



PLANNING COMMITTEE: 2nd September 2014

DIRECTORATE: Regeneration, Enterprise and Planning

HEAD OF PLANNING: Susan Bridge

N/2014/0010: Variation of condition 2 of planning permission N/2011/0694 (extensions to existing dwelling) to allow installation of windows to side elevations at Shalimar, Great Billing Park, Wellingborough Road

WARD: Billing

APPLICANT: Mr Nilesh Parekh

REFERRED BY: Head of Planning
REASON: The applicant is a Borough Councillor

DEPARTURE: NO

APPLICATION FOR DETERMINATION

1. RECOMMENDATION

1.1 **APPROVAL** subject to conditions for the following reason:

It is considered that the revised proposal will not have a seriously detrimental effect on neighbouring property in terms of overlooking and the impacts on the privacy and enjoyment of land by its owners. The proposal is therefore in accordance with Policies E20 and H18 of the Northampton Local Plan and National Planning Policy Framework.

2. THE PROPOSAL

2.1 The proposal seeks variation of condition 2 of planning permission no. N/2011/0694 to allow windows that have been inserted in the side elevations of the extended dwelling to be retained. The current application has been subject to amended plans proposing a change in the window openings and style of glass for some of the windows.

3. SITE DESCRIPTION

- 3.1 The site is located on the south east side of Wellingborough Road at the southern end of a private drive which serves 2 other dwellings. The site comprises a detached dwelling with front and rear gardens. The front garden comprises a block paved driveway and detached garage. To the south of the application site is a large area of undeveloped land which is identified in the Northampton Local Plan as a Site of Acknowledged Nature Conservation Value. Beyond this lies the former Pearce's factory.
- 3.2 The owner of open land to the south of the site has a right of way over the application site to access his land. To the north of the application site is the detached dwelling known as Gara.

4. PLANNING HISTORY

- 4.1 N/2011/0694 – Demolition of existing garage, erection of two storey front, rear and side extensions and erection of garage buildings to front of dwelling - Approved subject to conditions.
- 4.2 N/2010/0793 - Two storey front, rear and side extensions, demolition of existing garage – Approved subject to conditions.

5. PLANNING POLICY

5.1 Development Plan

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires a planning application to be determined in accordance with the Development Plan unless material planning considerations indicate otherwise. The current Development Plan comprises of the saved policies of the Northampton Local Plan.

5.2 National Policies

The National Planning Policy Framework (NPPF) is pertinent to this application. Paragraph 14 states that on matters where there are no up to date development plan policies, the presumption in favour of sustainable development takes precedence. Paragraph 17 requires that new developments be of a good standard of design and secure a satisfactory standard of amenity.

5.3 Northampton Local Plan

The Local Plan states that new development should be designed in a manner which ensures adequate standards of privacy (Policy E20) and provided the design and effect upon adjoining properties is acceptable (Policy H18).

5.4 **Supplementary Planning Guidance**

Residential Extensions Design Guide

6. **CONSULTATIONS/ REPRESENTATIONS**

Representations received to **original** plans as follows:

6.1 **Billing Parish Council** – No comments received.

6.2 **Gara** (neighbouring property) – it would be preferable for the windows on the north side of Shalimar to be hinged at the bottom and perhaps the glass frosted to retain privacy. At present we are easily overlooked by such a tall building. With regard to the south facing wall and its windows we have no particular view as it does not impinge on Gara.

6.3 **Owner of land to the south** – object to the application:

- The sills over hang property and the windows open outwards over the land.
- Due to the height of ground floor windows, can no longer use flail mower to mow the site as the mower would almost certainly smash the windows. This means he can no longer keep the grass down in that part of the site and has led to it becoming overgrown and unusable.
- Due to overlooking from all rooms which are regularly used, can no longer enjoy any privacy on the land that has previously been used for family activities and camping.
- If the application is accepted it will establish a “right to light” for the property owner which could potentially damage any future use of the land /tree planting and could impact on the resale value of property.
- Urges the planning department to stick by the original condition of no windows in the side elevation and return the elevation to its previous brick façade.

6.3 Following the submission of the revised plans, the neighbouring owners were re-consulted. One objection was received from the occupiers of Gara and is summarised as follows:

- There are windows that overlook Gara and we have commented and objected to this in the past.

- Feel that the windows should be such that they do not enable a view into our property – the glass should be opaque or frosted and non-opening.
- They currently have hinged openings above. Understand that there is adequate internal mechanical ventilation in this newly built house to cause the owners no condensation problems that negates their rationale for open windows.

