

Date of Meeting	7 March 2018
Application Number	17/04647/VAR
Site Address	Land Between 1a Mill House & 1 Lower Road, Bratton, Westbury BA13 4RG
Proposal	Variation of condition 14 of planning permission W/12/02101/S73 to allow for alterations and additions to approved dwelling
Applicant	Miss Lavinia Broom
Town/Parish Council	BRATTON
Electoral Division	ETHANDUNE – Councillor Jerry Wickham
Grid Ref	391722 152578
Type of application	Full Planning
Case Officer	Steven Vellance

Reason for the application being considered by Committee:

The application is brought to committee at the request of Councillor Jerry Wickham for the consideration of significant inaccuracies between the submitted plans and the dwelling which is under construction, the size of which is considered too large for the plot and has an overbearing impact of adjoining properties affecting their amenity space.

1. Purpose of Report.

The purpose of the report is to assess the merits of the proposal against the policies of the development plan and other material considerations and to consider the recommendation that the application be approved.

2. Report Summary.

This report assesses the principle of development as well as appraising the design and neighbouring impacts of the 'as built' house and the proposed modifications which materially deviate from what was previously approved. This report also appraises the effect of the development on heritage assets and flood risk.

Neighbourhood responses: 11 third parties submitted 31 representations in total.

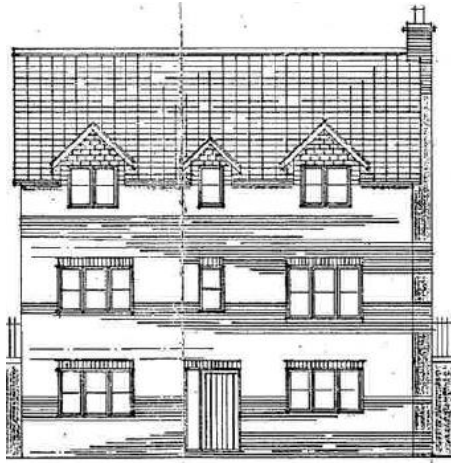
Bratton Parish Council: Objects to the application for the reasons summarised in section 7.

3. Site Description.

The application site forms part of land associated to No.1a Lower Road, Bratton, which is a designated large village within the Westbury Community Area. The site is located within the Bratton Conservation Area and lies several metres below the level of Lower Road (located to the immediate west). The site slopes in an eastern direction towards the watercourse located beyond the application site. Vehicular access is already in place serving 1 & 1a Lower Road.

4. Planning History

W/04/02456/FUL - Two and a half storey detached dwelling house with integral garage – Application Withdrawn - 26.01.2005.



The insert elevation above relates to the withdrawn W/04/02456/FUL application

W/06/01395/FUL - Two storey detached dwelling using a shared access - Permission 26.10.2007

W/09/03408/S73 - Two storey detached dwelling using a shared access (extension of time) - Permission 07.01.2010

W/12/02101/S73 - Application to replace extant planning permission reference 09/03408/S73 in order to extend time limit for implementation (2 storey detached dwelling using a shared access) - Permission 16.01.2013

5. The Proposal.

This application seeks to vary condition 14 (the approved plans list condition) of approved planning permission ref: W/12/02101/S73 to retrospectively allow material alterations and additions made to and proposed for the partially constructed dwellinghouse, the form of which is complete on land at 1a Lower Road, Bratton. The plan insert below illustrates what was approved in January 2013 under application w/12/02101/S73.

W/12/02101/S73 Approved Plan



The more detailed inserts below illustrate the material difference between what was previously approved and what has been constructed on site – with respect to the southern elevation:



