



Planning, Design and Access Statement
1 Home Farm, St Johns Road, Hedge End, Southampton, SO30 4DF

19 March 2024

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1 INTRODUCTION

- 1.1 This planning, design and access statement has been prepared by Wessex Planning Ltd on behalf of Mr P Lipscombe in support of a Section 73 planning amendment application to vary Condition 1 of planning permission H/23/95499 at 1 Home Farm, St Johns Road, Hedge End, Southampton, SO30 4DF for Garage conversion, single-storey flat roof side extension, and a new flat roof double garage attached to the side extension.
- 1.2 It is proposed to amend the design of the flat garage roof to make it more attractive in the street scene.
- 1.3 The submission includes the following:
 - Location Plan LP01
 - Site Layout Plan SL01 Rev B
 - Proposed North and South Elevations
 - Proposed East and West Elevations Rev A
 - Overshadowing Report
- 1.4 The recent High Court ruling in the case of *Armstrong v Secretary of State for Levelling-Up, Housing and Communities* [2023] EWHC 176 reaffirms the principle of Section 73 ('S73') applications which can be used to amend conditions attached to an approved scheme, provided it would not conflict with the description of development permitted by the planning permission.
- 1.5 The issue surrounding the scope of S73 applications was identified over the course of the High Court proceedings which concerned a 2007 permission to build a Swiss chalet-style home on the Cornish coast. In 2021, the applicant applied to vary the building's design under Section 73 of the TCPA 1990. This application was refused by Cornwall Council on the basis that: "the proposed revised design completely alters the nature of the development and would result in a development that would differ materially from the approved permission", falling outside the scope of S73.
- 1.6 A subsequent appeal against the refusal was dismissed by a Planning Inspector, by reason of the proposal falling outside of what is considered a 'Minor Material Amendment' ('MMA'). However, once the case was presented to the High Court, the presiding Deputy Judge quashed the appeal decision, having found that the Inspector misinterpreted the scope of S73.
- 1.7 The judge stated:
"there is nothing in section 73, or in the TCPA 1990, that limits its application to "minor material amendments", or to amendments which do not involve a "substantial" or "fundamental" variation".
- 1.8 The judge went on to state:
"if Parliament had intended the power to restrict its application further (for example to limit it to "minor material" amendments to a condition, or non-fundamental variations to a condition) one would have expected that to be expressed in the language used and it could readily have done so...Instead, it clarifies that S73 applies to any application for planning permission for development of land: "without complying with conditions subject to which a previous planning permission was granted".
- 1.9 The judgement focussed on the: "plain and ordinary meaning" of S73. The judge stated that:
"section 73 is clearly intended to be a provision which enables a developer to make a section 73 application to remove or vary a condition, provided of course that the application does not conflict with the operative part of the planning permission".
- 1.10 The judgement goes on:

“The operative part of the planning permission is for the construction of a single dwelling on the Site. The proposed revision to the architectural style of the dwelling (however different in nature) does not conflict with that. It will remain a permission for the construction of a single dwelling on the Site”.

- 1.11 It was deemed that the redesign of the approved dwelling would not cause a:

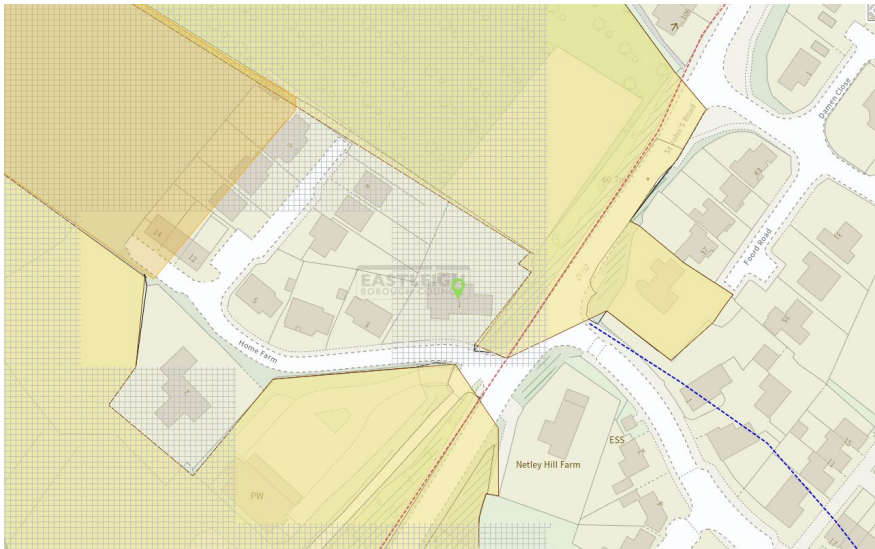
“change in the basic principle of what was being permitted on the Site, namely the construction of a single dwelling”.

