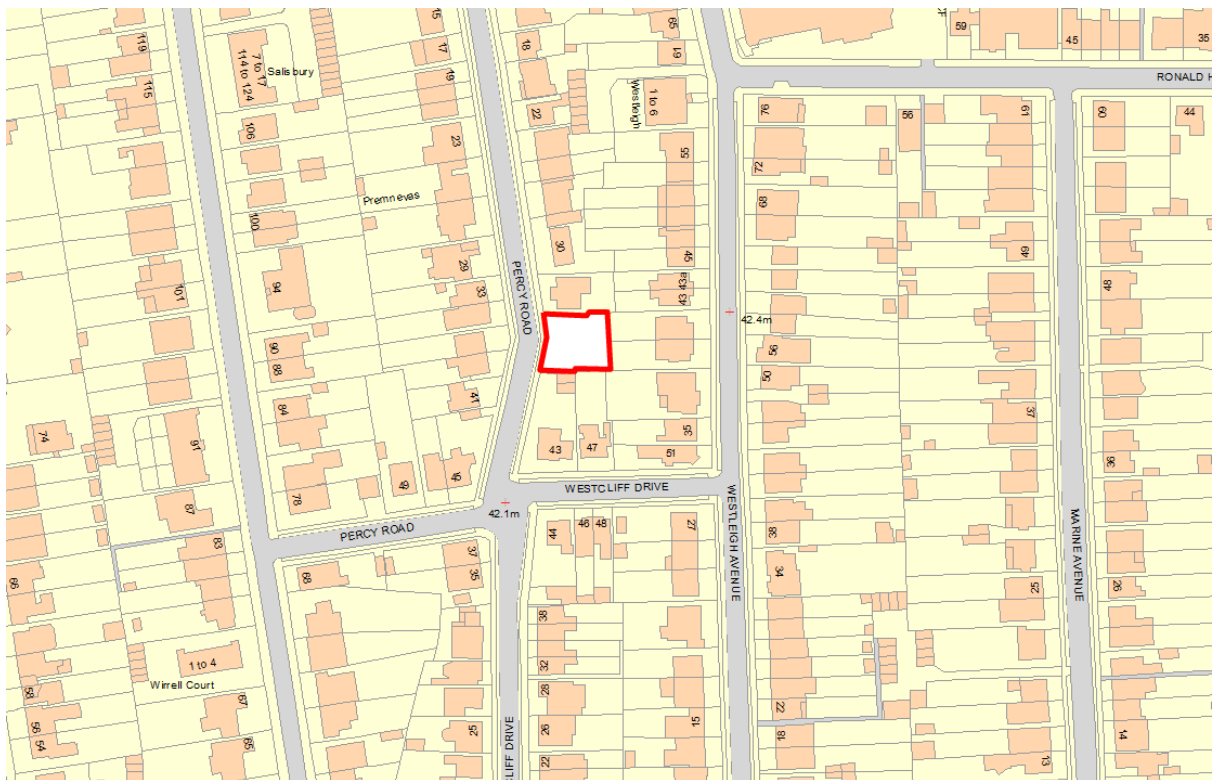


Reference:	18/02275/AMDT
Ward:	West Leigh
Proposal:	Application to vary condition 10 (Window Cill Level) in order to reduce the cill height of windows to rear (Minor Material Amendment to Planning Permission 18/00380/FUL dated 26.04.2018)
Address:	34 Percy Road, Leigh-On-Sea, Essex, SS9 2LA
Applicant:	Ms H Collins
Agent:	Knight Gratrix Architects
Consultation Expiry:	07.01.2019
Expiry Date:	11.02.2019
Case Officer:	Scott Davison
Plan Nos:	050, 051 & 052
Recommendation:	GRANT PLANNING PERMISSION



1 The Proposal

1.1 Planning permission has been granted under application 18/00380/FUL dated 26th April 2018 to “Demolish existing bungalow and erect a two storey detached dwellinghouse and layout parking to side”.

1.2 This application seeks to vary condition No.10 of the above planning permission. It reads:

Prior to its first occupation the proposed dwelling hereby approved shall be constructed so that the first floor level of the bedrooms with east facing windows shall be set not less than 1.65m below the cill level of the east facing windows. The development shall be retained as such in perpetuity thereafter.

