

<b>Date of Meeting</b>	20th September 2018
<b>Application Number</b>	17/11212/VAR
<b>Site Address</b>	The Coach House 63A Castle Road Salisbury Wiltshire SP1 3RN
<b>Proposal</b>	Removal of condition 11 of S/2009/1409 to allow reconfiguration of internal arrangements
<b>Applicant</b>	Mr Kevin Sheppard
<b>Town/Parish Council</b>	SALISBURY CITY
<b>Electoral Division</b>	ST FRANCIS AND STRATFORD – Cllr Mary Douglas
<b>Grid Ref</b>	414332 131077
<b>Type of application</b>	Full Planning
<b>Case Officer</b>	Tim Pizzey

### REASON FOR THE APPLICATION BEING CONSIDERED BY COMMITTEE

Councillor Mary Douglas has requested this item be determined by Committee due to car parking issues.

#### 1. PURPOSE OF REPORT

The purpose of this report is to assess the merits of the proposed development against the policies of the development plan and other material considerations. Having reached a balanced conclusion, the report recommends that planning permission be APPROVED.

#### 2. REPORT SUMMARY

The main issues for consideration are:

- (1) Principle of the development
- (2) Scale and design issues and impact of the development on the existing character of the surrounding area
- (3) Residential amenity issues
- (4) Highway safety and parking

#### 3. SITE DESCRIPTION

The application site is located within a predominantly residential street scene on one of the main road arteries serving the City. The existing property constitutes a small one bed dwelling of single storey form with an integral single garage space at ground floor level and internal stairs to accommodation at first floor level within the void of the pitched roof.



*The Coach House No.63A Castle Road*

To the immediate south is a large three storey Edwardian house (No. 63 Castle Road), subdivided into flats with parking / garaging to the rear and shares the same access from Castle Road as the application site. A detached two storey dwelling (No. 65a) is located to the east, which also shares the access with Nos 63 and 63A. A detached two storey dwelling (number 65) is located in close proximity to the north east of the application site. A row of semi-detached two storey houses, set well back from the road, are located further to the north of the application site.

#### **4. PLANNING HISTORY**

- S/2009/1409 Demolition of single garage and erection of dwelling. AC 15/12/2009. •
- 14/08157/FUL 2 storey extension, vertical extension on existing 1.5 storey footprint. WD.
- 15/08673/FUL Increase eaves / ridge height by approximately 1.1m to facilitate additional head height at first floor level. AC 17/12/2015.
- 16/06259/FUL Rear single storey, double height extension. AC 02/09/2016.

#### **5. THE PROPOSAL**

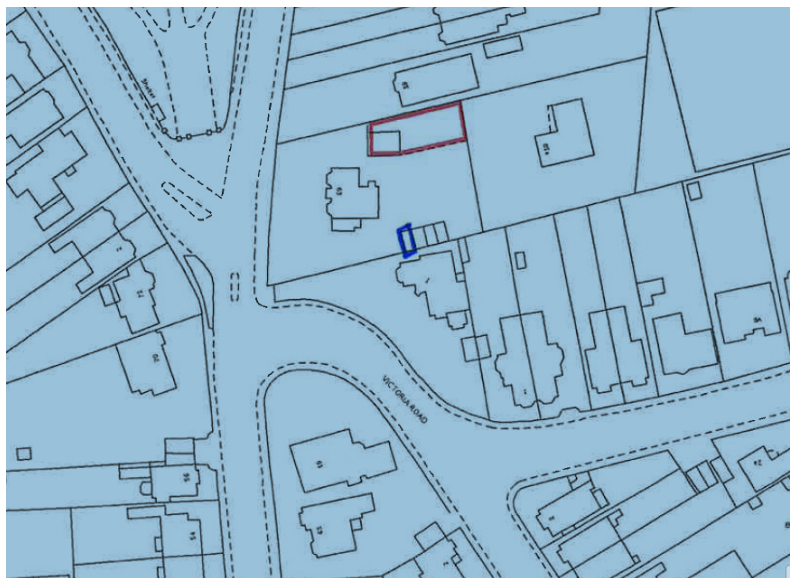
The application has been made under Section 73 of the Town Country Planning Act 1990 to remove Condition No. 11 of 17/11212/VAR, which states:

*(11) The internal garage space shown on the approved plans shall be made available for the parking of a motor vehicle and shall remain available for this use in perpetuity and notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended by the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008 (or any Order revoking or re-enacting or amending that Order with or without modification), the garage hereby permitted shall not be converted to habitable accommodation.*

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

Externally, it can be seen that the garage door is still in situ but it is understood that there have been alterations made to the internal space behind and is not available for the parking of motor vehicles. The originally submitted site plan included a floor plan that indicated the garage space as part of an open living room/ kitchen part utility room with the internal partition of the garage removed.

