

Date of Meeting: 13 June 2019

APPLICATION NO: 17/0360/VOC

DATE OF APPLICATION: 22 February 2017

STATUTORY START DATE: 22 February 2017

SITE LOCATION

51 Bushey Hall Road, Bushey, Hertfordshire, WD23 2EE

DEVELOPMENT

Removal of condition 3 (use of extensions as accommodation as a care home) attached to planning permission TP/12/0627

AGENT

Mr Peter Brady
20 Oaklands Park
Bishops Stortford
CM23 2BY

APPLICANT

Yovita Ltd.
Broad Oak House
Broad Oak End
Hertford, SG14 2JA

WARD: Bushey North

GREEN BELT: No

CONSERVATION AREA: No

LISTED BUILDING: No

TREE PRESERVATION ORDER: No

REASONS FOR COMMITTEE CONSIDERATION

The application was called in to committee for consideration by former Councillor J. West on 10.03.2017. Although she is no longer a councillor, the case has never the less been called in.

1.0 SUMMARY OF RECOMMENDATION

It is recommended that the condition be removed, as requested.

2.0 BACKGROUND

2.1 The site is a vacant care home in a former Edwardian or Victorian house which fronts onto Bushey Hall Road, but which is located on the corner of Grove Hall Road, which is a residential cul de sac running down the left side of the site. It has a paved forecourt which can accommodate a few cars (the planning officer has seen that it can comfortably accommodate three cars or vans, with potential for one or two more if they are tightly packed and blocking each other in).

2.2 The building has been empty for several years while extensions have been built, a basement has been created, the loft has been converted, and internal refurbishment has taken place. The works are now completed externally, and when the site was inspected by the planning officer on 5th April 2019 it was noted that

internal refurbishment works were well advanced; albeit only a few rooms were decorated or furnished.

2.3 Planning permission was granted in 1968 for the use of the premises as a care home for the elderly. There were no conditions attached, and therefore the parts of the building that existed in 1968 can be used for any purpose within the relevant use class – which is now known as Class C2.

2.4 In 1984 planning permission TP/84/0343 (alternative reference 8969/2) was granted for double storey side and rear extensions, and that permission included Condition 3, which is set out below. Note that the current equivalent of Use Class XIV is Class C2. It should also be noted that this condition only related to the use of the extension – not to the use of the original parts of the building.

The extension shall be used as additional accommodation to the existing Old Persons Home, and shall not be used for any other purpose within Use Class XIV of the Town and Country Planning (Use Classes) Order 1972, or for any other purpose whatsoever without the prior permission of the Local Planning Authority.

Reason: Any other use would be likely to generate a level of activity, traffic and off-street parking requirements which would detract from the area's residential character and lead to on-street parking to the detriment of highway safety.

2.5 Twenty-eight years later, in 2012, application TP12/0627 was submitted and approved. The description under which this was logged was rather confusing, but it was actually an application to vary the wording of Condition 3 of planning permission TP/84/0343. The application was approved, and the new wording for the condition was as follows:

The extensions (the property) shall be used as accommodation as a care home to care for people in need of care and for no other purpose within Use Class C2, residential institutions, of the Town and Country Planning (Use Classes) Order 1987 (as amended).

Reason: Any other use would be likely to generate a level of activity, traffic and off-street parking requirements which would detract from the area's residential character and lead to on-street parking to the detriment of highway safety. In accordance with the National Planning Policy Framework (2012), Hertsmere Local Plan adopted 2003 policies M12 and M13. Policy CS24 of the Revised Core Strategy (for submission to the Secretary of State) November 2011.

2.6 The application that is now before us, and which is the subject of this report, is seeking to delete that condition entirely.

2.7 In 2014 planning permission was refused (14/1499/FUL) for extensions and alterations. In 2015 another application (15/0652/FUL) was submitted for planning permission for extensions and alterations, which were proposing a smaller development than that which had been refused in 2014. This application was approved in July 2015. A minor (“non-material”) amendment to the approved scheme was allowed in 2016 as 16/1528/MA.

