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Horsham District Council
Planning Department
Parkside, Chart Way
Horsham
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Dear Sirs

DC/18/1046: Variation of Condition 1 of previously approved application DC/15/2493 (Erection of 3 two storey houses). Minor material amendments to facilitate alterations to approved site layout and approved designs. Micklegate, Nuthurst Street, Nuthurst. Further amendments dated 21 June 2018.

The Parish Council objects strongly to this second retrospective application.

History of this site

1) Policy 7 of the Nuthurst Neighbourhood Plan allocated this site for development of three, primarily two and three bedroom houses or bungalows. This policy met the primary aim of the Neighbourhood Plan to provide smaller houses suitable for young families and older people wishing to downsize.

2) Planning permission was given under DC/15/2493 for three, three bedroom houses in line with the Neighbourhood Plan and its primary aim.

3) Instead, the developer chose to build three 5 bedroom houses (as marketed by Connells Estate Agency at £950k) in direct contravention of the planning permission and the Neighbourhood Plan. There were **138 breaches** of planning permission on the site.

4) Then the developer submitted a retrospective minor material amendments application, DC/17/2524, to “regularise” these unlawfully built 5 bedroom houses. This application was correctly refused planning permission by Planning Committee North because:

“The layout and increased form and massing of the amendments, creating four bedroom houses, represents an overdevelopment of the site that is harmful to the character of the area and fails to meet its housing needs, contrary to policies 7 & 10 of the Nuthurst Neighbourhood Plan and policies 33 and 42 of the Horsham District Planning Framework (2015).”

THE CURRENT APPLICATION, DC/18/1046 (Amended 21 June 2018)

This application fails to deal with the primary reason for refusal of DC/17/2524, as demonstrated below, because the layout and increased form and massing still represents an overdevelopment of the site that is harmful to the character of the area in contravention of policy 10 of the Neighbourhood Plan. **Note:** the external size and shape and therefore the massing of the houses is not affected by arguments about whether the space above the garage is a fourth first floor bedroom or a store room.

- **Layout**

The layout of the three houses is unaltered from DC/17/2524. They are still positioned in a straight line and forward in their plots in contravention of planning permission DC/15/2493.

Conclusion: there has been no change in the layout.

- **Increased form**

The footprint has not been decreased from DC/17/2524. The height of the roof above the main part of the house has not been reduced from DC/17/2524. The height of the roof above the garage has still not been reduced along its full length by 1.4 metres in contravention of DC/15/2493. Instead, the proposed change in this application to the shape of the roof above the garage does not reduce the area of roofing. The developer would need to lower the height of the roof above the garage by 1.4 metres along its whole length to make a real reduction in the form.

The proposed change to remove only one dormer window overlooking “Winthrift” still leaves a total of 5 dormers present in the current application DC/18/1046. Only the removal of all six dormers compared to the retrospective application DC/17/2524, would result in a significant decrease in the form. It should be noted that these six dormers were not given permission under DC/15/2493.

Conclusion: There have therefore been no significant changes to the form of the houses in the current application, DC/18/1046.

- **Massing**

The total area of roofing above the garage in the refused application DC/17/2524 is 83 square metres. The total area of roofing above the garage in this new application DC/18/1046 is 78 square metres.

Therefore, despite the change in the shape of the roof above the garage, the area of roofing above the garage remains very similar, a reduction of only 6%. There is therefore a miniscule reduction in roofing when considering the total area of the house's roofing. The developer would need to lower the height of the roof above the garage by 1.4 metres along its whole length to make a real difference to the massing.

The proposal in DC/18/1046 to remove 1 dormer (overlooking Winthrift) and retain a total of 5 dormers also makes an insignificant difference to the massing. Only the removal of all six dormers compared to the retrospective application DC/17/2524, would result in a significant decrease in massing. It should be noted that these six dormers were not given permission under DC/15/2493.