Reason: In order to protect the amenities of surrounding occupiers and to protect the character the area in accordance with Policies KP2 and CP4 of the Core Strategy (2007) and Policies DM1 and DM3 of the Development Management Document (2015)

1.3 The amendment being sought is:

- A reduction in the cill height of the bedroom windows within the two gable features in the rear elevation of the dwelling from 1.65m above finished floor height to 1.10m above finished floor height.

1.4 In support of their proposal, the applicant makes reference to the outcome of planning application 17/01041/FUL. This was to demolish the existing bungalow, erect a detached bungalow with roof extension to front and sides, boundary wall to side to form covered courtyard, form layout parking to front and install new vehicular access on to Percy Road (Amended Proposal). This was refused by the local planning authority in 2017 and was granted permission on appeal (Appeal Ref: APP/D1590/W/17/3188745) dated 25 April 2018. This application was for a chalet style dwelling where similar planning considerations arose. The comments of the Inspector in paragraph 13 of the appeal decision (A copy of the decision is attached as Appendix 1) are of relevance. So too are the findings of a preceding appeal decision APP/D1590/W/16/3153696, dated 23 November 2016, concerning the Council’s refusal of planning permission for the two new houses on the site (Ref: 16/00467/FUL). That appeal was dismissed but in the Inspectors comments on the relationship with neighbouring properties are relevant. A copy of the decision is attached at Appendix 2

1.5 The above permission has been implemented and the construction of the approved scheme has commenced. The amendment proposed relates to windows contained in the two gable features in the rear elevation at first floor level.

2 Site and Surroundings

2.1 A two storey detached dwellinghouse granted permission under application 18/00380/FUL is presently being constructed. The site previously contained a single storey bungalow.

- 2.2 The application site is on the eastern side of Percy Road between its junctions with London Road and Westcliff Drive. The streetscene is mixed, consisting of bungalows, chalets and two storey semi-detached houses of various designs. To the north of the site is a modern chalet type dwellinghouse. The south and east of the site adjoins the rear gardens of properties in Westcliff Drive and Westleigh Avenue respectively. Opposite the site to the west are a number of larger, semi-detached houses. A small number of single bungalows in the street are interspersed between the two storey properties. There is an existing street tree to the front of the site and land levels slope away to the south of the site. The wider surrounding character is primarily residential in character.
- 2.3 The site is not located within a Conservation area or subject to any site specific planning policies.

3 Planning Considerations

- 3.1 The main consideration in relation to this application is the impact on residential amenity of neighbouring residential properties. The principle of the development, the design and impact of the proposal on the character of the area and parking/highways and CIL implications are also assessed.

4 Appraisal

Principle of Development

National Planning Policy Framework (NPPF) (2018), Core Strategy (2007) Policies KP1, KP2, CP3 and CP4; Development Management Document (2015) Policies DM1 DM3 and DM15 and the Design and Townscape Guide (2009).

- 4.1 The principle of the development forming a new dwelling was accepted under the previously approved planning application. There are no policy changes or variations to the development which alter this view (including the 2018 NPPF). The determining material planning considerations are discussed below.
- 4.2 The proposed changes are considered to fall within the remit of a minor material amendment to the consented scheme in principle.

Design and Impact on the Character of the Area

National Planning Policy Framework (2018), Core Strategy (2007) Policies KP1, KP2 and CP4, Development Management Document (2015) Policies DM1 and DM3, and the Design and Townscape Guide (2009)

- 4.3 Good design is a fundamental requirement of new development to achieve high quality living environments. Its importance is reflected in the National Planning Policy Framework (NPPF). Paragraph 124 of the NPPF states that “good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.”

- 4.4 Policy KP2 of the Core Strategy states that new development should “respect the character and scale of the existing neighbourhood where appropriate”. Policy CP4 requires that development proposals should “maintain and enhance the amenities, appeal and character of residential areas, securing good relationships with existing development, and respecting the scale and nature of that development”.
- 4.5 Policy DM1 of the Development Management Document states that all development should “*add to the overall quality of the area and respect the character of the site, its local context and surroundings in terms of its architectural approach, height, size, scale, form, massing, density, layout, proportions, materials, townscape and/or landscape setting, use, and detailed design features*”.
- 4.6 Policy DM3 (5) also advises that ‘*Alterations and additions to a building will be expected to make a positive contribution to the character of the original building and the surrounding area through:*
- (i) The use of materials and detailing that draws reference from, and where appropriate enhances, the original building, and ensures successful integration with it; and*
 - (ii) Adopting a scale that is respectful and subservient to that of the original building and surrounding area; and*
 - (iii) Where alternative materials and detailing to those of the prevailing character of the area are proposed, the Council will look favourably upon proposals that demonstrate high levels of innovative and sustainable design that positively enhances the character of the original building or surrounding area.’*
- 4.7 The design and impact of the dwelling and impact on the streetscene was previously found to be acceptable. The rear elevation of the approved development at first floor level contains windows within each of the two gable features. It is proposed to make these windows larger by reducing the cill height of each of the windows. The larger window openings would be in the same location as the window openings previously approved. It is considered that this change to the rear elevation would not be harmful to the character of the building or street and visual amenities of the wider area.
- 4.8 The proposal is therefore found to be acceptable and policy compliant in design and character terms.

