

Parish: Chichester	Ward: Chichester West
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CC/21/01789/DOM

Proposal	Demolition of garage and side extension, erection of two storey side and rear extensions and alterations and additions to fenestration. Fenestration changes of the porch. Loft conversion - Removal of Condition 3 (i) of householder permission CC/19/00666/DOM - Obscure glazed glass.		
Site	125 Cedar Drive Chichester PO19 3EL		
Map Ref	(E) 485292 (N) 104997		
Applicant	Mrs Maribel Bryer	Agent	

RECOMMENDATION TO PERMIT



	NOT TO SCALE	Note: Do not scale from map. For information only. Reproduced from the Ordnance Survey Mapping with the permission of the controller of Her Majesty's Stationery Office, Crown Copyright. License No. 100018803
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1.0 Reason for Committee Referral

- 1.1 Red Card: Cllr Bowden. Important information/opinion to raise in debate. The application appears to be to remove a condition that was specifically imposed by the Planning Committee on the original permission in order to preserve the amenity of the neighbours. That situation has not changed.
- 1.2 The condition subject to this application was previously included at the wish of Planning Committee

2.0 The Site and Surroundings

- 2.1 The application site comprises a rectangular plot, which is located to the southwest of the Cedar Drive, within a residential cul-de-sac of 1960s properties. The property subject to the application is a chalet bungalow constructed from brick with one-and-a-half storey rear and side extensions constructed following approval under 19/00666/DOM. There are a variety of bungalows and two storey houses within the surroundings area and the front gardens are generally open to the road and free of hard boundary treatments.

3.0 The Proposal

- 3.1 The application seeks permission to remove of condition 3 (i) of permission 19/00666/DOM. Condition 3 of permission 19/00666/DOM reads as follows:

Notwithstanding any indication shown on the approved plans, and notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking, re-enacting or modifying that Order), the outer two glazing panes of the four proposed to the gable end in the rear (southwest) elevation, that would serve the first floor bedroom and the window proposed to the staircase, to the northwest elevation, shall be;

- (i) glazed with obscure glass which has been rendered obscure as part of its manufacturing process to Pilkington glass classification 5 (or equivalent of glass supplied by an alternative manufacturer), and*
- (ii) non-opening below 1.7 metres from the finished floor level within the room/space in which the glazing is installed.*

And shall be retained as such in perpetuity.

Reason: in the interest of neighbouring amenities.

- 3.2 The glazing to the rear gable end has been installed in breach of the condition with all four panes of glass fully transparent. A Breach of Conditions Notice was issued on 21.04.2021, requiring the applicant to comply with condition 3 of permission 19/00666/DOM within two months of the issuing of the notice. The compliance period set out within the Breach of Condition Notice has now passed without the steps required to ensure compliance being undertaken.

4.0 History

94/00004/DOM	PER	Front porch, conservatory at rear.
CC/00652/87	PER	Construction of new garage and conversion of existing to study.
18/02959/DOM	WDN	Demolition of garage and side extension. Proposed new side and rear extensions and bow window to front elevation. Change of loftspace to habitable accommodation including 1 no. dormer window.
19/00666/DOM	PER	Demolition of garage and side extension, erection of two storey side and rear extensions and alterations and additions to fenestration. Fenestration changes of the porch. Loft conversion.

5.0 Constraints

Listed Building	NO
Conservation Area	NO
Countryside	NO
AONB	NO
Tree Preservation Order	NO
EA Flood Zone	
- Flood Zone 2	NO
- Flood Zone 3	NO
Historic Parks and Gardens	NO

6.0 Representations and Consultations

6.1 Parish Council

None received

6.2 Third party objection comments

2 no. third party representations of objection have been received concerning the following matters:

- a) Initial complaint about the side window in the original plans was withdrawn due to assurances that the window would be obscured and non-opening.
- b) If condition 3 is removed the property at 127 Cedar Drive will lose any privacy in back garden, sitting room and bedroom as the window directly overlooks these areas.
- c) It is unclear if the height of the window meets the planning permission conditions to be an opening window and if it meets the size specifications required.
- d) Lower ground floor windows facing 127 Cedar Drive were in breach of the original planning consent and face the house and garden of 127 Cedar Drive.

6.3 Third party support comments

1 no. third party representations of support have been received concerning the following matters:

- a) The application is confusing and it was previously accepted that the proposal met the criteria for modifications under permitted development.
- b) The proposal does not result in overlooking
- c) The owners of 129 Cedar Drive have erected significant structures along the boundary thus obscuring any views of their garden.