- 1.12 Accordingly, it was considered that this change could fall within the scope of S73.
- 1.13 Therefore, even if a proposal significantly changes the design of the original proposal, it can still be dealt with under S73.
- 1.14 This application seeks to amend the design of the garage within the previously approved application.

2 SITE CONTEXT AND HISTORY

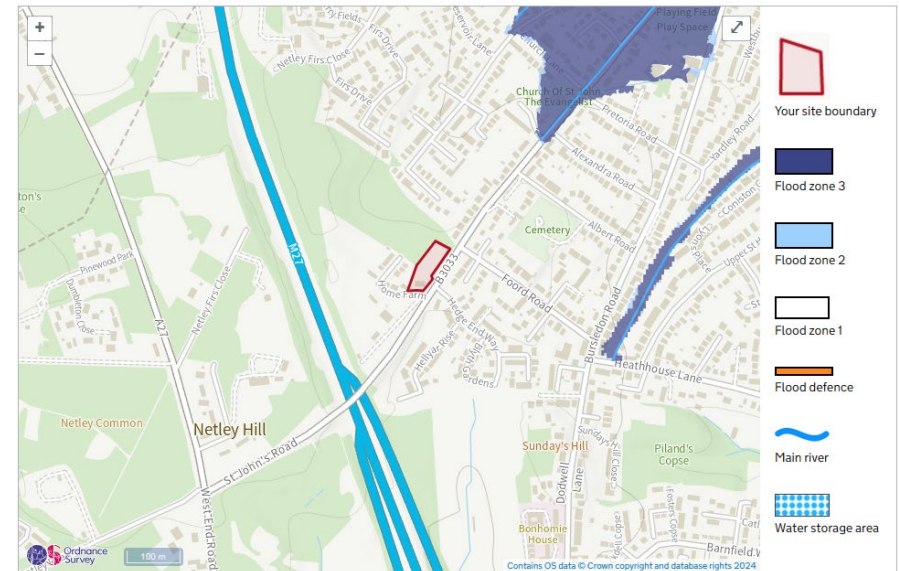
SITE CONTEXT AND HISTORY

- 2.1 1 Home Farm is one of 14 relatively new dwellings granted planning permission on 23rd March 2017 (planning application reference F/15/76447) and is the first dwelling on the right upon entering Home Farm.
- 2.2 Planning permission was granted on 6th December 2023 for a garage conversion, a single-storey flat roof side extension, and a new flat roof double garage attached to the side extension (planning application reference H/23/95499).
- 2.3 Contrary to the case officer's report in determining planning application reference H/23/05499, the site is located within the urban edge (as shown below), as designated by the adopted local plan, and therefore the principle of development is acceptable, subject to the other relevant policies of the Local Plan.



- 2.4 Access to the site is via the existing access from Home Farm, with ample parking available on site.

- 2.5 The site is located in flood zone 1 and therefore has a low probability of flooding from rivers and the sea.



- 2.6 The relevant planning history for this site is;
- *F/15/76447 | Construction of 14no. dwellings (3no. 2-bed, 4no. 3-bed, 3no. 4-bed and 4no. 5-bed) and a proposed light industrial unit (Class B1c 265 sqm) with associated access, parking, landscaping, acoustic fence and dedication of woodland for public access following the demolition of existing industrial building (amended description). | **PERMIT** | 23 Mar 2017*
 - *H/23/95499 | Garage conversion, single-storey flat roof side extension, and a new flat roof double garage attached to the side extension (AMENDED DESCRIPTION) | **PERMIT** | 06 Dec 2023*