Impact on Residential Amenity

National Planning Policy Framework (2018); Core Strategy (2007) policies KP1, KP2 and CP4, Development Management Document (2015) Policies DM1 and DM3; Design & Townscape Guide (2009).

- 4.9 Policy DM1 states that any new development should protect the amenity of the site, immediate neighbours, and surrounding area, having regard to privacy, overlooking, outlook, noise and disturbance, visual enclosure, pollution, and daylight and sunlight.

- 4.10 In the previously approved application ref: 18/00380/FUL, it was considered that the proposed dwelling would not result in demonstrable harm to the amenities of surrounding properties, subject to the imposition of Condition 10 which restricted the minimum cill heights.
- 4.11 This took account of the findings of a November 2016 appeal decision, (see Appendix 2 - APP/D1590/W/16/3153696). At paragraph 8 of that decision, the Inspector concurred with the Council's view that the separation to the rear boundary with 39 & 41 Westleigh Avenue (some 7m) would not result in harm to their amenity, including their privacy.
- 4.12 The proposed variation to the planning condition to reduce the cill height of the bedroom windows within the two gable features in the rear elevation of the dwelling, from 1.65m above finished floor height to 1.10m above finished floor height. The approved cill height of the window is some 4.7m above ground level and the reduction in the cill height as proposed would reduce this distance to approximately 4.2m above ground level.
- 4.13 Planning application 18/00380/FUL was approved subject to a condition requiring first floor rear windows to have a minimum cill height of 1.65m. This was because the distance of these windows to the rear boundaries (some 5.7m for the northernmost window and 6.6m for the southernmost window) was considered to be materially closer than that in the appeal proposal. It also reflected the assessment of application 17/01041/FUL, similarly to redevelop the site with a new chalet bungalow. That application was refused and an appeal submitted. The decision on that appeal was received after the Council had determined planning application 18/00380/FUL and therefore, the appeal decision (Appendix 1) was not specifically taken into account in the determination of that application, so in effect is a fresh material consideration.
- 4.14 The separate scheme allowed on appeal (17/01041/FUL) is a material consideration. It has 6 windows in a horizontal band across the rear elevation at first floor level. The cill height of the window is 3.9m above ground level with a cill height 0.9m above the internal finished floor height. In assessment of the appeal the Planning Inspector had regard to the relationship to neighbours within Planning Permission 17/02115/FULH for improvements and extensions to the now demolished bungalow which were identical to the new dwelling approved under permission 18/00380/FUL. In paragraph 5 of that 2018 appeal decision, the Inspector states, *"the potential impact of the appeal scheme needs to be considered in the context of the recently approved proposal to significantly remodel the existing bungalow (Ref: 17/02115/FULH). This is a material fall-back position which could be implemented"*.
- 4.15 In paragraph 13 of that 2018 appeal decision (Appendix 1), the Inspector stated, *"I share the conclusions of the Council, for the reasons given in the Officer's report, that the proposal would not harm the living conditions of neighbours in respect of light, outlook and privacy"*.

- 4.16 In terms of separation distances for this application, the northernmost of the two windows would be some 5.7m from the rear boundary of 41 Westleigh Avenue and the southernmost window would be some 6.6m off the rear boundary of 39 Westleigh Avenue.
- 4.17 A difference between the proposed plans and those approved, on appeal, under 17/01041/FUL is the materially different building footprint. The northernmost of the rear facing windows in the current proposal would be some 1.15m closer to the rear boundary than the 2017 application and the southernmost of the rear facing windows would be some 0.1m closer. It is considered that any overlooking would be confined to the bottom of the neighbouring rear gardens to the east of the site.
- 4.18 In light of the Inspectors findings in both the 2016 and 2018 appeal decisions in regard to impacts on neighbouring residential amenity, given the length of neighbouring gardens and the modest degree of difference in separation from the boundary, on balance, it is considered that the proposal would not result in a harmful loss of privacy or overlooking materially greater than the relationship considered to be acceptable in the 2018 appeal decision between the application premises and properties to the east of the site in Westleigh Avenue or to the south in Westcliff Drive.
- 4.19 The proposal is therefore acceptable and policy compliant in these regards.