The site plan has been revised since it was originally submitted; the red line has been amended and proposes that a parking space (garage) at the rear of No. 63 (edged blue) would be available to the occupier of the No. 63 (below).



*Revised site plan with alternative parking shown edged blue*

## **6. PLANNING POLICY**

Wiltshire Core Strategy (2015):

- Core Policy 1: Settlement strategy
- Core Policy 2: Delivery strategy

- Core Policy 3: Infrastructure requirements
- Core Policy 20: Spatial Strategy: Salisbury Community Area
- Core Policy 57 (Ensuring High Quality Design and Place Shaping)
- Core Policy 60 (Sustainable Transport)
- Core Policy 61 (Transport and New Development)
- Core Policy 62 (Development Impacts on the Transport Network)
- Saved Local Plan Policy H8

National planning guidance as provided by the NPPF & NPPG  
Wiltshire Local Transport Plan (3) (Parking Standards)

## **7. SUMMARY OF CONSULTATION RESPONSES**

WC Highways Officer

No objection. Comments:

*“...In response to the amended planning application and additional information submitted, I offer the following observations. The original planning permission S/2009/1409 was determined using guidance from PPG13. PPG13 was replaced in 2012 with NPPF which introduced the ‘severity test’ and this has recently be reinforced in the revised 2018 NPPF. Greater clarification in respect of the wording in paragraph 109 of the NPPF in relation to the point at which highways impacts become severe has been made. The wording of the paragraph dealing with highways impacts has been altered to make clear that the ‘severe’ test relates to road capacity rather than highway safety.*

*109. 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.*

*The existing garage space in The Coach House, is small and does not meet current standards, it is likely that the space is not used as a garage or to house a vehicle currently due to its size and therefore its conversion is unlikely to alter any existing situation within the site. From information submitted and representation letters received, it is clear that the application site not does not benefit from any additional off street parking within the site. I note the additional information submitted with regards to alternative parking arrangements, however this does not have a significant bearing to my observations or advice. Parking in the vicinity of the site is restricted by double yellow lines, residents parking, with permits or a 2 hour limit. The site is close to the City centre and within walking distance of local amenities and public transport services. On that basis, I think the impact of the proposal on the local highway network would be relatively modest, and could not in my view be argued as ‘severe’.*

*In light of the above I wish to offer no highway objection to the proposal...”*

Salisbury City Council:

*“SCC objects to this application and supports the neighbour’s objection and shares their concerns regarding insufficient parking. SCC requests that a Planning Officer visit to inspect the site”.*

## **8. PUBLICITY**

The application was publicised by site notice and neighbour notification letters.

2 letters of representation have been received from neighbours / third parties objecting to the proposal as originally submitted and further two letters from the same parties objecting to the revised proposal. Summary of main points raised:

- *Various details (including Land Registry) submitted concerning land ownership and associated rights.*
- *Unauthorised parking / trespassing.*
- *No right to park in the area in front of garage or the side of No. 63A.*
- *No right to convey use the garage proposed in the revised plan to the occupier of The Coach House and change of ownership would render such an arrangement null and void.*
- *Obstruction issues.*
- *Highway safety issues.*
- *Access by emergency vehicles to 65a and to the rear of 63 Castle Road residents, will be compromised, with safety implications if two cars parked as shown on the plan.*
- *Serious parking congestion and access / exit safety risks.*
- *Parking and access at 63 Castle Rd is extremely crowded, narrow and dangerous for the many occupants in vehicles or on foot for the family at 65A Castle Rd at the back has explicit rights of access across 63 Castle Rd to get to their property.*
- *The vegetation shown across one of the parking spaces could not be removed as does not belong to the applicant so cannot be provided.*
- *The solution to the steam and cooking fumes causing smoke alarms is to site an extraction fan and re-positioning of the smoke alarm.*
- *Other garages referred to by applicant that have been converted likely to have their own on-site parking or on street parking available.*
- *Increase in living space likely to lead to additional occupants and car ownership.*
- *Breach of conditions*
- *Condition 11 was imposed for very good reasons and nothing has changed since then.*
- *Incremental overdevelopment of the site.*
- *Condition 3 (bicycle storage) – storage of a bicycle and car not possible in garage.*
- *Garage built so to render access difficult*