The 2013 approved plan

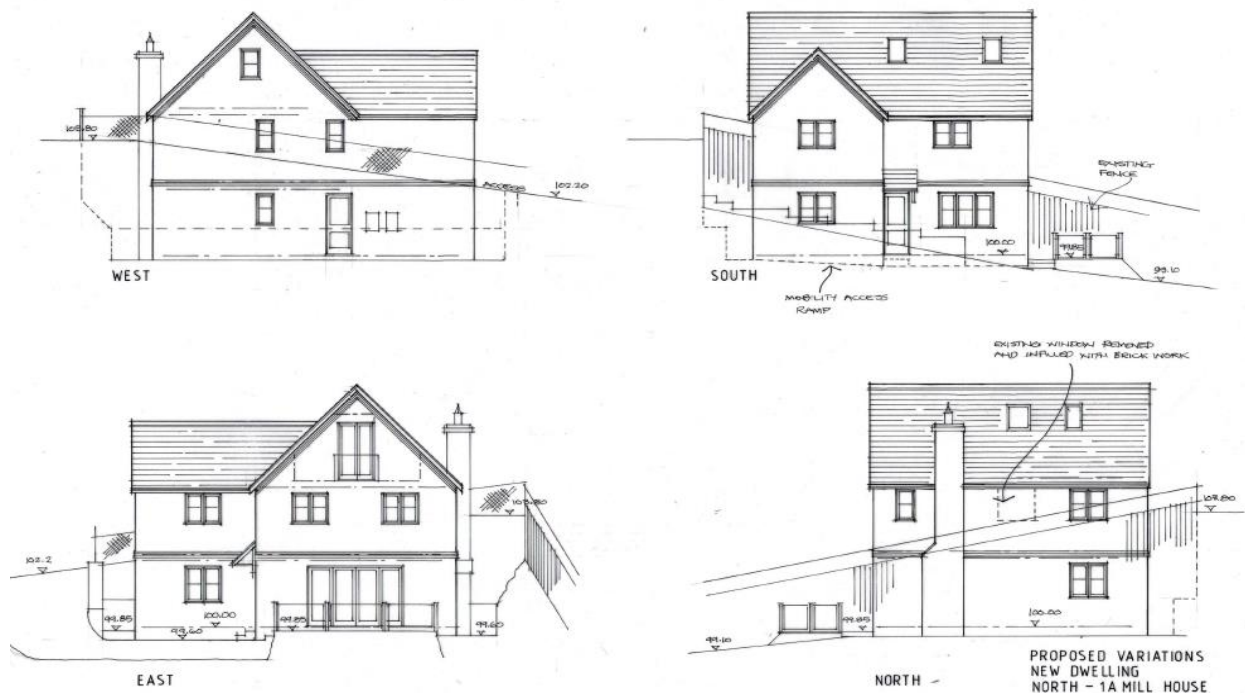


The house that is under construction

The material differences between what was previously approved and what has been constructed on site comprise: excavating an extra 1m of ground to position the slab of the dwelling 4m below the public road level compared to the consented 3 metres. The insert image above right illustrates the road level (depicted by a horizontal line to the far left of the image at about eaves level) and the former sloping ground level which is illustrated as cutting across the southern facing elevation has been removed. As a consequence of the excavation and setting the foundations at a lower level than what was previously planned, the resulting ridge level is some 0.7m lower than what was approved in 2013. The roof massing is also reduced compared to what was approved in 2013 by virtue of it being 0.3m smaller (the eaves-ridge measures 3.6m rather than 3.9m). The 2013 approved wall head dormers have been deleted and have been replaced by windows formed in the walls instead. The 2013 approved plans clearly related to a 4-bed house of two-storeys. The house that has been constructed has 2.5 storeys with a fifth bedroom and en-suite to be formed in the roof space that would be served by eastern and western gable windows and high-level rooflights in the southern and northern roof planes. The modifications made to the form of the dwelling are illustrated by the following insert of the southern elevation plan which officers have created by overlaying the previously approved plan over the as built/proposed plan elevation drawing. The red outline represents the form, size and position of the 2013 approved house with the more detailed elevation behind it representing the proposal.



Section and proposed amendments in detail. The plan below illustrates all the as built/proposed elevations of the new dwelling.



6. Local Planning Policy.

Wiltshire Core Strategy (WCS) CP1: Settlement Strategy; CP2: Delivery Strategy; CP3: Infrastructure Requirements; CP32: Westbury Community Area; CP45: Meeting Wiltshire's housing needs, CP57: Ensuring High Quality Design and Place Shaping; CP58: Ensuring the Conservation of the Historic Environment; and CP67: Flood Risk.

Wiltshire Local Transport Plan 2011- 2026 – Car Parking Strategy

National Planning Policy Framework (NPPF) and National Planning Practice Guidance (NPPG) are also material considerations.

7. Summary of consultation responses.

Bratton Parish Council: 1st consultation response: The Parish Council objected for the following reasons:

- The amended dwelling is significantly larger than what was previously approved
- The development is out of proportion to the area and is over development of the site
- Loss of amenity to neighbouring properties with overshadowing and loss of outlook
- The submitted plans do not reflect the unauthorised work

2nd consultation response received: The Parish Council reaffirmed its objections arguing that the development has taken place contrary to the planning permission previously granted and the application details do not accord with what has been constructed.