Highways and Transportation

National Planning Policy Framework (2018), Core Strategy (2007) Policies KP2 and CP3, Development Management Document (2015) Policy DM15, and the Design and Townscape Guide (2009)

- 4.20 The parking arrangements for the application site remain unchanged from the previously approved application 18/00380/FUL. The proposed amendment would cause no material harm to the highway network or parking provision. It is therefore acceptable and policy compliant in these regards.

Community Infrastructure Levy

CIL charging schedule 2015

- 4.21 This application is CIL liable. However, the application has been made pursuant to Section 73 of the Town and Country Planning Act 1990 and as such CIL Regulation 9(6) applies. As the amount of CIL payable would not change from the previous permission ref. 18/00380/FUL, the chargeable development is the development for which permission was granted by the previous permission as if that development was commenced. Therefore, CIL Liability Notice ref: 18/00380/FUL/0001 still applies to the permission hereby granted.

5 Conclusion

- 5.1 In summary, the conclusions from the 2018 appeal decision relating to application 17/01041/FUL (see Appendix 1) were not specifically taken into account in the assessment of the 2018 application (18/00380/FUL), so are effectively a fresh material consideration. However that Inspector was aware of planning permission 17/02115/FULH for the extensions and alterations to remodel the former bungalow which would result in a form of development identical to the dwelling granted permission ref: 18/00380/FUL. The Inspector concluded in 2018 appeal decision *“that the proposal would not harm the living conditions of neighbours in respect of light, outlook and privacy”*. The windows in 2018 permission ref: 18/00380/FUL are closer to the boundary than those in the 2018 appeal scheme but on balance given the length of neighbouring gardens and the modest degree of difference in separation from the boundary it is not considered that material harm would result.
- 5.2 Having taken all material planning considerations including the 2016 and 2018 appeal decisions into account, it is found that subject to compliance with the proposed conditions this proposal is acceptable as a minor material amendment to the development granted permission under reference (18/00380/FUL), as it would be acceptable and compliant with the objectives of the relevant development plan policies and guidance. This amended proposal in terms of its detailed elevational design and materials would maintain the overall character and appearance of the streetscene and surrounding locality and, on balance would not be material harmful to residential amenity. The application is therefore recommended for approval.

6 Planning Policy Summary

- 6.1 The National Planning Policy Framework (2018).
- 6.2 Core Strategy (2009), Policies KP2 (Development Principles) CP3 (Transport and Accessibility) and CP4 (Environment & Urban Renaissance).
- 6.3 Development Plan Document (2015): DM1 (Design Quality), DM3 (Efficient and Effective Use of Land) and DM15 (Sustainable Transport Management)
- 6.4 Design & Townscape Guide (2009)
- 6.5 CIL Charging Schedule 2015

7 Representation Summary

Leigh Town Council

- 7.1 No objection to the proposal.

Public Consultation

- 7.2 A site notice was displayed and 11 neighbours were consulted. Five letters of representation have been received

Matters raised:

- Strongly object to this amendment. The approved plans already resulted in a loss of privacy through overlooking. Making the windows larger would only make that worse. Developers should not be able to put in one set of plans and slip in changes later
- The condition was included to protect surrounding amenities and retained in perpetuity due to the close proximity to neighbours. Proposal is not a minor amendment. Since construction building appears closer than expected and dominates rear of property looking straight into neighbouring houses
- The development has a little rear garden and is very close to boundaries of site. The windows in the large high gables overlook the neighbours lounge, dining room and conservatory and would result in a lack of privacy
- An increase in size of windows will result in an increased loss of privacy to objector's property and immediate neighbours. The application submitted during holiday period
- The proposed reduction in window height (coupled with the overbearing form of development) will result in objector's property being overlooked with a negative impact on privacy.

[Officer Comment: These concerns are noted and they have been taken into account in the assessment of the application].