## **9. PLANNING CONSIDERATIONS**

### **(9.1) Principle of the Development**

This application has been submitted under the provisions of Section 73 of the 1990 Act. Procedurally, Planning Practice Guidance (PPG) states:

*“.... some or all of the conditions could be removed or changed by making an application to the local planning authority under [section 73 of the Town and Country Planning Act 1990](#). In*

*deciding an application under section 73, the local planning authority must only consider the disputed conditions that are the subject of the application – it is not a complete re-consideration of the application.....*

*..... It should be noted that the original planning permission will continue to exist whatever the outcome of the application under section 73...*

*..... To assist with clarity, decision notices for the grant of planning permission under section 73 should also repeat the relevant conditions from the original planning permission, unless they have already been discharged.....*

*..... In granting permission under section 73 the local planning authority may also impose new conditions – provided the conditions do not materially alter the development that was subject to the original permission and are conditions which could have been imposed on the earlier planning permission...”.*

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.

Core Policy 1 and 2 of the adopted Wiltshire Core Strategy (WCS) set out a settlement strategy and a delivery strategy. The policies categorise Salisbury as being a Principle Settlement, where the principle of development is considered acceptable. The application site lies within the Salisbury Housing Policy Boundary and therefore saved Policy H8 of the Salisbury District Local Plan (saved under the adopted WCS) is applicable to this proposal. In this location the principle of infill and small-scale residential development is considered to be acceptable. The site is in residential use as single dwelling, permitted in 2009. The proposal would not increase the number of dwellings but, by removing condition 11, it would allow increase the amount of internal habitable accommodation. It is considered that, in principle, the proposed development is acceptable in planning policy terms subject to any site specific consideration, as set out below.

## (9.2) Scale and Design

The existing dwelling is subservient in scale and footprint compared with the adjacent large Edwardian house at No.63 (converted to flats) and is set back from Castle Road. The existing building is also reasonably well screened by existing boundary treatments when viewed from Castle Road, except from a view directly from the shared access of Castle Road.

If Condition 11 of the 2009 permission is removed, it would lawfully enable the use of the internal garage space for 'habitable' accommodation. The Internal works / alterations, *per se*, would not require planning permission and could be undertaken and altered as required but clearly by carrying out certain internal works, this could affect compliance with Condition 11 if still in force. Compliance with Building Regulations would be a separate regulatory matter. The term 'habitable' is not defined in the planning permission. However, in principle, the removal of Condition 11 would permit the garage space to be used potentially for a wide

range of 'habitable' (or non-habitable) purposes provided it is part of the use of the building as a single dwelling (within Use Class C3). It would appear that some internal works have already taken place and the space is not being used as a garage for the parking of a motor vehicle. However, this s73 application is required to be considered on its individual planning merits.

The proposal does not enlarge, increase or extend the existing footprint of the building. The site plan submitted showed a ground floor layout comprising a kitchen / living room on the ground floor with a utility room in the front part of the integral garage space. The same plan shows the stairs (with WC under) in the same location as originally approved in 2009. The first floor plan is not shown but could presumably be converted to a bedroom (the approved plans for the dwelling showed a bedroom and bathroom on the ground floor with a living room / kitchen in the roof space at first floor level). These alterations would likely require internal alterations. The originally submitted plan showed a ground floor plan indicating the garage door opening blocked up and a window (to a utility room) inserted in its place, just to the RHS of the existing front door. Alternative internal layouts and alterations could be undertaken without the need for planning permission, without variation of the condition.

