

Committee Report

Planning, Housing and Health
North Devon Council
Lynton House, Commercial Road,
Barnstaple, EX31 1DG



Application No: 78375
Application Type: Variation of Condition(s)
Application Expiry: 23 April 2024
Extension of Time Expiry:
Publicity Expiry: 27 March 2024
Parish/Ward: BRATTON FLEMING/BRATTON FLEMING
Location: Land at South View
Bratton Fleming
Devon

Proposal: Variation of condition 2 (approved plans) linked to planning permission 64032 (Erection of dwelling with associated parking) to allow for changes made to the design and amendments to associated parking

Agent: Woodward Smith Chartered Architects
Applicant: PLB Developments Ltd
Planning Case Officer: Mr J. Jackson
Departure: N

EIA Development:
EIA Conclusion: Development is outside the scope of the Regulations.
Decision Level/Reason for Report to Committee (If Applicable): Committee – North Devon Council own part of the site

Site Description

The application relates to a site within the developed area of Bratton Fleming. The site is located to the north eastern edge of the village.

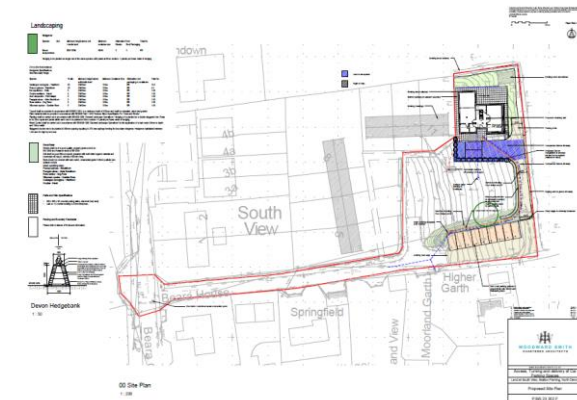
The site benefits from an extant planning permission under reference 64032, for the erection of a dwelling with associated parking. The planning permission was granted on 19 December 2017. The development is now almost completed, and comprises a two storey, four bedroom dwelling.

Prior to the granting of the extant permission, outline planning permission for one dwelling at the site was granted on 25 January 2017 under reference 62139.

The site is located at the end of the South View cul-de-sac that provides access to a number of existing residential properties. Existing dwellings are arranged around an area of green space. A communal parking and turning area that is utilised by the occupiers of the existing dwellings is located to the south of the green space. It is noted that the area of green space and communal parking area is included within the red line boundary shown on the submitted site location plan.

The site is bounded by an agricultural field to the north and east, and by existing residential development to the south and west.

The site is located within flood zone 1.



Proposed Floor Plans and Elevations

Proposed Site Plan



As Built Dwelling

As Built Dwelling

Recommendation

Approved

Legal Agreement Required: No

Planning History

Reference Number	Proposal	Decision	Decision Date
49970	DEMOLITION OF 2 DWELLINGS & ERECTION OF 4 DWELLINGS TOGETHER WITH ASSOCIATED PARKING & LANDSCAPING at Land at 3 & 4 South View Beara Lane Bratton Fleming Barnstaple Devon	FULL PLANNING + S106 APPROVAL	12 April 2012
56329	APPROVAL OF DETAILS IN RESPECT OF DISCHARGE OF CONDITION 4 (GROUND CONTAMINATION) ATTACHED TO PLANNING PERMISSION 49970 at 1 - 4 SOUTH	DISCHARGE OF CONDITION APPROVE	7 October 2013