Wiltshire Council's Conservation Officer: No objections (refer to section 9.6 of this report)

Wiltshire Council's Highway Officer: No objections, subject to conditions.

Natural England: No objections.

Wiltshire Council's Building Control: The dwelling has building warrant approval - signed off by the Council. The drainage connections connect to the existing drainage system.

Wessex Water: No objections. A planning informative is necessary to address separate land drainage consent matters

Wiltshire Council's Land Drainage Officer: No objections, subject to a planning informative advising the applicant that separate land drainage consent is required for operational development works within 8 metres of a watercourse and private system discharge.

Environment Agency: No objections although recommended that the house should have flood proofing measures. (Note added: This application falls outside the EA's statutory remit).

8. Publicity

The application was advertised by site notice and neighbour notification letters. The site was visited by the case officer on several occasions in addition to the inspections made by the Council's building control team. Three separate public consultation exercises were completed between June and October 2017 which resulted in 31 representations being received from 11 third parties raising the following concerns:

- The development is three storeys and is significantly different to the previous approved house.
- The foundations are lower and the ridge height has increased to create a two-storey dwelling.
- The submitted plans do not accurately illustrate the house under construction.
- The building should be demolished and the applicant should stick with the original plans.
- The plot is overdeveloped.
- The driveway is steeper and concerns are raised about car parking, visibility and subsidence.
- The revised house is out of character, intrusive and harmful to the Conservation Area.
- The applicant's needs should not outweigh the harm to the Conservation Area
- There are more windows than what was previously allowed.
- The position of the chimney has changed.
- The proposed roof lights are inappropriate.
- The development would have a detrimental impact on neighbouring amenity
- There is insufficient car parking, access and visibility splays
- Concerns about subsidence, road restrictions and earth banking and boundaries.
- A variation application is not an appropriate submission.
- If approved, it would set a precedent for unauthorised developments.
- Further details should be sought
- Impact on neighbouring amenity
- The 2005 application for a 2.5 storey dwelling was withdrawn as officers considered it to be inappropriate.
- Possible risk of flooding as the building is set lower into the site.
- The datum levels need to be checked.
- Why didn't the Council monitor the build.
- There has been a disregard for planning rules and regulations. The application should reported to committee for the members to refuse and should be demolished and re-built to original plans
- Concerns raised about inadequacy of neighbour notification timeframes.

9. Planning Considerations

Section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004 require that the determination of planning applications must be made in accordance with the Development Plan, unless material considerations indicate otherwise.

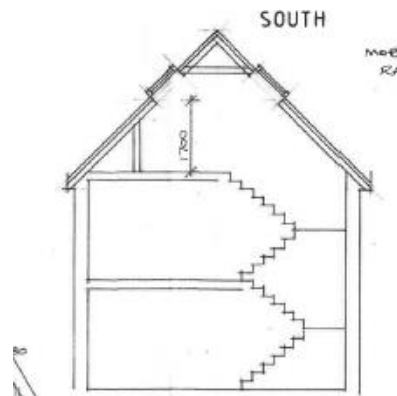
9.1 The Principle of Development - The application site is located within the village of Bratton on land between 1a Mill House and 1 Lower Road which is served by an existing vehicular access which connects with the main highway of Lower Road. The site already benefits from planning permission for a new dwelling (granted under application W/12/02101/S73 – which was a variation application itself that granted the applicant an extension of time to construct a 2-storey dwellinghouse originally granted under application ref: W/06/01395/FUL. The principle of erecting a dwellinghouse at this site is therefore well established. The site location is within the established village boundary development limits and on the basis of the above, officers remain in support of the principle of the erecting a dwellinghouse at this site. It is also noteworthy to mention that the 'as built' house benefits from building warrant approval, which includes the surface water drainage.

9.1.1 It is acknowledged that the Parish Council and third parties have objected to the new house that is well advanced in terms of its construction and numerous concerns have been raised on matters which the following sections will duly appraise:



9.2 Design and Neighbouring Impacts – By referencing the above hybrid plan drawing insert which overlays the previously approved dwelling (shown in red) over what has been built (in grey), it is submitted that the unauthorised dwelling is still principally a two-storey building, but it albeit with an extra (fifth) bedroom and an en-suite formed within the roof space. Unlike the previously consented scheme this retrospective application does not seek consent for wall head dormers. Instead, following the additional 1m site excavation that lowered the slab and foundations, the first floor windows are now at a lower level compared to the approved dwelling. This is clearly evident when comparing the window positions against the ‘fixed’ datum level formed by the adjacent road. The house position has not materially changed on the site, and as a consequence, the first floor north facing windows would lead to a reduced level of overlooking across the neighbouring garden associated to No.1. Under the 2013 application the wall head dormer windows illustrated below would serve two bedrooms.