2.8 In 2017 the Council discovered that the development that was being built was not in accordance with the planning permission that had been granted in 2015 (15/0652/FUL) and consequently an Enforcement Notice was served requiring the developers either to change the development so that it would comply with permission 15/0652/FUL or else to demolish it. The developers appealed against that Enforcement Notice successfully. It was considered by an independent Appeal Inspector who allowed the appeal in November 2018. He quashed the Enforcement Notice, and he granted planning permission (without any conditions) for the development as it had been built (note that this related only to extensions and alterations, not to any change of use). This is the most recent planning permission.

3.0 THE PROPOSAL

3.1 This application is seeking to delete Condition 3 of planning permission TP/12/0627, which was as follows:

The extensions (the property) shall be used as accommodation as a care home to care for people in need of care and for no other purpose within Use Class C2, residential institutions, of the Town and Country Planning (Use Classes) Order 1987 (as amended).

Reason: Any other use would be likely to generate a level of activity, traffic and off-street parking requirements which would detract from the area's residential character and lead to on-street parking to the detriment of highway safety. In accordance with the National Planning Policy Framework (2012), Hertsmere Local Plan adopted 2003 policies M12 and M13. Policy CS24 of the Revised Core Strategy (for submission to the Secretary of State) November 2011.

4.0 REASONS FOR THE DELAY

4.1 This application was submitted on 22.02.2017, so it has been a live application for more than two years. Its original determination deadline of 30.06.2017 was missed long ago. The reason for the delay was that the appeal against the Enforcement Notice was pending and it was considered appropriate to await the outcome of that appeal before determining this application. It was at the end of November 2018 that the Appeal Inspector's decision was issued. Since then the planning officer who had been dealing with this site has left the Council, and it has been necessary to allocate the case to another planning officer.

5.0 RELEVANT PLANNING HISTORY:

5.1 In the table below the rows that have their backgrounds shaded in grey are those entries that are particularly relevant in this case.

Reference	Description	Outcome and date
TP/68/0503	Use of an existing dwelling to house elderly people and provision of a fire escape.	Approval 18 March 1968

		No conditions were attached to this planning permission
TP/84/0343 Alternative ref (from an older system) was 8969/2	2 storey side and rear extensions	Approval 9 August 1984
TP/09/1618	Confirmation that building falls within use class C2. (Certificate of Lawful Development - existing use).	Application Withdrawn 19 January 2010
TP/11/2247	Use of property as a care home (C2) (Certificate of Lawful Development - Existing).	Application Withdrawn 10 January 2012
TP/12/0627	<p>The extensions (the property) shall be used as accommodation as a care home to care for people in need of care and for no other purpose within Use Class C2, residential institutions, of the Town and Country Planning (Use Classes) Order 1987 (as amended)</p> <p>NOTE: The description above is confusing, but it is that which was logged on the Council's database, and which appears on the decision notice that was issued. It should have been: "Variation of Condition 3 of planning permission 8969/2 (alternative ref TP/84/0343)" as that is what was applied for according to the application form (note that the application form referred to 8969/2 which is from an old referencing system, the reference under the newer system would have been TP/84/0343).</p>	Grant Permission 18 May 2012
DOC/12/1293	Application for approval of details reserved by condition 3 of planning permission reference TP/12/0627	Response Given 26 July 2012
14/1480/DOC	Application for approval of details	File closed as no response

	<p>reserved by conditions 6 and 7 of planning permission reference 8969/2 dated 1984</p> <p>NOTE: 8969/2 is from an old referencing system. The alternative reference under the newer system is TP/84/0343.</p>	<p>from applicant. Letter sent 10 December.</p>
14/1499/FUL	<p>Extensions and alterations to existing care home</p>	<p>Refuse Permission 22 December 2014</p>
15/0652/FUL	<p>Extensions and alterations to existing care home. (Revised Application)</p>	<p>Grant Permission 27 July 2015</p> <p>This was for a smaller development than that which had been refused in 2014.</p>
15/1590/VOC	<p>Variation of condition 3 attached to planning permission reference TP/12/0627 to allow the building to be classified as a hospital.</p>	<p>Application Withdrawn 14 April 2016</p>
16/1528/MA	<p>Application for a non-material amendment following the grant of planning permission reference 15/0652/FUL</p>	<p>Approval 1 September 2016</p>
16/1999/CLP	<p>Use of area outlined in red on location plan for any purpose within Class C2 of the Town and Country Planning (Use Classes) Order 1987 (as amended). Certificate of Lawful Development (Proposed).</p>	<p>Refuse to Grant Certificate 8 December 2016</p> <p>The reason for refusal was that insufficient and imprecise information had been submitted.</p>
17/0705/MA	<p>Application for a non-material amendment to allow for installation of 3 roof lights to front elevation following the grant of planning permission ref 15/0652/FUL</p>	<p>Refuse the Details 3 May 2017</p> <p>The reasons for refusal were firstly that more rooflights were found to have been installed already than were proposed in the application, and secondly that insufficient information had been submitted to demonstrate that the proposal would not result in more floorspace or</p>