Hedge End Way



St John's road



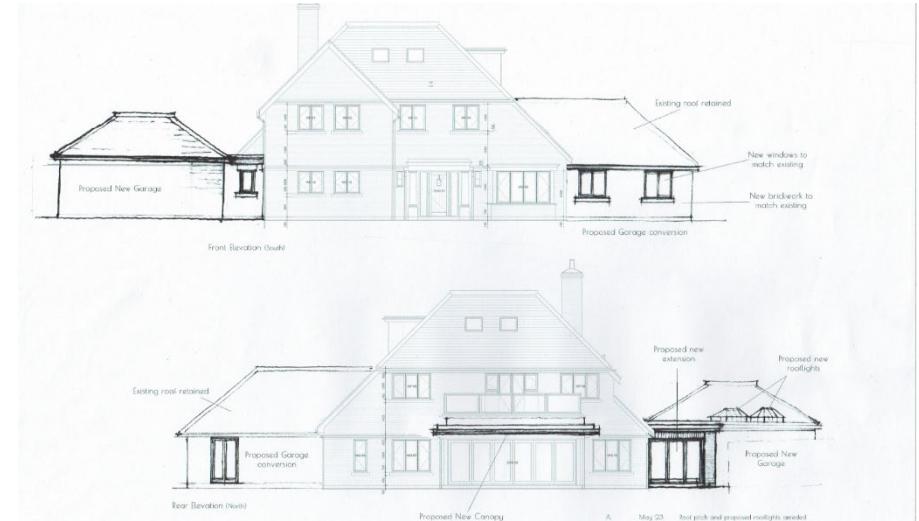
Vicarage Drive, Hedge End



3 DESIGN EVOLUTION

DESIGN EVOLUTION

- 3.1 The recent planning permission for the extensions initially proposed a pitched roof for the garage. However, during the course of this application, due to concerns about overshadowing of the neighbours' garden, the garage roof was initially lowered but eventually changed from a pitched roof to a flat roof, and granted planning permission (see plans opposite).
- 3.2 However, it is considered by the applicant that the proposed flat roof form does not reflect the roof forms of the existing dwelling and would represent an unattractive form of development that is very visible in the public realm.
- 3.3 Whilst aware of the neighbour's concerns about potential overshadowing on their nearby patio area, on reflection, a pitched roof design is not considered to have any materially detrimental impact upon the neighbours.
- 3.4 During the previous application several overshadowing diagrams were considered. For this application it was considered a formal overshadowing report should be instructed to provide a final resolution to the issue of overshadowing.
- 3.5 The new proposal is described in the next section.



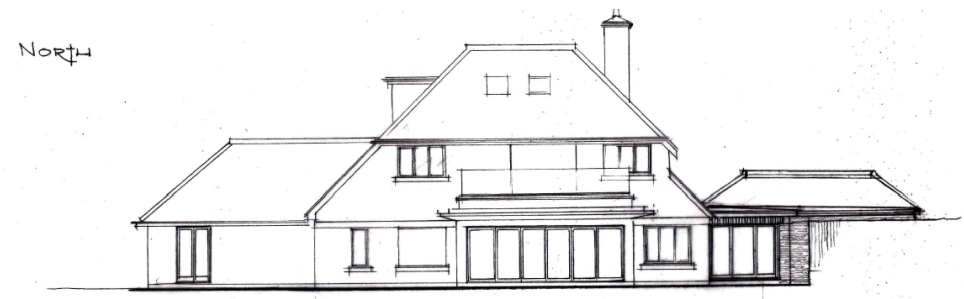
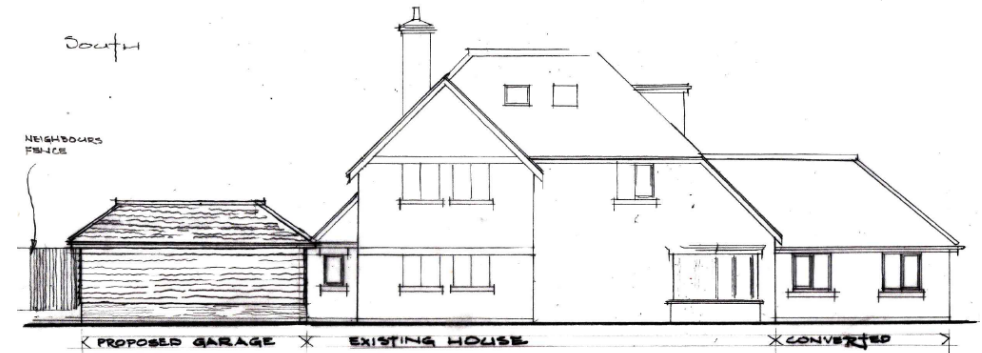
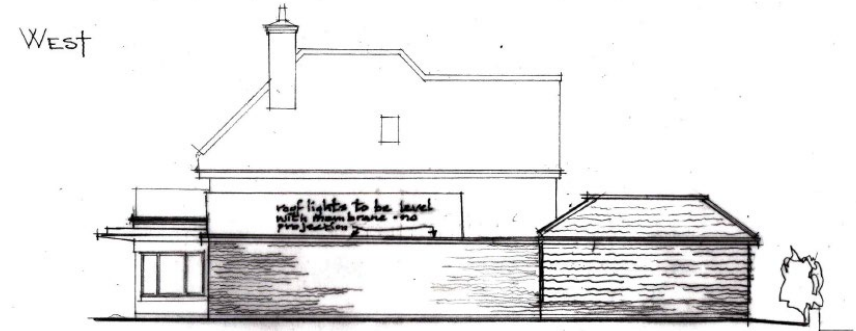
4 PROPOSAL