6.4 Applicant's supporting information

The applicant indicated via email dated 9 August 2021 it is the intention to remove the condition in respect of the glazing on the rear elevation, and they are content to retain obscured glazing to the first floor side window serving a staircase.

7.0 Planning Policy

The Development Plan

- 7.1 The Development Plan for the area comprises the Chichester Local Plan: Key Policies 2014-2029, the CDC Site Allocation Development Plan Document and all made neighbourhood plans. There is no made neighbourhood plan for Chichester at this time.
- 7.2 The principal planning policies relevant to the consideration of this application are as follows:

Chichester Local Plan: Key Policies 2014-2029

Policy 1: Presumption in Favour of Sustainable Development

Policy 33: New Residential Development

Chichester Local Plan Review Preferred Approach 2016 - 2035

- 7.3 Work on the review of the adopted Local Plan to consider the development needs of the Chichester Plan Area through to 2036 is now well underway. Consultation on a Preferred Approach Local Plan has taken place and following detailed consideration of all responses to the consultation, it is intended that the Council will publish a Submission Local Plan under Regulation 19 in March 2022. Following consultation, the Submission Local Plan will be submitted to the Secretary of State for independent examination. In accordance with the Local Development Scheme, it is anticipated that the new Plan will be adopted by the Council in 2023. However, at this stage, it is considered that very limited weight can be attached to the policies contained within the Local Plan Review.

National Policy and Guidance

- 7.4 Government planning policy now comprises the revised National Planning Policy Framework (NPPF 2019), which took effect from 19 February 2019. Paragraph 11 of the revised Framework states that plans and decisions should apply a presumption in favour of sustainable development, and for decision-taking this means:

c) approving development proposals that accord with an up-to-date development plan without delay; or

d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

i. the application of policies in this Framework that protect areas of assets of particular importance provides a clear reason for refusing the development proposed; or

ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

- 7.5 Consideration should also be given to the following paragraph and sections: Sections 2 (Achieving Sustainable Development), 4 (Decision-making) and 12 (Achieving well-designed places). The relevant paragraphs of the National Planning Practice Guidance have also been taken into account.

Other Local Policy and Guidance

7.6 The following documents are material to the determination of this planning application:

- CDC Design Guidelines for Alterations to Dwellings and Extensions

7.7 The aims and objectives of the Chichester in Partnership Community Strategy 2016-2029 which are relevant and material to the determination of this planning application are:

Influence local policies in order to conserve and enhance the qualities and distinctiveness of our area

8.0 Planning Comments

8.1 This application has been made under section 73 of the Town and Country Planning Act which seeks permission to remove condition 3 of permission 19/00666/DOM. The legislation requires that when determining such applications, the decision taker can consider only the question of the conditions subject to which permission should be granted. If it is decided that planning permission should be granted subject to the same conditions as those subject to which the previous permission was granted, the application should be refused. In this case, the applicant has requested changes to one condition (condition 3 of permission 19/00666/DOM); therefore, considerations relating to this change are the only matters that can be considered. It should be noted that if granted, the effect of the decision is to create a standalone planning permission therefore the original planning conditions must be re-imposed where relevant. The legislation does however permit the addition of new conditions, if appropriate, or the variation of other conditions provided that there is reasonable justification.

8.2 The main issues arising from this proposal are:

- i. Principle of development
- ii. Design and impact upon character of the surrounding area
- iii. Impact upon the amenity of neighbouring properties

Assessment

i. Principle of development

8.3 The principal of extending the existing residential dwellinghouse is established by 19/00666/DOM. The permission remains extant, albeit condition 3 has not been complied with. The principal of amending condition 3 of permission 19/00666/DOM can therefore be considered acceptable, subject to considering compliance with the development plan and assessing any other material considerations.

ii. Design and impact upon character of the surrounding area

- 8.4 Policy 33 of the Chichester Local Plan sets out that any proposed development must meet the highest standards of design and provide a high quality living environment in keeping with the character of the surrounding area and its setting in the landscape. This includes considering its proportion, form, massing, siting, layout, density, height, scale and neighbouring and public amenity.
- 8.5 The removal of the requirement for the outer two glazing panes of the four to the gable end in the rear (southwest) elevation and the staircase window to the northwest elevation to be fitted with obscure glazing and be non-opening below 1.7 metres from finished floor level, would not have any adverse impact upon the design of the property, nor upon the visual amenity of the streetscene. Accordingly, the proposed removal of condition would comply with Policy 33 of the Local Plan in this respect.