Reference Number	Proposal	Decision	Decision Date
	VIEW, , BRATTON FLEMING, BARNSTAPLE, DEVON, EX31 4TQ		
60222	OUTLINE APPLICATION FOR ERECTION OF UP TO 40 DWELLINGS (ALL MATTERS RESERVED EXCEPT ACCESS) (AMENDED TRANSPORT STATEMENT) at BEARA DOWN FARM, GRANGE HILL, , BRATTON FLEMING, BARNSTAPLE, DEVON, EX31 4TL	WITHDRAWN	5 April 2016
61321	OUTLINE APPLICATION FOR 2 OPEN MARKET DWELLINGS AND 1 AFFORDABLE DWELLING & PARKING (ALL MATTERS RESERVED) at 11 SOUTH VIEW, , BRATTON FLEMING, BARNSTAPLE, DEVON, EX31 4TQ	FULL PLANNING REFUSAL	12 September 2016
62139	OUTLINE APPLICATION FOR THE ERECTION OF ONE DWELLING WITH ASSOCIATED PARKING (ALL MATTERS RESERVED) at 11 SOUTH VIEW, , BRATTON FLEMING, BARNSTAPLE, DEVON, EX31 4TQ	OL APPROVAL	25 January 2017
64032	ERECTION OF ONE DWELLING WITH ASSOCIATED PARKING at LAND ADJACENT, 11 SOUTH VIEW, , BRATTON FLEMING, BARNSTAPLE, DEVON, EX31 4TQ	FULL PLANNING APPROVAL	19 December 2017
72301	Approval of details in respect of discharge of condition 6 (construction management plan) of planning permission 64032 at Land adj 11 South View Bratton Fleming Barnstaple Devon EX31 4TQ	Approved	18 November 2020

Constraints/Planning Policy

Constraint / Local Plan Policy	Distance (Metres)
Advert Control Area Area of Special Advert Control	Within constraint
Ancient Woodland: BUTTON WOOD Ancient & Semi-Natural Woodland	450.60
Chivenor Safeguard Zone Consultation Any Development	Within constraint
Landscape Character is: 2D Moorland edge slopes	Within constraint
Public Right of Way:Footpath 209FP13	Within constraint
Public Right of Way:Footpath 209FP23	Within constraint
USRN: 27501302 Road Class:R Ownership: Highway Authority/Private	Within constraint
USRN: 27504068 Road Class:Q Ownership: Private	Within constraint
USRN: 27505438 Road Class:YFP Ownership: Highway Authority	Within constraint

Constraint / Local Plan Policy	Distance (Metres)
USRN: 27505443 Road Class:YFP Ownership: Highway Authority	Within constraint
Within Adopted Unesco Biosphere Transition (ST14)	Within constraint
Within:, SSSI 5KM Buffer in North Devon (Exmoor NP),consider need for AQIA if proposal is for anaerobic digester without combustion plant	Within constraint
Within:, SSSI 5KM Buffer in NorthDevon,consider need for AQIA if proposal is for anaerobic digester without combustion plant	Within constraint
Within:Exmoor and Quantock Oakwoods, SAC 10KM Buffer if agricultural development consider need for AQIA	Within constraint
Within:Exmoor Heaths, SAC 10KM Buffer if agricultural development consider need for AQIA	Within constraint
SSSI Impact Risk Consultation Area	Within constraint
BRF - Bratton Fleming Spatial Strategy DM01 - Amenity Considerations DM02 - Environmental Protection DM04 - Design Principles DM05 - Highways DM06 - Parking Provision DM08 - Biodiversity and Geodiversity DM08A - Landscape and Seascape Character DM23 - Residential Development in defined Settlements without development boundaries ST01 - Principles of Sustainable Development ST03 - Adapting to Climate Change and Strengthening Resilience ST04 - Improving the Quality of Development ST07 - Spatial Development Strategy for Northern Devon's Rural Area ST10 - Transport Strategy ST14 - Enhancing Environmental Assets	

Consultees

Name	Comment
Bratton Fleming Parish Council Reply Received 21 March 2024	Bratton Fleming Parish Council has no objection to this application, and recommends that it is approved.
Councillor M Prowse Reply Received	No comments received
DCC - Development Management Highways Reply Received	No comments received

