

DELEGATED OFFICER REPORT

Application Ref: X/26/101011

Site Address: BIRCH SPINNEY, HUNGERFORD, BURSLEDON, SOUTHAMPTON, SO31 8DE

Case Officer: Dorothy Hei-Tung-Hoh

Description: Removal of Condition 3 of planning permission WIR 9076 (Erection of a Bungalow)

Particular Site Constraints?	Yes ☒	No ☐
• Outside of the urban edge – Countryside • Within Established Residential Area • Within The Old Bursledon Special Policy Area. • Adjacent to The Old Bursledon Conservation Area		

Planning History?	Yes ☒	No ☐
• Z/27449/000/00 - Dormer window - Permit - 03/04/1984 • Z/34329/000/00 - Construction of two storey side extension following demolition of existing garage and alterations to existing dormers - Permit - 02/01/1997 • LDC/26/100686 - Lawful Development Certificate for Proposed Construction of a) Detached Outbuilding (Studio/Gym/Garage/Home Office) b) Detached Carport - CLOPUD - Certificate Issued - 02/03/2026 • LDC/26/100685 - Lawful Development Certificate for Proposed Construction of a) a single storey, flat roofed, rear extension, b) an extension to the existing rear dormer and c) front porch – Under Consideration		

Publicity:	Letters ☒	Site Notice ☐	Newspaper ☐
Representations:	No comments were received.		
Parish Council:	No comments were received.		
Esso:	Esso were consulted on the application and have confirmed that they have apparatus in the vicinity of the site. They raise no objection, subject to compliance with their 'Special Requirement for Safe Working' and any relevant covenants.		

Site Visit:	Yes ☒	No ☐
Details: 23 rd April 2026.		

Policy:
National Planning Policy Framework Planning Practice Guidance
Development Plan: The <u>Eastleigh Borough Local Plan 2016-2036</u> The most relevant policies are Strategic policies S1 and S5; and Development Management policies DM1, DM2, DM26 and BU7.
Supplementary Planning Documents:

Assessment:

Policy Context and Principle of Section 73 Application

Section 73 of the Town and Country Planning Act 1990 enables the Local Planning Authority to consider whether it is appropriate to vary or remove a condition attached to an existing planning permission. In determining such an application, the Authority must consider the condition in question against current planning policy and circumstances, having regard to whether the condition continues to serve a valid planning purpose and meets the relevant tests for planning conditions.

The application site lies outside the defined urban edge and within the Old Bursledon Special Policy Area. The principle of residential development on the site has already been established through the original permission WIR.9076. The key consideration in this application is therefore not the principle of the dwelling itself, but whether Condition 3 remains necessary, and whether it should be removed, retained, or replaced with a more precise modern condition.

Proposal

This application seeks the removal of Condition 3 attached to planning permission WIR.9076, which granted outline planning permission for the erection of a bungalow on 14 November 1961.

The site is now occupied by a detached chalet-style dwelling, with accommodation at ground and first-floor/roof level.

The current Section 73 application does not seek to alter the approved description of development, which remains the erection of a bungalow. Instead, it seeks the complete removal of Condition 3, which restricts the erection of further structures on the land without prior consent from the Local Planning Authority.

Condition 3 states:

“Notwithstanding the provisions of the Town and Country Planning General Development Orders 1950 and 1960, no structures of any type shall be erected on the land without the prior consent of the Local Planning Authority.”

The stated reason for the condition is:

“In order to secure well planned development.”

Whilst the wording reflects historic planning legislation, the condition clearly sought to retain control over additional built form on the site following the construction of the dwelling.

Assessment

From a review of the original planning decision, Condition 3 was imposed to secure well-planned development, reflecting the historic approach to development control in rural and semi-rural locations. Whilst it is acknowledged that the condition is broadly worded, lacks precision, and refers to historic permitted development legislation which has since been superseded, the underlying planning objective remains clear, which is to control the extent of built form within a spacious plot in a countryside location.