The proposed dwelling seeks to have two upper floor windows serving bedrooms, albeit smaller units than what was previously approved. In addition, to serve the aforementioned fifth bedroom and en-suite, two rooflights are proposed for the northern (and southern roof plane). The rooflights would be positioned at a level and angle that would not lead to substantive neighbouring overlooking harm, as the following section illustrates:



The position of the roof lights would preclude substantive overlooking of No. 1’s neighbouring garden. By virtue of the 54 metre separation distance involved between No. 1 and the proposed dwelling and taking into account with the height of the roof lights being 1.7 metres above the

floor level, combined with their upward angle of view, officers are fully satisfied that there would be no demonstrable window-window privacy conflicts. No substantive concerns are raised about the proposed relocated chimney stack.



Approved 2013 Northern Elevation Plan



Proposed/As Built Northern Elevation Plan

9.2.1 On the southern elevation, the inserts below identify a similar range of material changes as outlined in para 9.2. No substantive design or neighbouring concerns are raised in relation to the southern elevation. The adjoining property is owned and controlled by the applicant and the window-window separation distances are no different to what was approved in 2013; and it would be entirely unreasonable to introduce this as a reason for refusal now.



Approved 2013 Southern Elevation Plan



Proposed/As Built Southern Elevation Plan

9.2.2 The proposed eastern and western gable elevations both include additional upper floor windows that would serve an en-suite and the fifth bedroom. These high level windows would however face non-residential land; and as such, no concern is raised.



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2013 Approved West and East Elevations



Proposed West and East As Built Elevations

9.2.3 Core Policy 57 of the WCS requires new development to have “regard to the compatibility of adjoining buildings and uses, the impact on the amenities of existing occupants, and ensuring that appropriate levels of amenity are achievable within the development itself, including the consideration of privacy...” For the reasons set out above and as illustrated in plan drawing form, officers are of the opinion that the as built/proposed dwelling would not result in harming neighbouring interests, including privacy and amenity; and consequently, it is considered to accord with CP57.

9.4 Highways/Parking

The Council’s Highways do not raise any objections as the scheme makes provision for three off road car parking spaces. The application accords with the Council’s policies and car parking strategy.

9.5 Flood/Drainage

Wessex Water, the Environment Agency and the Council’s building control and drainage team were all consulted on this application and no objections are raised following the confirmation that the as built dwellinghouse has gained building warrant approval for drainage matters.

9.6 Conservation Matters

Above the various tiers of planning policy and guidance is the over-arching statutory requirement under the Planning (Listed Buildings and Conservation Areas) Act 1990 to give special regard to the “desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses” (s66). In addition Section 72(1) of the Planning (Listed Building and Conservation Areas) Act 1990 requires the Council to pay special attention to the desirability of preserving or enhancing the character or appearance of designated Conservation Areas. *Paragraph 132 of the NPPF furthermore states that “when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation. ... Significance can be harmed or lost through ... development within its setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification.”*

9.6.1 *Wiltshire Strategy Core Policy 58 of the Wiltshire Core Strategy echoes the above national policy in seeking the protection, conservation and, where possible, enhancement of heritage assets. Core Policy 57 states that: “A high standard of design is required in all new developments, including extensions... Development is expected to create a strong sense of place through drawing on the local context and being complementary to the locality. Applications for new development must be accompanied by appropriate information to demonstrate how the proposal will make a positive contribution to the character of Wiltshire through... being sympathetic to and conserving historic buildings”.*

9.6.2 This site is approximately 60 metres from the nearest listed building. However, the intervening buildings are such that this site and proposal does not have a direct effect on the

settings of those listed buildings. This site is within the Conservation Area and this is an important heritage asset within the village and the one most affected by this development. The character of the Conservation Area at this point is one of transition between the village and the countryside to the east. The Conservation Area extends to the east of the application site up the side of the treed valley, which provides a strong sense of enclosure. It is this view of the treed valley that any house on the site would partially interrupt.