Name	Comment
DCC - Public Rights Of Way Reply Received	No comments received
Environmental Health Manager Reply Received 14 March 2024	I have reviewed this variation application in relation to Environmental Protection matters. I have no objection to the proposed design and site layout changes.
South West Water Reply Received 18 March 2024	<p>With reference to the planning application at the above address, the applicant/agent is advised to contact South West Water if they are unable to comply with our requirements as detailed below.</p> <p>Surface Water Services The applicant should demonstrate to your LPA that its prospective surface run-off will discharge as high up the hierarchy of drainage options as is reasonably practicable (with evidence that the Run-off Destination Hierarchy has been addressed, and reasoning as to why any preferred disposal route is not reasonably practicable):</p> <ol style="list-style-type: none"> 1. Water re-use (smart water butts, rainwater harvesting, grey flushing toilets) 2. Discharge into the ground (infiltration); or where not reasonably practicable, 3. Discharge to a surface waterbody; or where not reasonably practicable, 4. Discharge to a surface water sewer, highway drain, or another drainage system; or where not reasonably practicable, 5. Discharge to a combined sewer. (Subject to Sewerage Undertaker carrying out capacity evaluation) <p>No surface water strategy details were provided with this planning application. Please note that a discharge into the ground (infiltration) is South West Water's favoured method and meets with the Run-off Destination Hierarchy. Should this method be unavailable, SWW will require clear evidence to demonstrate why the preferred methods listed within the Run-off Destination Hierarchy have been discounted by the applicant.</p> <p>For Highway run off please contact the Highway Authority to agree disposal method. I trust this provides confirmation of our requirements, however should you have any questions or queries, please contact the Planning Team on 01392 442836 or via email: DeveloperServicesPlanning@southwestwater.co.uk</p>
Sustainability Officer Reply Received	No comments received

Neighbours / Interested Parties

Comments	No Objection	Object	Petition	No. Signatures
1	0.00	4	0.00	0.00

Four objections and one general comment have been received. The following issues have been raised:

- Proposals could exacerbate parking issues
- Loss of green space
- Access for emergency vehicles
- Other residents should be able to have dedicated parking provision

The issues raised have been taken into account in the assessment of the application.

Considerations

Proposal Description

The application seeks full planning permission under Section 73 of the Town and Country Planning Act 1990, for the variation of condition 2 (approved plans) linked to planning permission 64032 (Erection of dwelling with associated parking) to allow for changes made to the design and amendments to associated parking.

The application proposes a four bedroom, two storey dwelling with a dual pitched roof and gable end to the south elevation. The principal entrance to the dwelling is also provided at the south elevation. A hipped gable is shown at the rear. The external walls are finished in white render, with slate used for the roof covering. A private garden and patio area is provided at the rear of the dwelling. Two parking spaces are provided to the front of the dwelling, and a driveway surfaced in compacted gravel would provide access to the South View highway. A Devon hedgebank would enclose the parking area at the front of the dwelling. Nine parking spaces would be provided within the communal parking area, which would be surfaced in gravel.

The alterations proposed to the extant permission are as follows:

1. Creation of driveway, parking provision for two vehicles and turning area. Parking area and part of driveway to be enclosed by Devon hedgebank.
2. Removal of previously approved dormer window to the front elevation of the dwelling.
3. Removal of previously approved rear gable end, sun room and balcony from the rear elevation of the dwelling.
4. Removal of previously approved cladding to external walls. External walls now proposed to be entirely rendered.
5. Provision of nine car parking spaces within the communal parking area, rather than 10 as previously permitted.

Planning Considerations Summary

The material considerations pursuant to the application are:

- Principle of Development

- Design, Character and Appearance
- Highways
- Residential Amenity
- Ecology
- Foul and Surface Water Drainage

Planning Considerations

1. Principle of Development

In the determination of a planning application Section 38 of the Planning & Compulsory Purchase Act 2004 is relevant. It states that for the purpose of any determination to be made under the planning Acts, the determination is to be made in accordance with the development plan unless material considerations indicate otherwise. The development plan for this area includes the Devon Waste Plan and North Devon and Torridge Local Plan (the 'NDTLP'). The relevant Policies are detailed above.

The National Planning Policy Framework (NPPF) is a material consideration.

As noted earlier, the application has been submitted pursuant to Section 73 of the Town and Country Planning Act 1990. Section 73(1) states:

This section applies, subject to subsection (4), to applications for planning permission for the development of land without complying with conditions subject to which a previous planning permission was granted.

Section 73(2) states:

On such an application the local planning authority shall consider only the question of the conditions subject to which planning permission should be granted, and—

(a) if they decide that planning permission should be granted subject to conditions differing from those subject to which the previous permission was granted, or that it should be granted unconditionally, they shall grant planning permission accordingly, and

(b) if they decide that planning permission should be granted subject to the same conditions as those subject to which the previous permission was granted, they shall refuse the application

In 2023 the High Court considered the scope of Section 73, and held that there is no statutory limitation on the degree of change of a proposal that can be considered under Section 73, providing that the proposal does not conflict with the operative part of the permission (the description of development). The judgement establishes that it is not for the decision maker to determine whether the changes proposed by the application being considered are minor material amendments. Rather, the decision maker must assess the changes proposed and determine if they are acceptable in planning terms, having regard for the material considerations pursuant to the proposal.