Condition 2 of the 2009 planning permission withdraws permitted development rights for the insertion of additional windows (in the interests of residential amenity) and the application does not specifically seek a variation of Condition 2 (plans condition) for such work. In addition, no details or elevations have been submitted for such work and it is considered that separate application would be required for any such external work, should permission be granted to remove condition 11. Any alterations necessary may also require Building Regulation approval but that is a separate matter and should this result in the need for any subsequent material external alterations, a further separate planning permission may be required, depending upon the nature and extent of such changes. Any such application would be considered on its merits, which would be considered on its own merits. In support of the application to remove the condition the applicant has stated that it would enable some of the internal layout problems associated with the sloping ceiling at first floor level to be resolved. However, it is considered that these issues can be afforded little in terms of poor living conditions for the occupier to justify removing condition 11.

The 2009 planning permission also removed other permitted development rights for extensions and enlargements but that does not mean that alterations would not be permitted and it will be noted from the planning history above that planning permission has subsequently been granted for extensions and alterations to this dwelling recent years (15/08673/FUL & 16/ 06259/FUL), each having been considered on their own merits in the context of relevant local and national planning policy. Neither of these permissions appear to have been commenced but are currently extant. Even so, taking into account these extant permissions, it is concluded that in design terms, there is no objection to the use of the garage for habitable residential purposes in principle

The acceptability of the removal of Condition 11 in this case is thus considered to rest with other site specific considerations, as set out below, in particular any implications for highway safety.

### (9.3) Residential Amenity

There are third party concerns regarding the impact of the development, as summarised above. The NPPF includes that planning policy and decisions should, *inter alia*, “...create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future uses.....” (paragraph 127[f]). WCS Core Policy 57 states that applications must meet a number of criteria including, *inter alia*:

*(vii) Having 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, overshadowing; vibration; and pollution (such as light intrusion, noise, smoke, fumes, effluent, waste or litter)*

There would be no increase in the current footprint of the dwelling if Condition 11 was removed. It is judged that the use of the garage space for habitable accommodation is unlikely in itself to have any significant direct adverse impact on the amenities of the occupiers of adjoining neighbouring properties, including No. 63, 65 and 65A, through any intensification of the domestic use of the property (e.g. noise and disturbance) as a single dwelling. As stated above any additional windows or other material external alterations would require separate permission

The unavailability of the garage for parking could be said to have a resultant knock-on impact on the amenities of the adjoining dwellings as a result of the physical presence of parked cars in front of the dwelling and the potential increased car manoeuvring with respect to parking and turning with associated conflict and inconvenience for users of the access and parking areas. However, in the context of the general level car movements / traffic using the access and adjacent parking area at the rear of No.63, it is not considered that any such increase movements are likely to be unduly harmful in terms of noise and disturbance. It is accepted that, notwithstanding Condition 11, it is not possible to enforce that the garage at No. 63A is positively used for parking a vehicles (only made available) in which case the resultant impact in terms of car movements could potentially be the same as currently. From the representations received, however, there are on-going civil matters / disputes regarding the private rights of use / parking available to the applicant. Nevertheless, whilst this may give rise to some private conflict, these are considered to constitute separate civil matters between the relevant parties.

Given the separation distance to neighbouring properties and the nature of the proposed variation, in land use planning terms it is considered that the proposal the use of the garage space for habitable is compatible with the residential use of the existing dwelling and adjacent residential land uses that in itself unlikely to harm the residential amenities of neighbouring properties. Although it may be privately contested, the applicant's revised parking arrangement for the occupier of No. 63A to use the applicants parking space at No. 63 (Brooks Court) is also unlikely to result in any undue or significant amenity issues from either the passage of cars or pedestrians to and from the parking space in connection with the use of No. 63A. Further comment on the parking is made below.

Regarding the living conditions for the occupants of No 63A, a statement accompanying the application refers to the practical problems for the tenant with the current design in terms of



the problems associated with the sloping ceiling at first floor level and use of the kitchen and cooker; activating smoke alarms, steam from the kettle peeling paint, bumping head heads, nowhere else to locate the cooker and a totally impractical arrangement. However, as stated earlier, it is considered that only limited weight can be afforded to such matters in the determination of the application. Any occupier / purchaser would be aware of the size and layout of the dwelling. As stated above, there is extant permission for alterations and additions to the dwelling.