		bedrooms being created, which might have material impacts, and that therefore the proposed amendments could not be regarded as "non-material."
17/1111/MA	Application for a non-material amendment to allow for the installation of roof lights following the grant of planning permission ref 15/0652/FUL	<p>Refuse the Details 28 June 2017</p> <p>The reasons for refusal were firstly that a site visit had established that the works being carried out did not accord with planning permission 15/0652/FUL and that the plans submitted therefore did not reflect the development being built, and secondly that the Council's constitution stated that alterations cannot be considered "non-material" if (as in this case) they aggravated the subject matter of any previously expressed objections.</p>
17/1791/FUL	Alterations to windows, installation of seven rooflights and increase in roof area (Retrospective application).	Application was returned.
18/0045/APP	<p>Appeal: Appeal against Enforcement Notice 17/0089/UAW dated 13/12/17 –</p> <p>Without planning permission, the erection of a part two storey and part single storey rear extension to premises ("the unauthorised development")</p>	<p>Appeal Allowed 30 November 2018</p> <p>The appeal was against an Enforcement Notice served by the Council that required the developers to either build the development in accordance with planning permission 15/0652/FUL or else demolish it. The appeal was allowed, the enforcement notice was quashed, and planning permission was granted (without any conditions) on the application deemed to</p>

		have been made for the works already carried out. The inspector opined that there was no reason to suppose that a material change of use was proposed, that the scheme was well designed, that there was no substantive increase in scale or bulk, and that the impact on the character of the area would not be harmful.
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6.0 CONSULTATION & RESPONSES

6.1 Notices

A site notice was produced
No press notice was required.

6.2 Summary of consultation responses

Because a revised version of the Planning Statement had been submitted, there were two rounds of consultation: on 28.02.2017 and 11.05.2017. Consultation letters were sent to the following:

Consultees	Response
Highways HCC	<p>A response was received on 21.03.2017 VERBATIM: “The condition in question was not imposed by HCC and therefore the Highway Authority has no objection to its variation.”</p> <p>A further response was received on 25.05.2017: VERBATIM: “This amended VOC application is seeking planning permission for the use of the whole of the property for C2 purposes without restriction. The Highway Authority considers that this is not highway related and therefore has no objection to the variation of condition.”</p>
Environmental Health & Licensing	<p>A response was received on 03.03.2017 VERBATIM: “Environmental Health raises no objection.”</p>

6.3 Neighbour responses

In Support	Against	Comments	Neighbours Notified	Contributors Received
0	56	0	35	57

6.4 Summary of neighbour representations

6.5 This application has been pending a decision for more than two years for the reasons that are explained above (mainly relating to the need to wait for the outcome of the appeal against the Enforcement Notice). The letters of objection that were received are now two years old. They were written in the spring of 2017 when building work was underway on the site, and several residents wrote that they suspected that the works were not being carried out in accordance with the planning permission that had been granted in 2015 (15/0652/FUL). This turned out to be true – the development was indeed not in accordance with that permission, and the Council responded by serving an Enforcement Notice; but subsequently the developers successfully appealed to the Planning Inspectorate, who quashed the Enforcement Notice and granted planning permission for the development as it had been built. Other issues that were raised by objectors are summarised below:

Points Raised	Planning Officer's Comments
Parking provision on the site would be inadequate. The planning statement (paragraph 2) says that there is parking space for up to 5 vehicles, but the previous permission had 3 parking spaces, and the physical space available on the forecourt has not increased.	It should be remembered that the planning permission that has been implemented is not 15/0652/FUL but rather the permission that the Appeal Inspector subsequently granted. Whether the capacity of the forecourt is 3 or 5 spaces is a moot point: it could comfortably accommodate 3, and perhaps 5 although in that case some cars would probably be blocked in by others.
The reason for which Condition 3 was applied was to protect local residents from parking congestion being exacerbated on local streets. Therefore it should be retained.	Removing Condition 3 would not result in a worsening of parking congestion on local streets because there is no proposal for any more people to use the site than is already the case. Some of the letters of objection complain about parking congestion that they say has already been a problem on Grove Road, and which they say is caused by commuters. This problem could be solved by the introduction of parking restrictions such as yellow lines or a Controlled Parking Zone; the Council could consult local residents on the introduction to such a scheme if there were an appetite for it locally.