Policy ST07 of the NDTLP sets out the spatial development strategy for northern Devon's rural area, and clarifies at part (1) of the policy that Local Centres will be the primary focus for development in the rural area. Development will be supported in accordance with the

local spatial strategies, to enhance the sustainability of the locally important service centres and to enable wider than local needs to be met. Schedule A of Policy ST07 identifies Bratton Fleming as a Local Centre.

Policy BRF of the NDTLP sets out the Bratton Fleming Spatial Strategy, and supports the growth of high quality development supported by necessary infrastructure to meet the needs of Bratton Fleming. The policy proceeds to list 10 mechanisms to deliver the spatial strategy, including the provision of a minimum of 44 new dwellings (including affordable homes) and the protection of the setting and character of the village.

It is noted that Bratton Fleming does not have a development boundary. Policy DM23 of the NDTLP is therefore of relevance. The policy establishes that residential development will be supported on sites within the principal built form of the settlement, where they are not protected for any other use. The site is located within the principal built form of the settlement.

As noted earlier, the site benefits from an extant planning permission for the erection of a four bedroom dwelling, with the result that such a dwelling can lawfully be constructed on the site.

It is your officers' view that the principle of a dwelling on the site is acceptable in planning terms. The site is in a location that benefits from policy support under Policies ST07, BRF and DM23. In addition, the extant planning permission is a material consideration that permits the erection of a four bedroom dwelling at the site. Accordingly, the principle of the development proposed is deemed acceptable by your officers.

2. Design, Character and Appearance

Policies ST04 and DM04 of the NDTLP both have a strong design focus and establish the need for development to be appropriate in, and have respect for, its context and setting. In addition, Policy DM08A requires development to respect landscape character of both designated and undesignated landscapes. Policy DM23(2)(a) requires that development should not harm the settlement's rural character, setting, form or the surrounding countryside.

The impact of the previously permitted dwelling on the character and appearance of the area was assessed by the Planning Officer at that time, and their delegated report notes the following:

The proposed dwelling is set back from South View road and follows the existing contours and provides a natural extension to the existing roofscape of the adjacent dwellings. The differing roof pitches successful breaks up the detached house to ensure this does not appear as one mass adjacent to the row of terraced dwellinghouse. The rendered walls and slates roof are reflective of the materials within the surrounding locality. It is considered overall that the proposal is of an acceptable detailed design; scale and massing that will sit acceptably within the site and would be sympathetic to the setting of South View street scene.

Your officers consider that the proposed alterations to the design of the previously permitted dwelling are modest in nature, and result in minor changes to the principal elevation of the dwelling. The use of render to the external walls is consistent with the treatment of other dwellings within the immediate locality, and the unbroken eaves line now proposed is also

sympathetic to the building forms of existing properties. In addition, the removal of the previously permitted gable end, sun room and balcony at the rear of the dwelling results in a dwelling with a smaller footprint and would reduce the massing at the rear of the site. Lastly, the submitted plans show that 580m² of green space would be retained to the immediate south of the dwelling, and the bank that separates the area of green space from the existing communal parking area would also be retained as part of the proposals now being considered.

A condition was attached to the extant permission requiring the retention and maintenance of the existing trees and hedgebank to the northern and eastern boundary of the application site. It is recommended that the same condition be attached to any further planning permission granted in respect of the current proposals.

Taking account of the above, subject to the recommended condition detailed above, it is your officers' view that the proposal would adequately safeguard the character and appearance of the area. It is therefore concluded that on balance the proposal accords with Policies ST04, DM04, DM08A and Policy DM23(2)(a).

3. Highways

Policies ST10 and DM05 of the NDTLP seek, inter alia, to ensure that development does not adversely affect the local or strategic highway network and that vehicular accesses are safe and well designed. Policy DM06 requires that an appropriate levels of parking are provided on site.

Paragraph 115 of the NPPF advises that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. Further, paragraph 114 advises, inter alia, that development proposals should ensure that safe and suitable access to the site can be achieved for all users.

