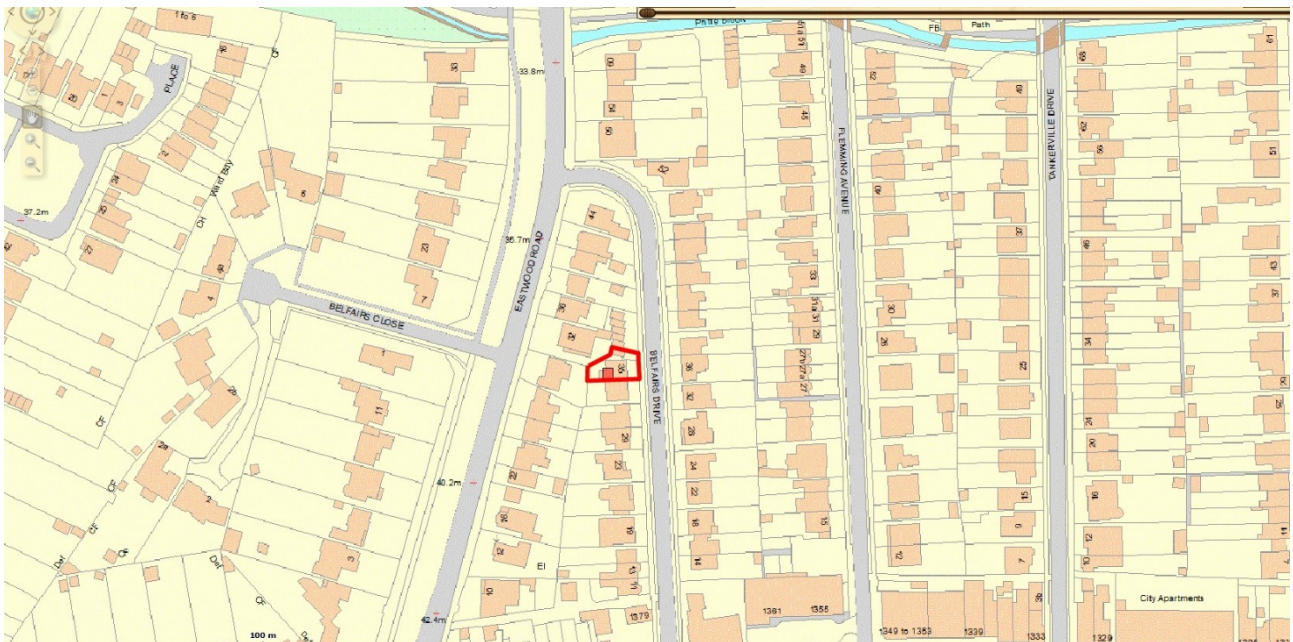


Reference:	22/01808/AMDT	
Application Type:	Minor Material Amendment	
Ward:	Belfairs	
Proposal:	Application to vary condition 04 - to allow the main bedroom window in rear dormer to have clear glass with openable windows - (Minor Material Amendment of Planning Permission 21/00240/FULH dated 30/03/2021) (Retrospective)	
Address:	35 Belfairs Drive, Leigh-on-Sea, Essex, SS9 3AA	
Applicant:	Mr Faysal Mahmud	
Agent:	Mr Sam Milne	
Consultation Expiry:	13/10/2022	
Expiry Date:	02/12/2022	
Case Officer:	Oliver Hart	
Plan Nos:	2410-02 Rev D	
Additional information:	Planning Statement	
Recommendation:	GRANT PLANNING PERMISSION subject to conditions	



1 Site and Surroundings

- 1.1 The application site contains a semi-detached bungalow on the west side of Belfairs Drive. The application dwelling is hipped roofed with a single storey hipped bay projection to the front.
- 1.2 The immediate surrounding area is mixed in character, comprising detached and semi-detached dwellinghouses and bungalows of varying scale, form and design with a mix of roof forms, including both hipped and gabled roofs. It is noted a number of dwellings along Belfairs Drive have been altered to form accommodation in the roof, with a variety of roof alterations and additions evidenced in the immediate vicinity, inclusive of gabled roofs and front and rear dormers.
- 1.3 The site is not located within a conservation area or subject to any site-specific planning policies.

2 The Proposal

- 2.1 Permission is sought retrospectively to vary condition 04 of planning permission 21/00240/FULH which was granted on 30/03/2021 for the erection of a '*hip to gable roof extension with dormers to front and rear*'.
- 2.2 Condition 04 states:

The first-floor windows in the gable end and rear dormer hereby approved must be permanently obscure-glazed (the glass to be obscure to at least Level 4 on the Pilkington Levels of Privacy) and non-opening, unless the parts of the window which can be opened are more than 1.7metres above the finished floor level of the room in which the windows are installed and shall be retained as such in perpetuity.