#### (9.4) Highway Impact and Parking

The existing dwelling is served via a shared access drive directly off Castle Road (A345) close to a busy local road junction and pedestrian crossing point. If Condition 11 is removed, the local planning authority would not be able to ensure the integral garage is kept available for parking through the planning enforcement of the condition. However, whilst facilitating its availability, the condition cannot require the garage to actually be used to park vehicles.

The supporting text to Wiltshire Core Strategy Policy 64 refers to a parking study, commissioned by the council in January 2010, which included a comprehensive review of parking standards, charges and policy within both the plan area and neighbouring areas. The resulting LTP3 Car Parking Strategy (the third evolution of the Wiltshire Local Transport Plan) was adopted by the council in February 2011 and includes policy PS6 – Residential parking standards. The parking standards for new dwellings are set out in the Wiltshire Local Transport Plan 3, 2011-2026 – car parking strategy. The nominal minimum parking requirement for a one bed dwelling is one car space, and for two bed dwelling is two car spaces.

The dwelling as approved in 2009 was for a one bed dwelling, although there is potential for it to become a two bedroom dwelling if the extant permissions were implemented or possibly through other internal alterations, subject to Building Regulations. The 2015 permission shows an internal layout with two bedrooms but this still retained the garage space and it is noted that a similar condition (condition 3) was imposed on that permission to prevent the garage being converted to habitable accommodation. As the current application seeks only to remove condition 11 of the 2009 permission, the 2015 permission and its conditions would remain unaltered, unless otherwise varied by an application.

The planning statement by the applicant accompanying the application refers to the garage being too small with difficulties for users getting in and out of a car when in the garage. This would partly depend on the size of car. However, it is accepted that the garage is minimal in size and would be below the current standard where to count towards allocated parking for new developments today, it would need to:

*“... meet a size requirement of 6m x 3m (internal dimensions). This is to ensure that there is sufficient room for an average sized family car, a cycle and some storage provision. Where these minimum size requirements are not met, the council will require design statements and/or transport assessments to demonstrate the need for such provision and/or to set-out the role of alternatives (e.g. car ports which are unlikely to be used for storage and could therefore count towards allocated parking provision)...”.*

*(WTP – para, 7.4)*

This size requirement is to ensure the garage is more likely to be used. The proposal is not for a new dwelling but some limited weight can be attached to the argument the garage is effectively not practicable / suitable for use for parking a car. The likelihood of it being used would, though, also depend on other factors, including the user and the type of vehicle and removal of the garage would permanently remove this as a possibility.

In the 2015 application, some weight was given to the possibility that the applicant could, without the need for planning consent, internally re-arrange the existing premises into a two bed dwelling (albeit with more limited headroom) whilst maintaining one parking space. As this fall-back position was available to the applicant, it was considered to constitute a significant material consideration had permission for consent been withheld on the basis of insufficient off-street parking provision. The same fall-back position could be said to exist with the current application except the garage would not be retained.

Without the garage, the parking space available for the dwelling either as a one bedroom or two bedroom dwelling would be limited. The plan submitted originally with the application illustrates there is space to accommodate two cars side by side directly in front of the dwelling, clear of the private drive which carried on to serve the private parking area for the flats at No. 63. On site, however, the width of the hedge on the north boundary in front of No. 63A effectively reduces the amount of space available and the land would not appear to belong to the applicant, aside from any private right to do so. Currently only a small single car if parked close to the dwelling may be able to park without unduly obstructing the private access road. Even if parking for two cars side by side is available, as shown on the plan it is likely cause a degree of conflict with the use of the access road. The submitted site plans suggests that part of the private access drive between the dwelling and No. 63 is available for turning. However, with two cars parked side by side, the ability for a vehicle to turn in order to exit the site in forward gear is also likely to prove difficult due to the limited space available. With one car parked, turning / manoeuvring is likely to be a little easier, particularly with a smaller car but still not very convenient.

Third party objections have been received about the not having the necessary right to park cars where shown in front or to the side of the development. Under the proposal for the 2015 application it was noted that there was also a dispute regarding rights of access over the drive between parties. However it was concluded that such issues in themselves constituted a private civil matter. Moreover, in that application showed the garage to be retained and was also further conditioned as such. The applicant has stated that access rights are available to the application dwelling. Such matters are civil matters and it is not for the LPA to become in any such private disputes. If not within the ownership of the applicant and the applicant has no other legal right to use it for 'parking' the removal of Condition 11 would potentially lead to a situation where No. 63A may have no access to on-site parking for use by the occupier of the dwelling. It is also considered that a condition imposed to make provision for a parking space at the front of No.63A (and to be maintained thereafter) would not be reasonable or enforceable, where there is reasonable doubt of its provision due to the ownership / rights of use issues, as would appear to be the case.

