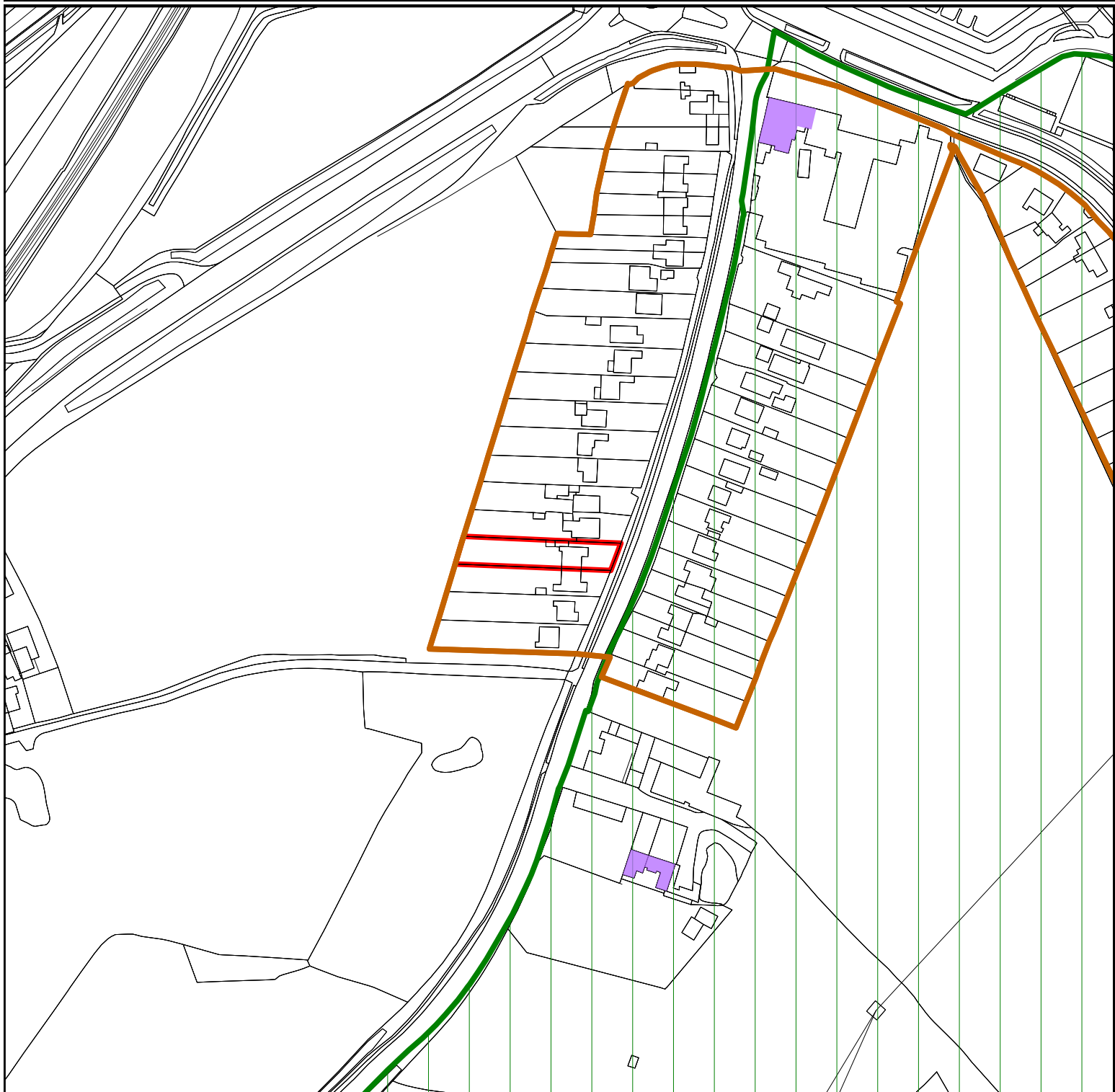
Tel: 01473 825877  
Email: christine.thurlow@babergh.gov.uk

**Application No: B/13/00127/FHA**

**Parish: Wherstead**

**Location: St Hilda, Bourne Hill**

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|--|------------------------|---|------------------------------------|
|  | The Site               |  | Conservation area                  |
|  | Listed Building        |  | Special Landscape Area             |
|  | Built up area boundary |  | Area of Outstanding Natural Beauty |



**BABERGH DISTRICT COUNCIL**

Corks Lane, Hadleigh, Ipswich. IP7 6SJ  
Telephone : 01473 822801  
minicom : 01473 825878  
[www.babergh.gov.uk](http://www.babergh.gov.uk)



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