9.6.3 It is acknowledged that the site already benefits from planning permission for a dwelling and the principle of constructing one dwellinghouse on the site is well established. This application seeks to vary the previous permission to regularise what has been constructed and to gain consent for a materially different house. Having carefully reviewed the submitted plans as well as the overlay elevation plan which is included in para 9.1.1, the 'as-built' house has an increased walling massing however, the proposed house has less visual impact than the previous approved dwelling through the recognition it sits lower down into the site (following additional site excavation) with the resulting ridge height lower than what was previously consented.

9.6.4 As a consequence, the 'as-built' house has a reduced/lower impact on the Conservation Area than the previous permitted house. The as-built house results in less of an interruption to the view of the other (east) side of the valley from this part of Lower Road. The as-permitted house would have been higher and therefore more prominent in this sensitive location.

9.6.5 Moreover, whilst inspecting the site and its immediate environs, the conservation officer noted that the house has been built with interesting, bespoke brick detailing at the eaves and around the chimney, which make a positive contribution to the Conservation Area. With reference to the above points it is considered that the as-built house does not result in harm to the Conservation Area as the building sits down within its site and still allows views across the valley to the trees beyond. Due to its interesting detailing and overall lower height than the as-permitted design, the as-built house is the preferable option within this Conservation Area.

9.7 Other Matters: Land and slab level have been included and notated on submitted revised/corrected plan drawings and these have been checked on site by planning and building control officers and officers are satisfied they are accurate. Officers acknowledge the neighbouring concerns raised about the adequacy of the retaining walls at the site (these being located to the west and east of the dwelling), relating to the driveway and private garden land. In response to this, a site inspection was carried out by the Council's building control surveyor who checked the retaining structures and confirmed that they were performing their functions. Should things subsequently change on site and the retaining walls become compromised, this would be a civil matter for the relevant parties to resolve.

10. Conclusion (The Planning Balance) On the basis of the above, officers conclude that the proposed development accords with the relevant national and local plan policies and planning permission is recommended.

RECOMMENDATION: Approve subject to the following conditions.

- 1 The development hereby permitted shall be carried out in accordance with the following approved plans: Proposed site location and block plan received on 24.01.2018; Proposed elevations and section received on 12.02.2018; Proposed floor plans received on 22.08.2017.
REASON: For the avoidance of doubt and in the interests of proper planning.
- 2 No part of the development hereby approved shall be first occupied until the parking and turning area shown on the approved plans has been laid out in accordance with

the approved details. This area shall be maintained and remain available for this use at all times thereafter. The access area shall be formed of a properly consolidated surface (not loose stone or gravel).

REASON: To ensure that adequate provision is made for parking within the site in the interests of highway safety.

- 3 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting or amending that Order with or without modification), no windows, doors or other form of openings other than those shown on the approved plans, shall be inserted in the north and south elevations.

REASON: In the interests of residential amenity and privacy.

- 4 The development hereby permitted shall not be occupied until the area between the nearside carriageway edge and a line drawn 2 metres parallel thereto over the entire site frontage to the north from the centre of the access has been cleared of any obstruction to visibility at and above a height of 900mm above the nearside carriageway level. In addition, a visibility splay being provided between the edge of the carriageway and a line extending from a point 2 metres back from the edge of the carriageway, measured along the centre line of the access, to the point on the edge of the carriageway 25 metres to the south. These areas shall be maintained free of obstruction at all times thereafter.

REASON: In the interests of highway safety.

PLANNING INFORMATIVES:

1. The applicant is advised that separate land drainage consent is required for any operational development works within 8 metres of the watercourse.

2. Whilst it is acknowledged that the dwellinghouse is not on flood zone 2 or 3 land, the applicant is nevertheless advised to incorporate flood proofing measures respecting the proximity to the watercourse and flood zones 2 and 3.

3. The applicant is advised that the development hereby approved may represent chargeable development under the Community Infrastructure Levy Regulations 2010 (as amended) and Wiltshire Council's CIL Charging Schedule. If the development is determined to be liable for CIL, a Liability Notice will be issued notifying you of the amount of CIL payment due. If an Additional Information Form has not already been submitted, please submit it now so that we can determine the CIL liability. In addition, you may be able to claim exemption or relief, in which case, please submit the relevant form so that we can determine your eligibility. The CIL Commencement Notice and Assumption of Liability must be submitted to Wiltshire Council prior to commencement of development. Should development commence prior to the CIL Liability Notice being issued by the local planning authority, any CIL exemption or relief will not apply and full payment will be required in full and with immediate effect. Should you require further information or to download the CIL forms please refer to the Council's Website:

www.wiltshire.gov.uk/planninganddevelopment/planningpolicy/communityinfrastructurelevy