

DELEGATED OFFICER REPORT

Application Ref: X/24/97317

Site Address: WATERS EDGE, LANDS END ROAD, BURSLEDON, SOUTHAMPTON, SO31 8DN

Case Officer: Rachael Morris

Description: Removal of condition 4 (privacy glass) from planning permission H/21/90833 for the 'Addition of third floor, enlargement of raised terraces, alteration to fenestration'.

Particular Site Constraints?	Yes ☒	No ☐
• Site lies partially in Flood Zone 2 • Conservation Area • Special Policy Area • Countryside • Adjacent to Special Protection Area		

Planning History?	Yes ☒	No ☐
• Z/28234/000/00 - Addition of pitched roof – Permit – Jun 1985 • C/06/56076 - Construction of replacement front boundary wall & gate – Permit – Mar 2006 • C/06/56082 - Repairs & additions to river wall & buttresses – Withdrawn by applicant – Feb 2006 • C/06/57641 - Construction of single storey front extension & addition of new pitched roof over dwelling with rear facing dormer/balcony to provide first floor living accommodation (amended description) – Permit – Sept 2006 • C/04/52422 - Construction of new enlarged roof and single storey front extension – Withdrawn by applicant – Dec 2004 • C/05/54272 - Erection of 2m high brick wall & new sliding gate with pedestrian entrance to front boundary & erection of 3 new buttresses & repairs to existing river wall at rear – Withdrawn (returned undetermined) – Aug 2005 • NC/18/84577 - Notification of intent. 11 Leylandii - fell. – Raise no objection to – Jan 2019 • NC/19/84819 - Notification of intent. 1 no. Magnolia - Fell. – Raise no objection to – Mar 2019 • N/13/73193 - Notification of intent to fell 1no. Conifer in rear garden – Raise no objection to – Oct 2013 • N/12/71310 - Notification of intent to reduce Conifer trees (G2) in height by 50% - Raise no objection to – Sept 2012 • N/15/76420 - Notification of proposed removal of 1no. Leylandii – Raise no objection to – Jun 2015 • H/20/88346 - Addition of third floor, enlargement of raised terraces, alteration to fenestration – Refuse – Nov 2020 • H/21/90833 - Addition of third floor, enlargement of raised terraces, alteration to fenestration – Permit – Aug 2021 • H/22/93920 - Construction of in-ground swimming pool with surrounding terrace and plant cupboard – Permit – Mar 2023		

Publicity:	Letters ☒	Site Notice ☒	Newspaper ☒
Representations:	The Boat Store. Objection (summarised). The glass was provided for privacy from overlooking, noise and lighting disturbance from Waters Edge. Loss of privacy by the removal of trees and shrubbery between the properties by Waters Edge has now occurred.		
Parish Council:	Councillors felt unable to make a comment due to the lack of information regarding the location of the privacy glass. The original		

	request for privacy glass seemed a reasonable condition and there was no indication in this application of any change in circumstance that made its removal justified.
Built Heritage Consultant:	No objection.
Old Bursledon Action Group:	No comment.
Bursledon Rights of Way & Amenities Preservation Group:	No comment.

Site Visit:	Yes ☒	No ☐
Details: 21/06/2024		

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, S2, S5 and S8; and Development Management policies BU7, DM1, DM11, DM12, DM14 and DM26. Supplementary Planning Documents: Quality Places; Residential Parking Standards; Character Area Appraisals; Old Bursledon Conservation Area Appraisal and Management Proposals. Legislation Section 38(6) of the Planning and Compulsory Purchase Act 2004 states:- "If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise." The site also lies within a Conservation Area and Section 72(1) of the Planning (Listed Buildings & Conservation Areas) Act 1990 states: "In the exercise, with respect to any buildings or other land in the Conservation Area of any powers (under the Planning Acts), special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area".)

Assessment: The application relates to the removal of condition 4 H/21/90833 for privacy screening on the approved balcony/roof terrace balcony, as below. <i>The second floor balcony/terrace on the south elevation [as marked on the approved plan A113] shall be obscure glazed to Pilkingtons level 3 or equivalent to a height of at least 1.7 metres above the floor of the room in which it is installed. Once installed the privacy glass shall be permanently maintained in that condition.</i> Policy DM1 states development should not have an unacceptable impact on, and where possible should enhance residential amenities of both new and existing residents... and 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. Whilst it is recognised that an element of the balcony/terrace has a solid built form acting as balustrade, the privacy glass should make up the rest of requirement, up to 1.7m in height. Without this extra privacy glass, the existing terrace has the opportunity to
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overlook neighbouring properties for prolonged periods of time when occupants are seated and so this will provide a greater sense of privacy for the neighbouring property at The Boat Store.

In addition, an appeal decision (APP/W1715/D/20/3264972) on this site from 2021, for a similar scheme than that approved, addressed the concerns around the overlooking to The Boat Store (previously called Tara) and assessed that a suitable privacy screen to the balcony would overcome this potential issue. The appeal extract is below.

- *There is already some overlooking between the appeal property and its neighbouring properties, particularly given the steeply sloping site and pattern of glazing in these properties. However, I agree that the design of the upper floor extension with its additional window in the side elevation as well as the balcony wrapping around the side facing towards the neighbouring property, Tara would unacceptably increase the extent of overlooking and leading to a loss of privacy for these neighbours. This harm to the neighbours' living conditions would conflict with Saved Policy 59.BE of the Local Plan Review; Policy DM1 of the 2016-2036 Local Plan; and the Quality Places Supplementary Planning Document as well as paragraph 127 f) of the Framework, all of which, amongst other things, seek to protect the amenities of existing and future occupiers.*
- *However, I consider that the harm could be overcome and mitigated through a requirement for the use of a privacy screen to the balcony, and, were there no other matters of concern and planning permission were to be granted, that this could be achieved through the imposition of an appropriate condition. The Council has suggested that the condition should relate to the new window in the side elevation, but I consider that the use of an appropriate privacy screen to the balcony would be the more effective detail to ensure the protection of the neighbours' living conditions.*

As such, it is not considered appropriate to remove this condition as it provides needed privacy to the occupier's amenity of The Boat Store and was specifically conditioned to eliminate the potential for overlooking to an unacceptable extent. Therefore, this proposal would not accord with policy DM1 from the Eastleigh Local Plan (2016-2036) that requires existing residential amenity to not be unacceptable impacted and, if possible, enhanced.

While it is noted that the condition mentions the word 'room' and as such the applicant claims the condition is not clear, the condition does specify the 'second floor balcony/terrace' and does not generalise to the second floor itself and so it is clear the condition refers to the external space of the terrace. As such privacy glass should be installed to the top of the existing wall up to a height of 1.7m to accord with the original condition.

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.

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 ☒

- The removal of condition 4 would result in the potential for overlooking to an unacceptable degree for the neighbouring property's amenity at The Boat Store. As such this is contrary to policy DM1 from the Eastleigh Local Plan (2016-2036).