The proposals now under consideration include the provision of a driveway to the east of the existing area of green space and two parking spaces located to the immediate south of the dwelling proposed. The submitted plans show that the proposal would retain nine car parking spaces which would be located in the communal parking area. As approved, the dwelling has no dedicated parking spaces and would provide 10 car parking spaces within the communal parking area. The concerns expressed by local residents in relation to a perceived loss of parking are noted, however the proposal now being considered would result in a net gain of one parking space, and therefore represents a betterment when compared with the previously permitted development. A condition was attached to the extant planning permission to secure the improvements to the communal parking area. A similar condition is now recommended by your officers.

In respect of the impact of the proposal on the surrounding highway network, the current proposals would not have a materially greater impact than the development previously permitted.

Taking account of the above, it is your officers' view that the proposal accords with policies ST10, DM05 and DM06 of the NDTLP and the sections of the NPPF above.

4. Residential Amenity

Policy DM01 of the NDTLP confirms that development will be supported where it would not significantly harm the amenities of neighbouring occupiers or uses or result in harm to the future occupiers of the development from existing or allocated uses. Policy DM04(1)(i) follows a similar policy direction.

The dwelling now proposed would not have a materially greater impact on the amenities of the occupiers of surrounding properties than the previously permitted development.

The Council's Environmental Health Officer has been consulted in respect of the proposals and has confirmed that there is no objection to the proposed design and site layout alterations.

The extant permission includes conditions to limit construction hours (condition 5) and in respect of the provision of a Construction Management Plan (condition 6). The planning history shows that condition 6 was discharged under reference 72301 on 18 November 2020. A condition is therefore recommended to require the development to be carried out in accordance with the previously approved Construction Management Plan. A condition is also recommended to limit construction hours, as per the extant permission.

Taking account of the above, subject to the recommended conditions it is your officers' view that the proposals would not result in significant harm being caused to the amenities of the occupiers of existing properties within the locality, and the proposals are therefore considered to be in accordance with the requirements of Policies DM01 and DM04(1)(i) of the NDTLP.

5. Ecology

Local Planning Authorities have a statutory duty to ensure that the impact of development on wildlife is fully considered during the determination of a planning application under the Wildlife and Countryside Act 1981 (as amended), Natural Environment and Rural Communities Act 2006, The Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019 (Habitat Regulations 2019). Policies ST14 and DM08 of the NDTLP require that development ensures the protection and enhancement of biodiversity.

The Sustainability Officer has been consulted, however no response has been received.

The application includes a statement from the agent advising that the need for an Ecology Report is triggered solely on the basis that the site is greater than 0.1ha. Your officers agree that an Ecology Report is not required, on the basis that much of the land within the red line boundary is the private highway and communal parking area. Due regard must also be given to the extant permission, and it is concluded that the proposals now being considered would not likely have a materially greater impact on the biodiversity value of the area compared to the development previously permitted.

In addition to the above, it is noted that the proposals include the provision of a Devon hedgebank to enclose the parking and turning area. A detailed planting specification has been provided. It is considered that this would provide biodiversity enhancement when compared with the previously permitted development.

It is your officers' view that the proposals are in accordance with the requirements of Policies DM08 and ST14 of the NDTLP.

6. Foul and Surface Water Drainage

Policy ST03 of the NDTLP seeks to mitigate the impacts of climate change and reduce flood risk. Policy DM02 aims to protect the receiving environment from unacceptable pollution in relation to pollution.

The site is within flood zone 1.

Foul water is proposed to be drained to the mains sewer, which is considered acceptable.

Surface water run off would be drained to a soakaway, as was proposed in respect of the extant permission. This is also considered acceptable.

It is your officers' view that the proposals accord with the provisions of policies ST03 and DM02.

7. Conclusion

The principle of development of a single dwelling at the site has been established by virtue of the extant planning permission reference 64032. In addition, the principle of a dwelling at the site is supported by the local planning policy context.

It is your officers' view that the proposed revisions to the previously permitted development are acceptable in planning terms and accord with the relevant planning policies set out above, subject to the conditions set out below.

Accordingly, your officers conclude that the application accords with the development plan and it is therefore recommended that planning permission be granted.