PROPOSAL

- 4.1 The proposal is to replace the flat roof to the garage with a flat topped hipped roof to deliver a more attractively designed building within the street scene and better reflect the roof pitches and hips of the host dwelling.
- 4.2 There was particular concern about the appearance of the approved flat roof garage in a vista that was so dominant in the public realm. The photograph below shows how clear the view of the proposal would be, and also that there are no flat roof elements in any of the buildings within this view of the public realm.



- 4.3 The proposed elevations are shown below:

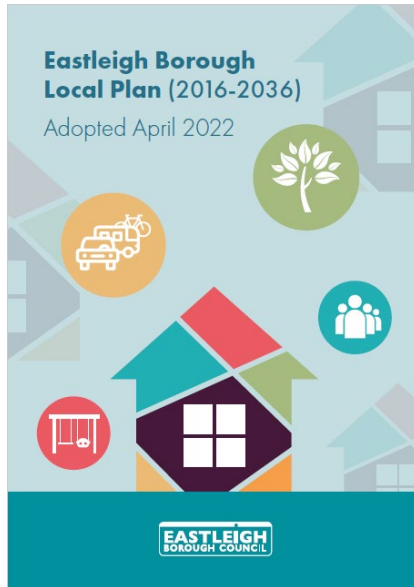


- 4.4 It is not proposed to increase the height or change the roof form to the element of the extension behind the garage.
- 4.5 The height of the proposed roof will be 2.7 metres to the eaves, rising to a maximum of 4.1 metres to the roof pitch.

5 POLICY CONTEXT

POLICY CONTEXT

- 5.1 The policy context comprises the Eastleigh Borough Adopted Local Plan 2016-2036 (adopted in April 2022), Eastleigh Borough Supplementary Planning Documents, together with the National Planning Framework and its associated guidance.



- 5.2 The most relevant policies of the adopted Local Plan are detailed below, with the full policy text provided as Appendix 1:
- Policy DM1, General criteria for new development
- 5.3 The following Supplementary Planning Documents carry material weight;
- Quality Places (2011)

6 OTHER MATERIAL CONSIDERATIONS

OTHER MATERIAL CONSIDERATIONS

- 6.1 This planning application, as a Section 73 application, primarily seeks an improvement in the design quality of the overall dwelling and garage.
- 6.2 The National Planning Policy Framework was amended in 2021 to fundamentally alter the way in which planning application were considered to ensure that 'beauty' became a material planning consideration.
- 6.3 Paragraph 135 of the NPPF states
"Planning policies and decisions should ensure that developments:
- a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
 - b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
 - c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);
 - d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;
 - e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and
 - f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience."
- 6.4 Additionally, the Local Planning Authority has adopted a supplementary planning document (Quality Places SPD) that provides guidance as to what constitutes high quality design.
- 6.5 This SPD is very detailed but accentuates the need for a contextual analysis of each site proposed for development, as well an appreciation of the site's constraints and opportunities, before applying appropriate site-specific design principles.