Reason: To protect the privacy and environment of people in neighbouring residential properties, in accordance with the National Planning Policy Framework (2019), Policies KP2 and CP4 of the Core Strategy (2007), Policies DM1 and DM3 of the Development Management Document (2015) and the advice contained within the Southend-on-Sea Design and Townscape Guide (2009).

- 2.3 The minor material amendment being sought relates to the retention of the clear and openable glazed window to the rear of the bedroom area within the rear dormer. This arrangement has already been carried out. As an interim measure until the determination of the application, the applicant has applied an obscured plastic film to this window.
- 2.4 The applicant has confirmed that the two other windows within the rear dormer which serve bathrooms are obscure glazed, fixed and openable (at 1.7m above internal floor level), and also confirms that obscured film is currently applied to the flank window within the newly formed gable end to achieve some obscurity whilst works continue, however, that this will be replaced with an obscure glazed unit in accordance with the condition in due course. Should there remain an issue with that gable window this Local Planning Authority has enforcement powers available to address that.
- 2.5 Therefore, the application for consideration is only in regard to the rear bedroom window.
- 2.6 The other elements associated with the previous approval remain materially unchanged and are not the subject of further consideration.

3 Relevant Planning History

3.1 21/00240/FULH- Hip to gable roof extension with dormers to front and rear- Granted

3.2 Enforcement:

22/00246/BRCN_B- Breach of condition 4 (obscure glazing) of planning permission - pending

4 Representation Summary

Call-in

4.1 The application has been called into Development Control Committee by Councillor Dear.

Public Consultation

4.2 8no. neighbouring properties were notified and 4no. letters of objection have been received (from 2no. addresses). The comments raised are summarised below:

- Dormer overbearing and excessive
- Overlooking and loss of privacy concern relating to the clear glazed and openable windows
- Retrospective nature of the application calls into question the effectiveness of the planning system
- The proposal is at odds with and contrary to the findings of the officer's report.
- There are inaccurate and contradictory statements made in the Planning Statement

[Officer Comment:] The comments have been taken into consideration and the relevant planning matters raised are discussed in subsequent sections of the report. The objecting points raised by the representations have been taken into account in the assessment of the application but are not found to represent justifiable reasons for recommending refusal of the planning application in the circumstances of this case.

5 Planning Policy Summary

5.1 The National Planning Policy Framework (NPPF) (2021)

5.2 Planning Practice Guidance (PPG) – National Design Guide (NDG) (2021)

5.3 Core Strategy (2007) Policies KP1 (Spatial Strategy), KP2 (Development Principles), CP3 (Transport and Accessibility) and CP4 (The Environment and Urban Renaissance)

5.4 Development Management Document (2015) Policies DM1 (Design Quality), DM3 (The Efficient and effective use of land) and DM15 (Sustainable Transport Management)

5.5 Southend-on-Sea Design and Townscape Guide (2009)

5.6 Community Infrastructure Levy (CIL) Charging Schedule (2015)

6 Planning Considerations

6.1 The main considerations for this application are the principle of the development and its residential amenity impact. The design and character impacts of the development were previously considered and found to be acceptable. As there are no material changes in the design of the development or the planning policy context, it is not necessary to

discuss this consideration in this report. Due to the nature of the development, it was previously found that it would not have a significantly harmful impact on highway safety and it was found to be acceptable in these regards. Moreover, the development would not be liable for a CIL payment.

7 Appraisal

Principle of Development

- 7.1 The principle of the development was previously found to be acceptable. There are no new policies or variations to the development which alter this view. The determining material planning considerations are discussed below.
- 7.2 The proposed changes to the wording of condition 4 are considered to fall within the remit of Section 73 of the Town and Country Planning Act which allows the variation of a condition imposed on a planning permission. The alteration of the condition to allow the installation of clear glazing and openable units for the bedroom windows within the rear dormer would be a minor material amendment to the previously approved development. The previous application is for the same site and nature of development as the current application.
- 7.3 The principle of the development is therefore acceptable subject to the detailed consideration set out below.

Amenity Impacts

- 7.4 Local and national planning policies and guidance seek to secure high quality development which protects amenity. Policy DM1 of the Development Management Document specifically identifies that 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. Further advice on how to achieve this is set out in the Council's Design and Townscape Guide.
- 7.5 The application seeks to retain a first floor, clear glazed rear window serving the bedroom area which presently is in breach of planning condition 4. All other windows in that same dormer are obscure glazed in accordance with condition 04 of the 2021 planning permission.
- 7.6 The purpose of condition 4 was to "*protect the privacy and environment of people in neighbouring residential properties*" and consequently, this application seeks to revisit, in specific detail, the impact of the window in this regard. The position of the application dwelling's bedroom window within the rear dormer is such that Nos. 30 and 32 Eastwood Road (to the rear) is where the potential for most significant amenity impact is identified. The presence of the development on site has allowed officers to more accurately assess the impact of the development.
- 7.7 The rear garden setting is relatively constrained in the immediate vicinity with garden areas typically no more than 8-12m in depth. The presence of two storey dwellings with clear glazed and openable rear windows that surround the site, inclusive of No 30 Eastwood Road, is such that there is a degree of inter-overlooking of rear garden areas and rear windows that exists at present and which, when considered objectively in planning terms, informs the levels of amenity generally enjoyed here. This is important as the provision of a clear glazed and openable rear window at first floor level is not introducing a new feature in this respect.