Human Rights Act 1998

The provisions of the Human Rights Act and principles contained in the Convention on Human Rights have been taken into account in reaching the recommendation contained in this report. The articles/protocols identified below were considered of particular relevance:

- Article 8 – Right to Respect for Private and Family Life
- THE FIRST PROTOCOL – Article 1: Protection of Property

Section 149(1) of the Equality Act 2010 places a statutory duty on public authorities in the exercise of their functions to have due regard to the need to (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the 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 (the Public Sector Equality Duty or 'PSED'). There are no equality implications anticipated as a result of this decision.

Recommendation

Approved

Legal Agreement Required: No

Conditions

1. The development hereby permitted shall be carried out in accordance with the following approved plans/details:
P295 23 200B Location Plan received on the 27/02/24
P395 23 202F Proposed Site Plan received on the 15/05/24
P395 23 301A Proposed Floor Plans & Elevations received on the 27/02/24
P395 23 205 Proposed Site Plan received on the 30/04/24
(‘the approved plans’).

Reason:

To ensure the development is carried out in accordance with the approved plans in the interests of proper planning.

2. The development hereby approved shall be constructed in accordance with the following schedule of external finishing materials:

External walls: Painted render

Roof: Slate

Once installed, the approved materials shall be retained as such thereafter.

Reason:

In the interests of the appearance of the development and locality in accordance with Policy DM04 of the North Devon and Torridge Local Plan.

3. Prior to the occupation of the dwelling hereby permitted, the nine communal car parking spaces at South View and the two car parking spaces to serve the dwelling hereby permitted shall be provided and made available for use in accordance with drawing number P395 23 202 F and maintained as such thereafter.

Reason:

To ensure that adequate parking facilities are provided within the site for the traffic likely to be generated by the proposed development, in accordance with Policy DM06 of the North Devon and Torridge Local Plan.

4. Any activity on site associated with the construction phase shall only take place between the hours 08:00 to 18:00 Monday to Friday inclusive and between 09:00 and 13:00 on Saturday. There shall be no working on a Sunday or any Public Holiday.

Reason:

To protect the amenity of local residents during noise sensitive hours, in accordance with Policy DM01 of the North Devon and Torridge Local Plan.

5. The development hereby permitted shall be carried out in accordance with the Construction Management Plan dated 11 October 2020 and approved by Discharge of Condition decision reference 72301.

Reason:

To protect the amenity of local residents, in accordance with Policy DM01 of the North Devon and Torridge Local Plan.

- The existing trees and hedgebank to the northern and eastern boundary of the application site shall be retained and maintained, and shall not be removed in whole or in part.

Reason:

To safeguard the appearance and character of the area, in accordance with Policy DM04 of the North Devon and Torridge Local Plan.

- All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation or the substantial completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species unless the Local Planning Authority gives written consent to any variations. The Devon hedgebank to enclose the parking area shall be provided in accordance with the specification detailed on drawing reference P395 23 202 F.

Reason:

To assimilate the development into the landscape and to safeguard the appearance and character of the area in accordance with Policies ST04, ST14, DM04 and DM08A of the North Devon and Torridge Local Plan.

Informatives

- Statement of Engagement**
In accordance with paragraph 38 of the National Planning Policy Framework the Council has worked in a positive and pro-active way and has imposed planning conditions to enable the grant of planning permission. This has included a condition relating to the improvements to the communal parking area.
- The submitted drawings have been numbered as set out in condition 1. Please refer to the planning application tracker on the District Council's website to view the drawings and their allocated numbers, <http://planning.northdevon.gov.uk/search.asp>
- The applicant is reminded of the provisions of the Wildlife and Countryside Act 1981 and the E.C. Conservation [Natural Habitats] Regulations 1994.
- As the proposed works affect / are in close proximity to the boundary with a neighbouring property, this decision does not convey any other form of consent or agreement that may be necessary in conjunction with these works and does not override or supersede any civil rights, which the neighbour may have. The attention of the applicant is drawn to the information contained in the Guide to the Party Wall etc. Act 1996 booklet. Copies available from the Communities and Local Government website www.communities.gov.uk/publications/planningandbuilding/partywall.

Recommendation Date	Case Officer	Lead Officer	Admin	Check
17 May 2024	JJ	TB		