<p>Residents worry that there might be more than 8 bedrooms, which is the number that was permitted by the 2015 planning permission (15/0652/FUL). The planning statement (paragraph 13) seems to suggest that there could be 10-13 or even 18 bedrooms. If there are to be more bedrooms, will there also be more staff? Where will they park? Grove Hall Road already suffers from parking congestion caused by commuters.</p>	<p>Until the fitting out of the premises has been finished it is too early to tell how many bedrooms there will be; but if it were to be found when the premises opened that they were not complying with their planning permission as regards the number of bedrooms then enforcement action could be taken. In that case it should be remembered that the planning permission that has been implemented is not 15/0652/FUL but rather the permission that the Appeal Inspector subsequently granted. However the issue of the number of bedrooms is a separate matter that has nothing to do with the application that is the subject of this report, which relates to the proposed removal of Condition 3.</p>
<p>Residents worry that the premises could be used as a hospital because the application refers to consultants working on the premises. The site does not have enough parking space or ambulance bays to serve as a hospital. Will there be an outpatient clinic for patients visiting the consultants on the site?</p>	<p>The planning statement that was submitted explained in paragraph 10 that the intention is for a consultant psychiatrist to visit the premises from time to time, and that Condition 3 currently prevents such a consultant from working in the extension (though not in the original part of the building). It explains in paragraph 12 that the property <i>"would not and could not... include any A&E and walk in outpatients treatment facilities, surgical theatres, continual ambulance transport or a stream of daily visitors such as are seen at a general hospital."</i></p>
<p>The local community have a right to know what type of people would be treated in these premises. It is not clear whether they would be young people, or people with personality disorders, or those with drug or alcohol problems. Why are the applicants being evasive about this?</p>	<p>The application is not evasive – full details are given in the Planning Statement that was submitted. Paragraphs 8 to 10 state that they would be young people under the care of a consultant psychiatrist. Paragraph 14 states that the age range for those users would be 8-18, and it also mentions that another possible use could be as a mother and baby unit for women with mental illnesses.</p>
<p>It is unclear why there is a need for a whole range of uses. The application states that it is necessary to comply with</p>	<p>The Planning Statement explains in paragraph 10 that, in order to meet the registration requirements of the CQC and</p>

the requirements of the Care and Quality Commission, but it is not explained what those requirements are.	NICE (National Institute For Health & Clinical Excellence) the premises should have a planning permission that allows a full range of uses with Use Class C2 so that a consultant psychiatrist can visit the site and care for its residents on the premises.
Are Yovita the same as the previous applicant Nouvita? Or is that a spelling mistake? They have the same directors and the same registered office address.	Yovita is not a spelling mistake – it is the spelling that is registered at Companies House, and it seems to be the more up to date name for the company. This is not relevant to the consideration of this application.
Condition 3 should not only be retained, but it should be broadened so that it covers the whole building, not just the extension.	This is not possible. The Council cannot now apply a condition to a use that was granted unconditional planning permission half a century ago in 1968.

7.0 PLANNING POLICY CONTEXT

7.1 National Policy/Guidance

National Planning Policy Framework 2019

7.2 The Development Plan

Adopted Hertsmere Local Plan:

- Development Plan Document Core Strategy 2013
- Site Allocations and Development Management Policies Plan 2016
- Elstree Way Corridor Area Action Plan 2015

8.0 ASSESSMENT AND REASONED JUSTIFICATION

8.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that 'If regard is to be had to the development plan for the purposes of any determination to be made under the Planning Acts, the determination must be made in accordance with the development plan unless material consideration indicate otherwise'.