Conclusion: Therefore there is no significant change in the massing in the current application DC/18/1046

- **Four bedroomed houses**

The houses as built have 4 bedrooms on the first floor (and a potential 5th bedroom on the ground floor. The houses were marketed as 5 bedrooms). This contravenes planning permission DC/15/2493 for 3 bedroom houses. Permission for retrospective application DC/17/2524 was refused in part because the houses were not 3 bedrooms.

The present scheme, amended on 21 June 2018, represents the developer's fourth attempt to retain a useable fourth bedroom on the first floor:

- First attempt – planning application DC/17/2524 seeking permission for the unlawful houses he has already built with four bedrooms on the first floor.
- Second attempt – a mansard roof with room above garage identical to as built.
- Third attempt – a ski slope roof with room above garage with a ceiling of variable height between 1.84 metres and 2.6 metres.
- Fourth attempt – a level false ceiling nearly 2 metres high (**note:** all dimensions have been removed from the 21 June amended plans (P120D) and the developer has not provided an explanation for these amendments)

Note: All of these schemes would involve partial demolition of the roof above the garage as built and rebuilding work.

The proposal under DC/18/1046 retains 4 bedrooms on the first floor.

This fourth attempt to modify what has been built in order to retain a fourth first floor bedroom, proposes a room of unaltered length and width, approximately 3 metres by three metres, and thus more than capable of accommodating a double bed and other furniture, but this time with a level false ceiling that is nearly 2 metres high. This gives plenty of headroom for use as a fourth upstairs bedroom

The Parish Council notes that the developer has removed the velux windows from the drawings in DC/18/1046. This window is currently in place in all three houses. The proposed removal is

presumably to substantiate the developer's claim that the room is not habitable because it has no natural light. However, the Parish Council would point out that there are other ways of lighting a room, including borrowing light via glazed doors and light/sun tunnels through the roof. Both measures are achievable without planning permission. Given the developer's history of ignoring planning rules, the Parish Council is not confident that the developer would actually remove the velux, and if he didn't, that enforcement action would be taken to require its removal.

The developer proposes the removal of permitted development rights but there is nothing to stop a future occupier from appealing against this restriction and applying for planning permission. It would be very likely that HDC planning officers would see no harm to neighbouring properties by the (re)-insertion of windows since they would not cause any overlooking. Then there would be four first floor bedrooms in contravention of policy 7 of the Neighbourhood Plan.

It should be noted that work to re-shape the roof above the "void" will not affect the features already in place that make the room habitable as a bedroom (and en-suite). Namely: the floor joists that permit domestic loading with a double bed, cupboards, shower-unit and so on, as currently in place; the present insulation to the walls; the current existence of means of heating; the current provision of plumbing to toilet and shower; the current provision of multiple electrical points and lights.

The Parish Council notes that the developer also proposes "a restriction of the use of that room as a store only". Not only is it probably unreasonable to tell future occupiers what they can use their rooms for, it is not practical. How would anyone know what the room is being used for, and even if they did, would such a restriction be enforceable by HDC? The proposal is, in effect, an admission that the "store" is likely to be used as a bedroom, otherwise, why does the developer propose this restriction?

If the developer truly wants the room above the garage to be merely a store room, the Parish Council considers that the obvious, simple, quickest and easiest way to achieve this and obtain planning permission is to reduce the height of the roofline above the garage by 1.4 metres along its whole length, in compliance with planning permission DC/15/2493.

Conclusion: There is no change in the number of bedrooms in the current application DC/18/1046 and therefore it remains contrary to policy 7 of the Neighbourhood Plan.

- **Overdevelopment of the site**

As described above, there have been no changes to the following: the position of the houses in their plots, the footprint of the houses and the height of the roofline above the main part of the houses. There have been only insignificant changes to: the roofline above the garage which has not been reduced along its full length by 1.4 metres; the area of roofing above the garage; and to the number of dormers (from six to five).

Conclusion: there remains considerable over-development of the site.

- **Harmful to the character of the area**

The immediate surrounding area is semi-rural with fields to the front of the site and views of fields to the rear. The surrounding buildings are primarily detached bungalows that are much lower in height, smaller in volume, well-spaced apart and well-set back from the road in green spacious plots. In contrast, the three houses at Micklepage are in an urbanised straight line and very close to the access lane with only very small front gardens. The houses are taller with greater roof areas and larger in mass than neighbouring properties. Furthermore, the “ski slope roof” constitutes an unaesthetic and unacceptable design. The proposals contained in DC/18/1046 do not address any of these differences.