The application site lies outside the defined urban edge and within the Old Bursledon Special Policy Area, where the prevailing character is one of loose-knit, spacious development set within a verdant landscape. Policy guidance for this area seeks to resist further development, with limited exceptions, and emphasises the importance of preserving the loose-knit character by avoiding significant increases in floorspace and the obstruction of open views, as well as maintaining the character of the built environment through appropriate form and materials.

In this context, the unrestricted erection of additional structures, including those permitted under the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), would have the potential to result in a cumulative increase in built form. This could erode the established spatial qualities of the site and surrounding area, undermining the prevailing character which the policy seeks to protect.

Furthermore, it is noted that the site has increased in size since the original permission was granted. As such, the removal of the condition would enable a greater extent of development to be accommodated across the site under permitted development rights, thereby increasing the risk of overdevelopment and a corresponding erosion of the site's contribution to the character of the area.

In light of the above, it is considered that the complete removal of Condition 3 would result in the unrestricted application of permitted development rights across the site. This would allow extensions and outbuildings to be erected without the need for express planning permission. Given the size of the site and its countryside location, this could materially alter the character of the plot and its contribution to the wider area. Accordingly, the full removal of the condition is not considered to be acceptable, as it would undermine the original planning intention and give rise to harm to the character and appearance of the area, contrary to Policy DM1 of the Eastleigh Borough Local Plan (2016–2036) and the objectives of the Old Bursledon Special Policy Area.

Notwithstanding the above, it is recognised that the existing condition does not meet modern standards in terms of precision and clarity. In accordance with Section 73 of the Town and Country Planning Act 1990, it is open to the Local Planning Authority to issue a new planning permission subject to revised conditions.

In this instance, it is considered appropriate to replace the existing condition with a more precisely worded condition which clearly identifies the types of development being restricted and is directly related to the planning objective of controlling the scale and extent of development on the site.

A revised condition removing specific permitted development rights, including Classes A (extensions) and E (outbuildings) of the GPDO, is considered to represent a proportionate and reasonable approach. This would retain necessary planning control over future development, whilst addressing concerns regarding the imprecision and scope of the original condition and ensuring that any future proposals can be properly assessed against the policies of the Development Plan.

Climate Change:

In July 2019, the Council declared a Climate Change and Environmental Emergency. In doing so it agreed, among other things, to: (a) put in place measures to ensure the Council's own operations and functions achieve carbon neutrality by 2025; (b) work with partners to aim for all projects and services delivered in the Borough to achieve carbon neutrality by 2030; (c) ensure that the Council's procurement policy recognises carbon neutrality as one of its primary considerations; and (d) recognise the urgency of action to mitigate and adapt to climate change in every decision taken by the Council. This is underpinned by the Climate and Environment Emergency Strategy 2020–2030 and the supporting Climate and Environmental Emergency Action Plan – Update June 2020.

The declaration of the Climate Change and Environmental Emergency demonstrates a strong commitment from the Council to achieve net zero. The NPPF, development plan and adopted local plan policy do not set this as a specific target, but it is a material consideration to be considered alongside all other material considerations. In any case addressing climate change is a core part of the NPPF and local plan policy. The need to support the economy is part of the Strategic Environmental Assessment for the adopted local plan, as is an assessment of climate impacts.

The NPPF aims for the need for housing to be met, and policy S2 of the Local Plan sets a target for 14,580 dwellings to be provided by 2036. The NPPF, Policies S1, DM2 and DM3 of the Local Plan and energy and water elements of the adopted Environmentally Sustainable Development SPD require development to be sustainable in terms of resource use, climate change and energy use. When considering the impact of climate change, the proposed development is expected to be resilient to the potential effects of climate change and is expected to reduce/limit impacts on climate emissions as a result of the development or its use.

Equalities Implications:

Section 149 of the Equalities Act 2010 created the public sector equality duty. Section 149 states:

- A public authority must, in the exercise of its functions, have due regard to the need to:
 - a. eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - b. advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - c. foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

When making policy decisions, the Council must take account of the equality duty and in particular any potential impact on protected groups. It is considered that this application does not raise any equality implications

Conclusion:

Recommendation:

PERMIT ☒

REFUSE ☐