8.2 Building works

8.3 An issue of concern that was raised by several local residents in their letters of objection was a sense of indignation that at that time (early 2017) the building works that were being carried out were not in accordance with the planning permission that had been granted. This was investigated by Planning Enforcement Officers, and it resulted in an Enforcement Notice being served, but that notice was subsequently quashed by an Appeal Inspector who granted planning permission for the works as

they had been carried out. It is understandable that local residents felt aggrieved by the cavalier way in which the development was carried out; but this is not relevant to the consideration of the application that is now before us – which relates only to the question of whether Condition 3 should be removed, as has been requested.

8.4 Parking

8.5 Another issue that was raised by most of the objectors related to the parking capacity of the site, which has a modest forecourt that is capable of accommodating 3 vehicles easily, or perhaps 5 if they are tightly packed. Residents worried that lifting the condition might result in more vehicles being associated with the site, and that this might result in overspill onto Grove Hall Road or other local streets. However, these worries were based on a misunderstanding of what is being proposed. The Planning Statement that has been submitted makes it clear in paragraphs 10 and 12 that there is no proposal to turn the premises into a hospital with an A&E department, surgical theatres, ambulance services, walk-in outpatients services etc. The site is a converted house, so it is obviously unsuited to any such use. When the planning officer visited the site recently (5th April 2019) most of the rooms were not yet furnished, but it was already evident that no such facilities were being installed.

8.6 The intention behind this application is that it would allow a consultant psychiatrist (who would be based elsewhere but who would visit regularly) to treat vulnerable people in the care home. This is already permitted in the original part of the building, but Condition 3 prohibits it within the extensions. Occasional visits by a consultant psychiatrist will not result in any significant increase in the number of vehicles associated with the site.

8.7 If parking congestion is a problem on Grove Hall Road or other local streets (some objectors wrote that they believe it is being caused by commuters parking there all day) there is a solution to that problem that is available to the Council outside the Planning system – which is to consult the residents on whether they would like yellow lines or a Controlled Parking Zone introduced.

8.8 Use Class C2

8.9 Use Class C2 (Residential Institutions) of the Use Classes Order 1987 (as amended) includes:

- residential accommodation and care to people in need of care
- hospitals
- nursing homes
- residential schools, colleges and training centres
- secure residential institutions (this is sub-class C2A, but uses may freely change between C2 and C2a as they are in the same overall class)

8.10 Normally any one of those uses could change to any of the others without the need for planning permission because they are all within the same use class. However in this case that is prevented (in the extensions) by Condition 3 of planning permission TP/12/0627 which states that the extensions “*shall be used as*

accommodation as a care home to people in need of care and for no other purpose within Use Class C2.”

8.11 The problem that the applicants face is that, while they do not intend to use the premises as a hospital, they do wish to have a visiting consultant psychiatrist working there from time to time, and the conventional notion of a residential care home does not include consultant doctors working on the premises on a regular basis. They worry that Condition 3 will make it difficult for them to comply with the registration requirements of the Care and Quality Commission.

8.12 Is Condition 3 justified?

8.13 There is only one relevant issue to be considered in this case, which is whether Condition 3 is justified. If not, then it should be removed, as has been requested.

8.14 The National Planning Policy Framework 2019 sets out in paragraphs 54 to 55 the circumstances in which conditions should and should not be applied to planning permissions. It sets out six tests for judging whether a condition is justified; and these were also included in previous versions of national planning policy guidance, going back many years.

8.15 Paragraph 55 states that: *“Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.”*

8.16 Failing just one of the six tests would mean that a condition should not be applied. In this case it is clear that Condition 3 fails at least two of them (it is neither **enforceable** nor **reasonable**) and arguably two more (it is questionable whether the condition is **necessary** or **relevant to planning**, given that any parking problem that might exist on local streets could be solved by the imposition of parking restrictions).

8.17 The ground floor contains a corridor, part of which is in the original building while the other part is in the rear extension. Standing in the corridor it is difficult to see where the original building ends and the extension begins, as it is one continuous open corridor. Only a slight change of a few centimetres in the ceiling height reveals the join. Several rooms give off this corridor, which are mostly bedrooms, but also a communal lounge for residents to relax and socialise in. When the site was inspected in April 2019 the lounge and one bedroom had been decorated and furnished. The bedroom was comfortably furnished, but in view of the mental health problems that the residents may experience it did also have a substantial lockable door with an inspection window in case it is necessary to “section” a resident under the Mental Health Act. This process of “sectioning” requires the presence of a consultant psychiatrist. Currently Condition 3 (which only applies to the extension, not to the original part of the building) means that the consultant would be permitted to work in bedrooms at one end of the corridor, but not the other. Clearly this is not reasonable, and it is also unenforceable – thus it fails two of the six tests. The condition is unjustified and the recommendation of this report is therefore that it be removed.