In the light of the above, the applicant has revised the application, removing the land in front of the garage from the red line of the site (which does not appear to be within the applicants

ownership) and as an alternative proposes that the applicant's own parking space for his flat No3 at the rear of No. 63) is made available for the occupier / tenant of No. 63A and the applicant would park on the surrounding streets, where there is a Resident's Parking Zone in operation. The applicant has confirmed he has a parking permit. Further representations have been received suggesting that such rights cannot be conveyed by the applicant and does not overcome initial objections made. Any disputes regarding leasehold or free hold rights, etc. are again separate civil matters between the relevant parties. However, from a planning perspective, this is not an arrangement that could be reasonably be controlled or enforced easily by a planning condition. It also still results in the overall loss of a parking space between No. 63A and 63. The issuing of parking permits for use in a Resident's Parking Zone is a separate consent operated by the Council and cannot be controlled through a planning condition. The private / civil matters cast doubt on whether any alternative on- site parking provision can be achieved and potentially, therefore, without the integral garage the dwelling could have no on- site parking available..

In a supporting statement the applicant make the following points:

- No. 63a is in a sustainable area,
- There is a bus stop/ park & ride directly opposite 63a Castle road,
- There is also a cycle lane/path immediately at the end of the drive to 63a Castle road.
- A car" or parking for such, should not be considered essential so close to the Salisbury town centre.
- It merely encourages more cars at the property, by providing yet another parking space/garage, and not making good use of the excellent facilities on offer.

Some weight can be given to the level of accessibility and the sustainable location of the site. In this particular case, the application site can be considered to be relatively high in terms of accessibility and with access to modes of transport other than private car. The views of the Highways Officer are important in relation to the level of parking provision and any associated highway safety implications. Having considered the specific circumstances of this case, the Highways Officer has raised no objection to the removal of Condition 11, which it is acknowledged would result in the loss of the integral garage to habitable accommodation.

The reasoning is given in full in the Highway Officer's consultation response above takes into account the proposed alternative car parking arrangements, whether they are achievable or not. In the light of the Highway Officer's assessment and comments, it considered that there is not a compelling reason for refusal that could be sustained either on the grounds of loss of / inadequate on-site parking provision or in relation to associated highway safety. There are parking restrictions on Castle Road either side of the access, separately enforceable. The Highway Officer will also be aware that the on street parking in the vicinity of the site is subject to a Resident's Parking Scheme.

## **10. CONCLUSION**

The concerns of the third parties and consultees are noted and have been taken into account, including the civil matters relating to land ownership and private rights. In land use planning terms, however, it is considered that the proposal to remove Condition 11 of 2009

planning permission would not result in harm to the existing character of the area and, on balance, the impact on neighbouring amenity is not considered to be of such harm to warrant refusal of planning permission. Based on the comments and recommendation of the Highways Officer, it is not considered an objection could be sustained on the grounds of parking and highway safety either, given the individual circumstance of this case.

If permission is granted, it would be necessary to re-impose conditions in respect of the withdrawal of permitted development rights imposed on the 2009 planning permission.

## **11. RECOMMENDATION**

APPROVE, subject to the following conditions:

(1) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended by the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008 (or any Order revoking or re-enacting or amending those Orders with or without modification), no development within Part 1, Classes A-C, there shall be no other windows inserted in the dwelling, unless otherwise agreed in writing by the Local Planning Authority on submission of an application on that behalf. .

REASON: To ensure adequate privacy for the occupants of neighbouring premises.

(2) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended by the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008 (or any Order revoking or re-enacting or amending those Orders with or without modification), no development within Part 1, Classes A-C and Class E (extensions/enlargements/outbuildings) shall take place on the dwellinghouse hereby permitted or within its curtilage.

REASON: In the interests of the amenity of the area and to enable the Local Planning Authority to consider individually whether planning permission should be granted for additions, extensions or enlargements.