- 7.8 With regards to No.30 specifically, a back to back separation distance of 16m would be retained. This separation is considered sufficient to preclude any direct, intrusive views of neighbouring private habitable accommodation. Although attaching only very limited weight as they are not permanent means of screening, regard has also been had to the partial screening effect in situ due to existing rear garden trees. It is further noted that the applicant's ground floor rear windows are visible from the first-floor rear windows belonging to No.30, highlighting the existing overlooking of the immediate area which is considered a characteristic feature.
- 7.9 With regards to No.32, its position to the north-west and therefore at an angle away from the window subject of this application, which is positioned towards the southern end of the dormer, significantly reduces the degree to which direct, intrusive views would be available of neighbouring rear/flank windows. Moreover, the overhang of the eaves of the neighbouring roof form further obscures views of the nearest southern flank windows (approx.10m away).
- 7.10 The wider overlooking potential of the windows for the room in conventional use being opened has also been carefully considered. The casement windows are side hung which means when opened, views of the rears of properties further to the south and accompanying neighbouring rear gardens would be possible. However, in assessing the impact, significant weight has been attached to the separations that would be retained to these neighbouring properties, the closest (No.28) along Eastwood Road being in excess of 20m away, as well as the degree of inter-overlooking of rear garden areas as noted above which exists at present and which, when considered objectively in planning terms, informs the levels of amenity generally enjoyed here.
- 7.11 On balance therefore, it is considered that any impact resulting from the clear glazed window in question is not so significantly harmful as to justify refusal on this basis. The development would therefore maintain the residential amenity of neighbours to an acceptable degree even without the requirement for a non-openable and obscure glazed rear window. The development is therefore considered to be, on balance acceptable and policy compliant in the above regards.

Equality and Diversity Issues

- 7.12 The Equality Act 2010 (as amended) imposes important duties on public authorities in the exercise of their functions and specifically introduced a Public Sector Equality Duty. Under this duty, public organisations are required to have due regard for the need to eliminate unlawful discrimination, harassment and victimisation, and must advance equality of opportunity and foster good relations between those who share a protected characteristic and those who do not. Officers have in considering this application and preparing this report had careful regard to the requirements of the Equalities Act 2010 (as amended). They have concluded that the decision recommended will not conflict with the Council's statutory duties under this legislation.

Conclusion

- 7.13 For the reasons outlined above the development is found to be acceptable and compliant with the relevant planning policies and guidance. As there are no other material planning considerations which would justify reaching a different conclusion it is recommended that planning permission is granted subject to conditions.

8 Recommendation

Members are recommended to:

GRANT PLANNING PERMISSION subject to the following conditions:

01 The development hereby permitted shall be carried out in accordance with the following approved plans; 2410-02 Rev D

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

02 All new work to the outside of the building must match existing original work in terms of the choice of materials, method of construction and finished appearance.

Reason: In the interests of visual amenity and to ensure that the appearance of the building makes a positive contribution to the character and appearance of the area. This is as set out in the National Planning Policy Framework (2021), Core Strategy (2007) policy KP2 and CP4, Development Management Document (2015) policy DM1, and the advice contained within the Southend-on-Sea Design and Townscape Guide (2009).

03 The first-floor window in the gable end and the bathroom/en-suite windows to the rear dormer hereby approved must be permanently obscure-glazed (the glass to be obscure to at least Level 4 on the Pilkington Levels of Privacy) and non-opening, unless the parts of the window which can be opened are more than 1.7metres above the finished floor level of the room in which the windows are installed and shall be retained as such in perpetuity.

Reason: To protect the privacy and environment of people in neighbouring residential properties, in accordance with the National Planning Policy Framework (2021), Policies KP2 and CP4 of the Core Strategy (2007), Policies DM1 and DM3 of the Development Management Document (2015) and the advice contained within the Southend-on-Sea Design and Townscape Guide (2009)

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

Reason: To ensure the development hereby approved provides high quality and flexible internal layouts to meet the changing needs of residents in accordance with the National Planning Policy Framework (2021), Core Strategy (2007) Policy KP2, Development Management Document (2015) Policy DM2 and the advice contained within the Southend-on-Sea Design and Townscape Guide (2009).

Positive and Proactive Statement

The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework. The detailed analysis is set out in a report on the application prepared by officers.

Informatives:

01 You should be aware that in cases where damage occurs public during construction works to the highway in implementing this permission that Council will seek to recover the cost of repairing 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 City.

02 You are advised that as the proposed development does not involve the creation of new floorspace it benefits from a Minor Development Exemption under the Community Infrastructure Levy Regulations 2010 (as amended) and as such no charge is payable.