7 PLANNING ASSESSMENT

- 7.1 The proposal for a double garage, in the position proposed, has been agreed. This Section 73 proposal seeks to provide an improvement in the design.
- 7.2 It is irrefutable that the proposal provides a better visual appearance from within the street scene, as the garage roof pitches echo that of the host dwelling itself.
- 7.3 Therefore the only consideration with this proposal is whether or not the proposal materially impacts the neighbours to such an extent that the proposal should be refused planning permission.
- 7.4 With the previous application various shadow diagrams were submitted, both by the architect and the neighbour. However with this proposal, a formal daylighting report has been instructed from a CIBSE Chartered Building Services Engineer. Appropriate software compliant with the requirements of CIBSE (Chartered Institute of Building Services Engineers) Application Manual AM11 Building Performance Modelling (2015) has been used. This manual provides guidance on how to model daylight/sunlight in order to accord with the Building Research Establishment's "Site layout planning for daylight and sunlight" 2022, the guidance used in assessing light issues associated with planning applications.
- 7.5 The BRE guidance requires that at the Spring Equinox, at least 2 hours of direct sunlight is received over 50% of the garden area.
- 7.6 The reason that the Spring Equinox is chosen is because that is the time of the year when the sun is low in the sky, and causes the most extensive shading. During the summer, the sun is very high in the sky, which results in minimal shading. The choice of the Spring Equinox thus makes any overshadowing report that chooses the BRE methodology very robust. The BRE guidance is the only recognised methodology in the field of Town Planning.
- 7.7 The overshadowing report undisputedly demonstrates that over 4 hours of direct sunlight is received over 50% of the garden area of No. 3 Home Farm at the Spring Equinox, well in excess of the BRE guidelines.
- 7.8 Indeed it is demonstrated in the report that the sole difference between the existing situation and that proposed is a negligible reduction in direct sunlight at 9am on March 21st.
- 7.9 When considering daylighting and overshadowing, it is accepted that, in amenity terms, the impact of a proposal on the most used area of the garden must also be considered.
- 7.10 This deliberation must consider when this part of the garden is most often used. It is not materially harmful if the garden does not receive direct sunlight during the winter months, as, in the UK, gardens are not often used for recreation in the winter.
- 7.11 It is recognised that the most used area of No 3's garden is its patio on the north-east side of the plot. It is also accepted that the patio has been placed in this position to receive the most sunlight during the summer months.
- 7.12 However, as mentioned above, during the summer months, the sun is high in the sky and this results in minimal shading throughout the day. The overshadowing report also contains the models for June and September and it is demonstrated, without any doubt, that there will be NO impact from shading on this patio area.
- 7.13 Indeed, the modelling demonstrates that the only shading caused to this patio area is through the existing boundary fence. The proposed garage would have no material impact whatsoever.
- 7.14 As such, the proposal is in complete accordance with Policy DM1 of the Local Plan, and the Quality Places SPD, and it is therefore requested that this application is approved without delay.

8 CONCLUSION

CONCLUSION

- 8.1 This proposal seeks to enhance the visual appearance of the proposed garage within the street scene. The flat roof design was both unattractive and out of character with the surroundings.
- 8.2 With a new roofline that better echoes the existing roofline of the host dwelling, the proposal is more in sympathy with the character and appearance of the area, and would be more attractive in the overall street scene.
- 8.3 The concerns about overshadowing from the neighbour have been robustly refuted through the instruction of a CIBSE qualified Buildings Services Engineer who has used an industry standard modelling programme to address sunlight issues in a manner that accords with the BRE guidance.
- 8.4 In short, there will be NO material shadowing impact upon the neighbour's property.
- 8.5 As such the proposal accords with Policy DM1 of the Local Plan and the Quality Places SPD, and permission should therefore be granted for this proposal without delay.

9 APPENDIX 1 - POLICIES

Policy DM1, General criteria for new development

1. *All new development should (as relevant):*
 - a. *not have an unacceptable impact on, and where possible should enhance:*
 - i. *residential amenities of both new and existing residents; the character and appearance of urban areas, the countryside and the coast;*
 - ii. *biodiversity (avoiding significant adverse impacts); and*
 - iii. *the significance of heritage assets;*
 - b. *make efficient use of the site, maximise opportunities to increase density and have regard to potential development opportunities on adjoining land;*
 - c. *take full and proper account of the context of the site including the character, appearance and land uses of the locality or neighbourhood, and be compatible with adjoining uses and be well integrated with these in terms of mass, scale, materials, layout, density, design and siting, both in itself and in relation to adjoining buildings, spaces and views. Where adjoining development is poor in urban design terms, new development should contribute to improving the character of the area;*
 - d. *not involve the loss of or damage to trees, woodlands, hedgerows, ponds, priority habitats or other landscape features of value to the character of the area, for appearance or biodiversity unless they can be replaced with features of equivalent or enhanced value, (recognising that some species and habitats may be irreplaceable);*
 - e. *include a landscape scheme covering the design and layout of external space;*
 - f. *protect and enhance public rights of way and National Trails and provide fully connected green infrastructure that interlaces the development and connects into the wider network;*
 - g. *provide satisfactory management arrangements for all landscape, green infrastructure and biodiversity enhancement;*
 - h. *incorporate provision for people with disabilities and create accessible communities that cater for all;*
 - i. *incorporate design measures to inhibit criminal and anti-social behaviour;*
 - j. *incorporate provision for on-site waste management; and*
 - k. *include provision for public art associated with new large scale development in accordance with the Council's adopted Public Art Strategy.*