Conclusion: the proposals in the current application DC/18/1046 remain in contravention of Policy 10 of the Neighbourhood Plan because the houses, by virtue of their scale, density and massing, still do not reflect the surrounding buildings. Therefore, they remain harmful to the character of the semi-rural area.

- **Fails to meet its housing need**

The primary aim of the Neighbourhood Plan, following extensive consultation in the Parish, was to provide smaller houses for young families and for older people to downsize into. The approved application DC/15/2493 provided for 3 bedroom houses. This retrospective application DC/18/1046 still provides large, executive-style houses with 4 bedrooms on the first floor, a total of three bathrooms and the possibility of a fifth bedroom on the ground floor.

Conclusion: the proposals in DC/18/1046 therefore still fail to meet the Parish’s housing need.

- **CONCLUSION: aggregating the separate conclusions above, the Parish Council strongly objects to this retrospective application and urges Horsham District Council to exercise its role of a just and vigilant enforcer of the planning rules and to refuse this application on the same grounds that it refused the previous retrospective application DC/17/2524, namely:**

“The layout and increased form and massing of the amendments, creating four bedroom houses, represents an overdevelopment of the site that is harmful to the character of the area and fails to meet its housing needs, contrary to policies 7 & 10 of the Nuthurst Neighbourhood Plan and policies 33 and 42 of the Horsham District Planning Framework (2015).”

Annex 1: THE PARISH COUNCIL’S ATTEMPTS TO ACHIEVE A RESOLUTION

The Parish Council has attempted to resolve this issue of unlawful 5 bedroom houses which the Developer is unable to market by:

- Attending an on- site meeting on 4 April 2018 with HDC Planning Officers and the Developer at which he was advised to lower the height above each of the garages along their whole length by 1.4 metres.

- Advising the Developer at a Parish Council meeting on 18 April 2018 to abandon his Mansard roof proposal and revert to the original planning permission by lowering the roof height above all garages along their whole length by 1.4 metres.
- Giving the developer an opportunity at a Parish Council on the 6 June 2018 to speak and listen to the Councillors' views on DC/18/1046. He was advised that his best chance of obtaining planning permission was to withdraw this application and submit a new application with a roofline above the garage reduced by 1.4 metres along its whole length, in line with DC/15/2493. There would then be no question of the room above the garage having the capacity to be a bedroom.

Annex 2: THE DEVELOPER'S COMMUNICATIONS WITH THE PARISH COUNCIL

- In an email of 16 May 2018, advising the Parish Council that he had made a new application, the Developer says "we have proposed to remove the room over the garage in totality taking away any possible doubt over use as a habitable room of any (sic). We hope now crystallises (sic) the accommodation as 3 x three bedroom properties".

Parish Council comment: the Developer contends that with DC/18/1046, he has totally removed the room above the garage. He has not. There will still be a room above the garage that is capable of being a fourth first floor bedroom and en-suite bathroom, (both currently present) because he proposes just to remove unnecessary dead space. In this respect, the proposal is no different from what he has built and no different from the proposal he made orally for a Mansard roof at the Parish Council meeting on 18 April 2018.

- In another email of the 5 June 2018, the developer contends that "we are now applying for this space to be used entirely as a storage area only" and "we would also accept a planning restriction of the use of that room as a store room only".

Parish Council comment: If the developer really only wants a store room, all he needs to do is to lower the roofline above the garage by 1.4 metres along its whole length in line with planning permission DC/15/2943. But, he is currently choosing not to do this, even though it would be the quickest, simplest and easiest way to achieve planning permission. Presumably the developer still hopes to retain 4 first floor bedrooms.

- In the same email, the developer implies that the "store room" would not be a habitable room without a window, which currently exists in the roof.