7. APPRAISAL

Background

- 7.1 In 2010 planning permission (N/2010/0793) was granted for two storey front, rear and side extensions to Shalimar. In 2011 a further application for a similar scheme (N/2011/0694) was submitted and approved. This application differed from the previous approval as it also included the insertion of 2 solar panels on the roof to the rear and the erection of a large detached garage on land to the front of the dwelling.
- 7.2 To protect the privacy of neighbouring property and land, a condition was attached to planning permission N/2011/0694 to restrict additional windows being installed in the side elevations without the prior written consent of the Local Planning Authority.
- 7.3 When the extensions were built, windows were inserted in both side walls of the property contrary to this condition. The windows serve a variety of rooms at ground, first and second floor levels. On the north east elevation two windows at first floor level serve a bedroom and ensuite bathroom and are obscure glazed. At second floor level one window serves a bathroom and is obscure glazed and one serves an attic sitting room with clear glass. On the south west elevation two windows at ground floor level serve a bathroom (obscure glazed) and a utility room (clear glass). At first floor level one window serves a store (obscure glazed) and at second floor level two windows serve the attic sitting room (clear glass). All windows are top hung and openable.

Residential Amenity

- 7.4 To the north of the application site is a detached dwelling. The existing clear glass second floor attic room window allows direct overlooking of part of the patio and rear garden of this property. Other windows would allow partial overlooking when opened.
- 7.5 To the south of the application site is an area of open space. The existing windows serving the ground floor utility room and second floor attic room allow direct overlooking of this neighbouring land. Other windows would allow partial overlooking when opened.

- 7.6 It is considered that the existing window openings and in particular windows with clear glass have resulted in unacceptable overlooking of the adjacent property to the north, detrimental to residential amenity. Although the issue regarding overhanging windows on private land to the south is a civil matter between the two land owners, it is acknowledged that the unauthorised windows may have impacted on the adjoining land owner's enjoyment and maintenance of their own land. It was therefore considered that to allow the retention of the windows as existing is unacceptable.
- 7.7 To overcome these objections the applicant is now proposing that all windows on the south west elevation will be obscure glazed and non openable. He also proposes that all windows on the north east elevation will be obscure glazed with a restriction put on the arm mechanism so that windows can only be opened to a maximum of 10cm. Notwithstanding the objection from the neighbour to the north at Gara, it is considered that the windows currently proposed i.e. all obscure glazed with restricted opening are acceptable as the level of overlooking would be restricted and not sufficient to warrant refusal of the planning application.

7.8 **Visual Amenity and Design**

- 7.9 The side windows as existing are not visible from the street scene as the property faces onto a private drive and is screened from Wellingborough Road by tree planting. It is considered that the existing windows are in keeping with the design and appearance of the existing property and as such there is no detrimental impact on the host building, the streetscene or character and appearance of the area.

8. **Conclusion**

- 8.1 In the circumstances it is considered that the variation of condition 2 to allow the retention of existing side windows in the manner now proposed overcomes issues of overlooking and loss of privacy created by the existing windows and is therefore acceptable. Planning condition is recommended to ensure that the current unauthorised windows are replaced with the approved windows within three months from the date of the planning permission should the Committee Members agree with the Officer's recommendation.

9. **Conditions**

- (1) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no additional windows shall be installed in the side elevations of the proposed extension without the prior written consent of the Local Planning Authority.

Reason: To safeguard the privacy of adjoining properties in accordance with Policy H18 of the Northampton Local Plan.

- (2) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no extensions or outbuildings shall be erected to the residential development hereby permitted without the prior written consent of the Local Planning Authority.

Reason: To prevent overdevelopment of the site in accordance with Policy E20 of the Northampton Local Plan.

- (3) The garage shall be used only for purposes incidental to and in connection with the use of the site as a dwellinghouse and no trade or business shall be carried out therefrom.

Reason: To protect the residential amenities of nearby properties in accordance with Policy H18 of the Northampton Local Plan.

- (4) The south west elevation windows hereby permitted shall be non-opening and fitted with obscure glazing. Details of the glazing shall be submitted to and approved in writing by the Local Planning Authority within 1 month from the date of this planning permission. The approved details shall be fully implemented within 3 months from the date of this planning permission and retained thereafter.

Reason: To protect the amenities of occupiers of nearby properties in accordance with Policies E20 and H18 of the Northampton Local Plan.

- (5) Notwithstanding the details submitted, the north east elevation windows hereby permitted shall be obscure glazed and fitted with a mechanism to ensure that they are not capable of being opened more than 10cm. Details of this mechanism and hinges and obscure glazing shall be submitted to and approved in writing within 1 month from the date of this planning permission. The approved details shall be fully implemented within 3 months from the date of this planning permission and retained thereafter.