8 Relevant Planning History

- 8.1 15/00086/FUL - Demolish existing dwelling and erect two semi-detached dwellings, layout parking to front and amenity space to the rear. – Refused 05/03/2015
- 8.2 15/01024/FUL - Demolish existing dwelling and erect two semi-detached dwellings, layout parking to front and amenity space to the rear (Amended Proposal) – Refused 03/09/2015
- 8.3 16/00467/FUL - Demolish existing dwelling and erect two semi-detached dwellinghouses, amenity space to rear, layout parking to front and install new vehicular access on to Percy Road (Amended Proposal) – Refused 09/06/2016 and Appeal Dismissed - Appeal Ref: APP/D1590/W/16/3153696
- 8.4 17/01041/FUL - Demolish existing bungalow, erect detached bungalow with roof extension to front and sides, boundary wall to side to form covered courtyard, form layout parking to front and install new vehicular access on to Percy Road (Amended Proposal) – Refused 13/09/2017 and Granted on Appeal 25/04/2018 - Appeal Ref: APP/D1590/W/17/3188745
- 8.5 17/02115/FULH - Erect single storey side and rear extensions, raise and alter roof height, install gables to front and rear, dormer to rear, rooflight to front and side and alter elevations – Granted 08/02/2018
- 8.6 18/00380/FUL Demolish existing bungalow and erect a two storey detached dwellinghouse and layout parking to side – Granted 26/04/2018

- 8.7 18/01183/AD - Application for approval of details pursuant to condition 03 (details of materials) and condition 06 (details of landscaping) of planning permission 18/00380/FUL dated 26.04.2018 – Granted 17/08/2018
- 8.8 18/02022/NON Replace plan number 903/040, 903/041, 903/042 and 903/43 with 903/50, 903/051 and 903/052 -Reduce window sill heights to rear (Non-material Amendment to Planning Permission 18/00380/FUL dated 26.04.2018) Refused 27/11/18

9 Recommendation

GRANT PLANNING PERMISSION subject to the following conditions:

01. The development hereby permitted shall begin no later than 26th April 2021.

Reason: Required to be imposed pursuant to Section 91 of the Town and Country Planning Act 1990

02. The development hereby permitted shall be carried out in accordance with the approved plans: 040 (Existing Floor Plans and Elevation); 042 (Street Scene) 051 (Proposed Floorplans) & 052 (Proposed Elevations).

Reason: To ensure that the development is carried out in accordance with provisions of the Development Plan.

03. The development hereby approved shall be undertaken in strict accordance with the approved material details detailed on front elevation plan '903/046' dated May 2018 and material samples received by the local planning authority on the 20.06.2018 as agreed under application 18/01183/AD unless otherwise agreed in writing by the local planning authority.

Reason: To safeguard character and appearance of the area and amenities of neighbouring occupiers in accordance with Policies KP2 and CP4 of the Core Strategy (2007), Policies DM1 and DM3 of the Development Management Document (2015) and the Design and Townscape Guide (2009).

04. Prior to the occupation of the dwelling hereby approved the car parking spaces shall be provided in accordance with the approved plan No.051. The car parking spaces shall be kept available for the parking of motor vehicles at all times and permanently retained.

Reason: To ensure that adequate car parking is provided and retained to serve the development in accordance with Policy DM15 of the Development Management Document (2015) and Policy CP3 of the Core Strategy (2007)

05. Notwithstanding the provisions of Classes A, B, C, D and E of Part 1 of Schedule 2 to the Town and Country Planning General Permitted Development Order 2015 (or any statutory modification or re-enactment or replacement thereof (as the case may be) for the time being in force), no extensions or outbuildings shall be erected at the site unless otherwise agreed in writing by the local planning authority.

Reason: To safeguard the design and appearance of the proposed development in the interest of visual amenities of the locality in accordance with the National Planning Policy Framework (2012), Core Strategy (2007) Policies KP2 and CP4, Development Management Document (2015) Policies DM1 and DM3 and Design and Townscape Guide (2009).

06. The development hereby approved shall be undertaken in strict accordance with the approved details of the hard and soft landscaping contained within site plan '903/045' dated May 2018 and material samples received by the local planning authority on the 20.06.2018 agreed under application 18/01183/AD unless otherwise agreed in writing by the local planning authority. The landscaping shall be implemented in full accordance with the approved details before the dwelling is occupied or brought into use.

Reason: In the interests of visual amenity and the amenities of occupiers and to ensure a satisfactory standard of landscaping pursuant to Policies KP2 and CP4 of the Core Strategy DPD1 with CP4 of the Core Strategy (2007) and Policies DM1 and DM3 of the Development Management Document (2015).