Parish Council comment: There are alternative ways of enabling light to enter a room, such as borrowed light via glazed doors and light tunnels through the roof (which do not require planning permission). Even with the removal of permitted development rights, future occupants could either re-insert a velux window without permission or apply to HDC for permission and it is likely that planning officers would see no harm in such an application as it would be purely a replacement for what was once there.

- Furthermore the developer says "the proposal (sic: ie. the roof above the garage) is lower and smaller than the approved scheme...)

Parish Council comment: the whole length of the roofline above the garage has not been lowered by 1.4m as per the approved scheme. Most of the roof line in DC/18/1046 is higher than the approved scheme. To support his contention that the roof is “lower and smaller”, the developer has misleadingly given height measurements from the mid-point of the garage doors up into the roof void, rather than fairer measurements that go up through the “store room”.

Annex 3

The Parish Council is unimpressed by the many factual errors and evasiveness in the DMH Stallard report that accompanies this planning application. They include:

- Para 3.4 - Omission that the houses were marketed as 5 bedrooms by Connells
- Para 3.7 – “The application received no consultee objection...”. There was no objection from statutory consultees, but it fails to mention **190 letters** of objection from residents
- Section 4 – undue emphasis placed on removal of dormer from plot 1 which all agreed was easy to solve. The key issue is the space above the garage
- Para 4.3 – Ridge heights were not amended to be similar to the approved scheme. A Mansard roof was proposed which had a large area of roof higher than the approved scheme. The proposed scheme does not satisfy concerns.
- Para 4.4 – the room has not been removed. The so called “store room” is still a bedroom with an en-suite bathroom. There has been only a **very marginal** reduction in massing, bulk and scale by altering the shape of the roof line above the garage thereby removing unneeded space. This cannot in any way be regarded as “**significantly reduced**”.
- Para 4.5 – it is only very **marginally smaller** than currently built. It is still **bigger** than that consented because of the bigger size of the space/room above the garage.
- Section 5 – there are several pages of unnecessary padding about the NPPF and the HDPF to try to make the document look impressive.
- Para 5.15 – does not make sense
- Para 6.6 and 6.7 – the roof height above the garage is **not** lower than that approved. **The table is a trick.** It serves to minimise the height of the roof above the garage by quoting heights from the middle of the garage doors. **The line from the middle of the garage doors only goes through the void space in the roof. It does not go through the actual “store room”, aka bedroom.** The sloping roof is not the same height along its length. The middle of the garage doors is about one third along the roof, so that two thirds of the roof length is actually higher than quoted and the end of the roof is 6.5 metres (the same as built), still 1.4 metres higher than approved.
- Para 6.10 – the proposed room being approximately 3 metres by 3 metres with varying height between 1.84 and 2.6 metres is very clearly big enough to be a habitable bedroom. Indeed it is the same size as the bedroom labelled “bedroom 4” on drawing P120. Natural light can be borrowed by using a glazed door or through light tunnels through the roof. And it is so easy to re-insert a window later. It is intended to be a habitable bedroom room and there will be four bedrooms on the first floor. **This contravenes policy 7 of the**

Neighbourhood Plan. These houses will still be marketed with 4 bedrooms on the first floors.

- Para 6.16 – this is devious – there is no question of the “implied creation of an additional habitable room”. These houses were marketed as 5 bedrooms. They are built and have 4 bedrooms on the first floor, all totally furnished and appointed.
- Para 6.17 – the habitable room has not been totally removed and it is not smaller than originally approved.
- Para 6.18 – the minor change to the roof line, makes only a very marginal reduction in massing. The proposed scheme still does not comply with policy 10 of the Neighbourhood Plan or policy 33 of the HDPF regarding its bulk, massing and scale.
- Para 7.2 – The Parish Council on three separate occasions advised the Developer to reduce the roof height above the garage along its whole length by 1.4 metres so that it matched the original planning permission. The Developer has not done this. Why as it was the simplest, quickest and easiest thing to do? Presumably in order to retain and market these houses as having four bedrooms on the first floor.

Yours faithfully

Sarah Hall
Clerk to Nuthurst Parish Council