Reason: To protect the amenities of occupiers of nearby properties in accordance with Policies E20 and H18 of the Northampton Local Plan.

10. Background Papers

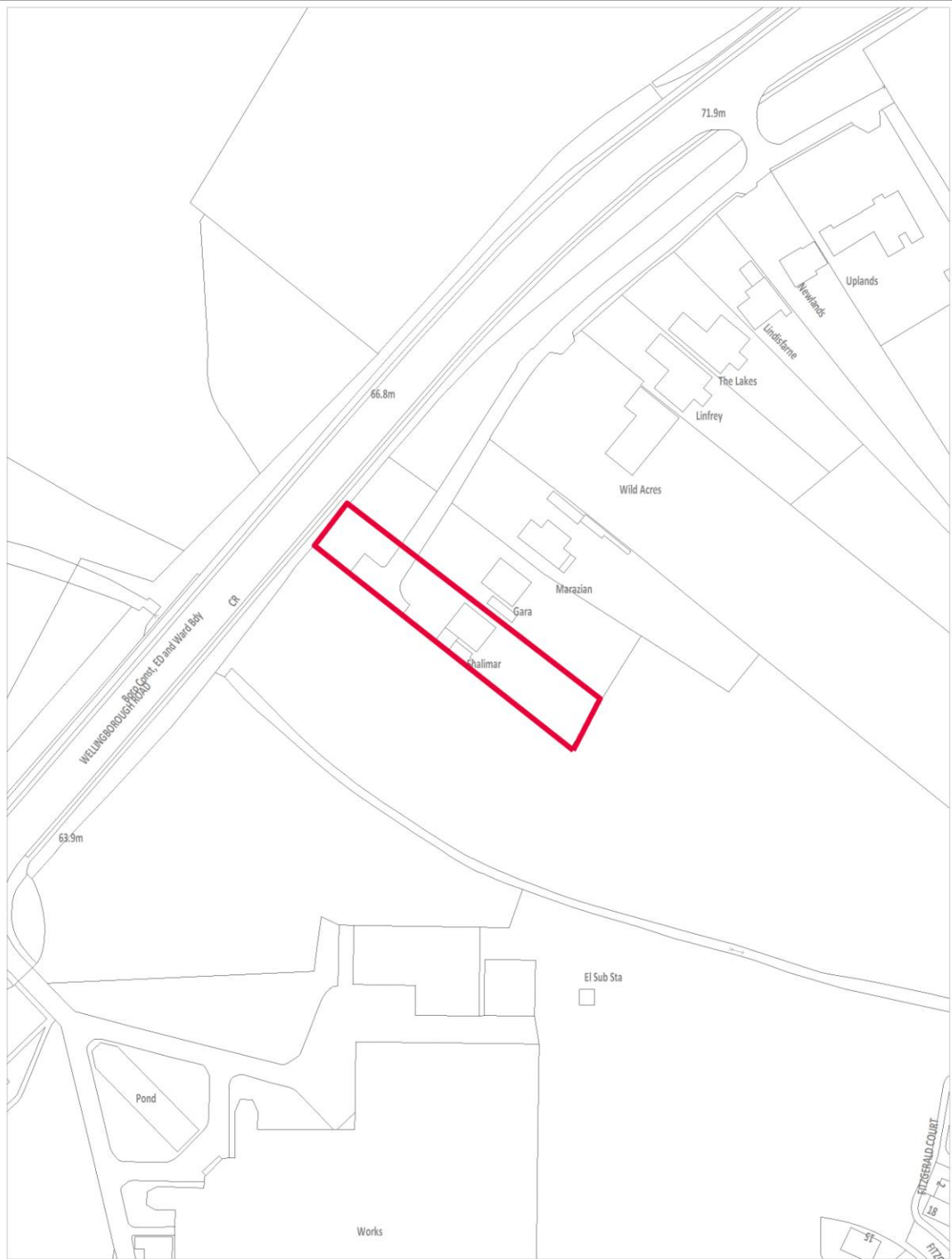
- 10.1 Application files N/2011/0694 and N/2014/0010

11. LEGAL IMPLICATIONS

- 11.1 None.

12. SUMMARY AND LINKS TO CORPORATE PLAN

12.1 In reaching the attached recommendations regard has been given to securing the objectives, visions and priorities outlined in the Corporate Plan together with those of associated Frameworks and Strategies.



Name: Location Plan
 Date: 12th August 2014
 Scale: 1:1250
 Dept: Planning
 Project: Committee

Title
Shalimar, Wellingborough Road

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