9.0 Other Matters

9.1 Equalities and Diversity

9.2 The Equality Act 2010 came into force in April 2011. Section 149 of the Act introduced the public sector equality duty, which requires public authorities to have 'due regard' to the need to eliminate discrimination on the grounds of the relevant protected characteristics, namely: age, disability, gender reassignment, pregnancy and maternity, race, religion and belief, sex and sexual orientation, and to advance equality of opportunity.

9.3 In this case we must be careful to take this duty into consideration, remembering that the intention of the applicants is to allow young people with mental health problems to live a comfortable and happy life in a residential home where they can be properly cared for, rather than having to be referred to a hospital or placed in an inappropriate adult facility that might be some considerable distance from their families (see paragraph 8 of the Planning Statement which mentions that in 2017 approximately 30 young people had to be referred to facilities outside Hertfordshire).

10.0 CONCLUSION

10.1 The condition fails at least two of the six tests that are set out in the National Planning Policy Framework paragraph 55 (it is neither *reasonable* nor *enforceable*) and therefore it is considered that the condition is unjustified. The recommendation of this report is therefore that it be removed.

11.0 RECOMMENDATION

It is recommended that this application be approved, and the condition removed.

12.0 CONDITIONS & REASONS FOR THEM

12.1 When issuing a Variation of Condition it is necessary to re-attach those conditions of the previous planning permission that are still relevant. These are set out in the right column of the following table.

Conditions of TP/120627	Conditions to be re-applied
<p>CONDITION 1 The development of which this permission relates shall be begun within a period of 5 years commencing on the date of this notice.</p> <p>Reason: To comply with the requirements of Section 41 of the Town and Country Planning Act 1971.</p>	<p>That condition should not be re-applied as it is no longer applicable. The development began several years ago.</p>
<p>CONDITION 2 All new external finishes shall be carried</p>	<p>That condition should not be re-applied as it is no longer applicable. The</p>

<p>out in materials to match the existing facing work.</p> <p>Reason: To ensure that the materials used and the appearance of the building when completed will be to the satisfaction of the District Planning Authority.</p>	<p>development has been completed as regards its external finish.</p>
<p>CONDITION 3</p> <p>The extensions (the property) shall be used as accommodation as a care home to care for people in need of care and for no other purpose within Use Class C2, residential institutions, of the Town and Country Planning (Use Classes) Order 1987 (as amended).</p> <p>Reason: Any other use would be likely to generate a level of activity, traffic and off-street parking requirements which would detract from the areas residential character and lead to on-street parking to the detriment of highway safety. In accordance with the National Planning Policy Framework (2012), Hertsmere Local Plan adopted 2003 policies M12 and M13. Policy CS24 of the Revised Core Strategy (for submission to the Secretary of State) November 2011.</p>	<p>This condition should be deleted, for the reasons that are set out in the body of this report.</p>
<p>CONDITION 4</p> <p>The car parking accommodation to the front of the premises shall be maintained permanently for the accommodation of vehicles of the occupiers, users and visitors to the property.</p> <p>Reason: To ensure the permanent retention of the parking space and that the use of the property does not add to traffic congestion.</p>	<p>CONDITION 1</p> <p>The car parking accommodation to the front of the premises shall be maintained permanently for the accommodation of vehicles of the occupiers, users and visitors to the property.</p> <p>Reason: To ensure the permanent retention of the parking space and that the use of the property does not add to traffic congestion.</p>
<p>CONDITION 5</p> <p>The existing trees along the western boundary shall not be lopped, topped or felled without the written prior consent of the Local Planning Authority.</p> <p>Reason: To preserve the character of the</p>	<p>CONDITION 2</p> <p>The existing trees along the western boundary shall not be lopped, topped or felled without the written prior consent of the Local Planning Authority.</p> <p>Reason: To preserve the character of the</p>