iii. Impact upon the amenity of neighbouring properties

- 8.6 Whilst the extensions have been built following the grant of planning permission under 19/00666/DOM, it is notable that the rear extension, if constructed as a standalone operation, would be development permitted under The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). There is no requirement under Schedule 2, Part 1, Class A of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for rear facing first floor glazing to be fitted with obscure glass and fixed shut. This is a material consideration that carries significant weight in the assessment of the proposal.
- 8.7 The National Planning Policy Framework in paragraph 130 states that planning decisions should create places that offer a high standard of amenity for existing and future users. Additionally, Policy 33 of the Chichester Local Plan includes a requirement to protect the amenities of neighbouring properties.
- 8.8 The proposed removal of condition 3 would allow all four glazing panes to the gable end in the rear (southwest) elevation (serving the master bedroom at first floor level) and the staircase window to the northwest elevation to be fitted with transparent glazing and to be opening below 1.7 metres below finished floor level.
- 8.9 The proposed glazing to the rear first floor gable end faces southwest and is located approximately 7.5 metres away from the rear boundary of the site shared with no. 129 Cedar Drive at the shortest point, although due to the orientation of the application property this increases to 10m. The private amenity space for 129 Cedar Drive runs perpendicular to the rear amenity space of 125 Cedar Drive, with a timber close board fence, 1.8 metres in height, forming a boundary treatment between the properties. Following the approval of the original application, the occupiers of 129 Cedar Drive have erected 2 no. outbuildings adjacent to the shared boundary. The outbuildings largely screen views of the glazing to the rear gable of 125 Cedar Drive and as such, it is not considered that the removal for the requirement for the outer two panes of glass to be fixed shut or obscure glazed would result in the unacceptable loss, or the perception of loss of, privacy to the rear amenity space of 129 Cedar Drive. It is not considered that the removal of this requirement would have any adverse impact upon the amenity of any other property.

- 8.10 The north-western elevation of the application property contains an opening, obscure glazed window serving a staircase. This window is located in close proximity to the boundary shared with no. 127 Cedar Drive. Although this is not a habitable room due to the proximity of the window to the neighbouring amenity space, as well as positioning of the window opposite the habitable windows of the neighbouring property, it is recommended that the requirement for this window to be fitted with obscure glazing is maintained to prevent loss of privacy and perceived loss of privacy.
- 8.11 In summary, it is recommended that the requirement for the outer two glazing panes of the four to the gable end in the rear (southwest) elevation to be fitted with obscure glazing and be non-opening below 1.7 metres from floor level is removed. It is considered that there is still a need for the staircase window to the northwest elevation to be fitted with obscure glazing and to be non-opening below 1.7 metres from finished floor level, in order to preserve the amenity of 127 Cedar Drive.

Conclusion

- 8.12 Based on the above it is considered that, subject to compliance with revised conditions, the proposal would conserve the amenity of neighbouring properties without having any adverse impact upon the character and appearance of the locality. The proposal therefore complies with development plan policies 1 and 33 and therefore the application is recommended for approval.

Human Rights

- 8.13 In reaching this conclusion the Human Rights of the applicants and nearby occupiers have been taken into account and it is concluded that the recommendation to permit is justified and proportionate.

RECOMMENDATION

PERMIT subject to the following conditions and informatives:-

- 1) The development hereby permitted shall not be constructed or changed, other than fully in accordance with the approved plans (drawing no's 1829/03 and 1829/02 B approved under original application 19/00666/DOM), unless otherwise agreed in writing by the Local Planning Authority.

Reason: To help preserve the character and appearance of the development

- 2) Notwithstanding any indication shown on the approved plans, and notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking, re-enacting or modifying that Order), the window to the staircase, to the northwest elevation, shall be;

(i) glazed with obscure glass which has been rendered obscure as part of its manufacturing process to Pilkington glass classification 5 (or equivalent of glass supplied by an alternative manufacturer), and

(ii) non-opening below 1.7 metres from the finished floor level of the floor directly adjacent to the window.

And shall be retained as such in perpetuity.

Reason: in the interest of neighbouring amenities.

INFORMATIVES

- 1) The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

For further information on this application please contact William Price on 01243 534734

To view the application use the following link - <https://publicaccess.chichester.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=QU6G8CERJ5J00>