07. A scheme detailing how at least 10% of the total energy needs of the development will be supplied using on site renewable sources must be submitted to and agreed in writing prior to occupation of the development hereby approved by the Local Planning Authority and implemented in full prior to the first occupation of the development. This provision shall be made for the lifetime of the development.

Reason: In the interests of providing sustainable development in accordance with Policy KP2 of the Core Strategy (2007) and Development Management Document (2015) Policy DM2.

08. Water efficient design measures as set out in Policy DM2 (iv) of the Development Management Document to limit internal water consumption to 105 litres per person per day (lppd) (110 lppd when including external water consumption), including measures of water efficient fittings, appliances and water recycling systems shall be installed prior to the first occupation of the development hereby approved and retained in perpetuity.

Reason: To minimise the environmental impact of the development through efficient use of water in accordance with the National Planning Policy Framework, Core Strategy (2007) policy KP2, Development Management Document (2015) policy DM2 and the guidance within the Design and Townscape Guide (2009).

09. Demolition or construction works associated with this permission shall not take place outside 08:00 hours to 18:00hours Mondays to Fridays and 08:00 hours to 13:00 hours on Saturdays and at no time Sundays or Bank Holidays.

Reason: In order to protect the amenities of surrounding occupiers and to protect the character the area in accordance with Policies KP2 and CP4 of the Core Strategy (2007) and Policies DM1 and DM3 of the Development Management Document (2015).

10. Prior to its first occupation the proposed dwelling hereby approved shall be constructed so that the floor level of the bedrooms with east facing windows shall be set not less than 1.10m below the cill level of the east facing windows. The development shall be retained as such in perpetuity thereafter.

Reason: In order to protect the amenities of surrounding occupiers and to protect the character the area in accordance with Policies KP2 and CP4 of the Core Strategy (2007) and Policies DM1 and DM3 of the Development Management Document (2015)

11. The new rooflight in the southern elevation shall only be glazed in obscure glass (the glass to be obscure to at least Level 4 on the Pilkington Levels of Privacy, or such equivalent as may be agreed in writing with the local planning authority) and fixed shut, except for any top hung fan light which shall be a minimum of 1.7 metres above internal floor level unless otherwise agreed in writing by the local planning authority. In the case of multiple or double glazed units at least one layer of glass in the relevant units shall be glazed in obscure glass to at least Level 4. (C17B)

Reason: In order to protect the amenities of surrounding occupiers and to protect the character the area in accordance with Policies KP2 and CP4 of the Core Strategy (2007) and Policies DM1 and DM3 of the Development Management Document (2015)

12. The development hereby approved shall be carried out in a manner to ensure that it complies with Building Regulation part M4 (2) 'accessible and adaptable dwellings', before it is brought in to use.

Reason: To ensure the dwellinghouse hereby approved provide high quality and flexible internal layouts to meet the changing needs of residents in accordance with the National Planning Policy Framework, Core Strategy (2007) Policy KP2, Development Management Document (2015) Policy DM2 and Design and Townscape Guide (2009).

Informatives

01. Community Infrastructure Levy (CIL): This application has been made pursuant to Section 73 of the Town and Country Planning Act 1990 and as such CIL Regulation 9(6) applies. You are advised that as the amount of CIL payable would not change from the previous permission ref. 18/00380/FUL, the chargeable development is the development for which permission was granted by the previous permission as if that development was commenced. Therefore, CIL Liability Notice ref. 18/00380/FUL/0001 still applies to the permission hereby granted and is enclosed for your reference.

02. You should be aware that in cases where damage occurs during construction works to the highway in implementing this permission that Council may seek to recover the cost of repairing public highways and footpaths from any party responsible for damaging them. This includes damage carried out when implementing a planning permission or other works to buildings or land. Please take care when carrying out works on or near the public highways and footpaths in the borough.

03. When you carry out the work, you must not intentionally kill, injure or take a bat, or intentionally or recklessly damage, destroy or block access to any structure or place that a bat uses for shelter. These would be criminal offences under the Wildlife and Countryside Act 1981, the Habitats Regulations 1994 and the Countryside and Rights of Way Act 2000. For more advice contact:

Essex Wildlife Trust – www.essexwt.org.uk; phone 01621 862960
Natural England – www.natuturalengland.org; phone 0845 6003078