<p>area in the interests of visual amenity.</p>	<p>area in the interests of visual amenity.</p>
<p>CONDITION 6 A 1.5 metre high chestnut paling fence shall be erected to the full extent of the canopy of each tree or group of trees to be retained on the site, or such lesser distance as may be agreed with the District Planning Authority, and that such fencing to be erected before the commencement of the (clearing, demolition and building) operations hereby approved; and retained in position at all times until the completion of the development, and that the land so enclosed shall be kept clear of all contractor's materials and machinery at all times to the satisfaction of the District Planning Authority. The existing soil levels around the boles of the trees to be retained shall not be altered.</p> <p>Reason: To ensure the trees are not damaged during the period of construction.</p>	<p>That condition should not be re-applied as it is no longer applicable. The development has been completed externally so there is no longer any risk to the trees that might have arisen during construction work.</p>
<p>CONDITION 7 Detailed drawings of all underground works and additional precautions to prevent damage by root action, if any, to be submitted and approved by the District Planning Authority before any work is commenced. Such details to include the location, extent and depth of all excavations for drainage and other services, in relation to the trees to be retained on the site, these works to be carried out and completed in all respects in accordance with drawings so approved.</p> <p>Reason: To ensure that the trees to be retained on the site are not adversely affected by any underground works to take place.</p>	<p>That condition should not be re-applied as it is no longer applicable. The development has been completed externally so there is no longer any risk to the trees that might have arisen during construction work.</p>
<p>CONDITION 8 The development hereby permitted shall be carried out in accordance with the following approved plan:</p>	<p>CONDITION 3 The development hereby permitted shall be carried out in accordance with the following approved plans and</p>

<p>Location plan drawn at 1:1250 date stamped 22/3/2012 Floor plans as existing date stamped 22/3/2012 Floor plan as proposed date stamped 22/3/2012 Design and access statement & supporting planning statement date stamped 22/3/2012 Planning decision date stamped 22/3/2012</p> <p>Reason: For the avoidance of doubt and in the interests of proper planning.</p>	<p>documents, which were approved with planning permission TP/84/0343 (alternative reference 8969/2) in August 1984 (as was subsequently varied by TP/12/0627 in May 2012):</p> <p>Location plan drawn at 1:1250 date stamped 22/3/2012 Floor plans as existing date stamped 22/3/2012 Floor plan as proposed date stamped 22/3/2012 Design and access statement & supporting planning statement date stamped 22/3/2012 Planning decision date stamped 22/3/2012</p> <p>Reason: For the avoidance of doubt and in the interests of proper planning.</p>
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13.0 GENERAL REASONS FOR GRANTING PERMISSION

1. Condition 3 of planning permission TP12/0627 (which was granted in May 2012) was a variation to the wording of Condition 3 of an older planning permission TP/84/0343 (alternative reference 8969/2) which had been granted in August 1984. While the variation of the wording of the condition that was approved in 2012 was less onerous than the original wording of 1984, it remains the case to this day that the condition applies restrictions to the types of use that may be undertaken in the extensions that were approved by that planning permission, which do not apply to the original building. As the extensions and the original building are now one continuous set of premises, a condition that puts limitations on activities within one part of the building that do not apply in another part is considered to be unreasonable and unenforceable, and thus fails two of the six tests that are set out in the National Planning Policy Framework 2019 (paragraph 55) for assessing whether a condition ought to be applied to a planning permission (it being necessary for a condition to pass all six of the tests). It is therefore now considered appropriate to remove the condition.

14.0 BACKGROUND PAPERS

1. The Planning application (17/0360/VOC) comprising application forms, certificate, drawings and any letters from the applicant in support of the application.
2. Replies from Statutory consultees and correspondence from third parties.
3. Any other individual document specifically referred to in the agenda report.
4. Published policies / guidance

15.0 INFORMATIVES

1. For details of how this application has been assessed, please refer to the planning officer's report to the Planning Committee of 13.06.2019, and to the minutes of that committee meeting, which are published on the Council's website. Webcast video footage of the meeting will also be available on the website for six months following the date of the meeting.
2. The planning officer's recommendation to the Planning Committee has been that this application should be approved. The Council has acted positively and pro-actively in line with the requirements of the National Planning Policy Framework (paragraph 38) and in accordance with The Town and Country Planning (Development Management Procedure) (England) Order 2015.

16.0 CASE OFFICER

Max Sanders, Senior Planning Officer

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