

PLANNING COMMITTEE – 24 JUNE 2021

PART I – DELEGATED

10. **21/1118/RSP – Part Retrospective: Variation of Condition 2 (Approved Plans) of planning permission 19/0622/FUL: (First floor side extensions and two storey rear extensions) to amend plans to include reduction in depth of first floor rear extension, alterations to width, alterations to fenestration and regularisation of the site boundaries at ABBOTSFORD, WOODSIDE WALK, NORTHWOOD**

Parish: Batchworth Community Council
Expiry of Statutory Period: 25.06.2021

Ward: Moor Park & Eastbury
Case Officer: Tom Norris

Recommendation: That Part Retrospective Planning Permission be Granted

Reason for consideration by the Committee: Called in by Batchworth Community Council unless Officers are minded to refuse for the reasons set out at 4.1.1 below.

1 Relevant Planning & Enforcement History

- 1.1 21/1389/FUL - Relocation of existing railings to front boundary - Pending Consideration
- 1.2 21/0037/COMP - Enforcement Enquiry: Works not in accordance with 19/2383/FUL or 19/0622/FUL – Pending Consideration
- 1.3 20/1579/RSP - Retrospective: Installation of railings to front boundary - 12.10.2020 - Refused & Appeal Dismissed
- 1.4 20/0478/RSP - Retrospective: Erection of front boundary railings - 28.04.2020 – Refused
- 1.5 19/0253/COMP – Enforcement Enquiry: Installation of front boundary fence and extension of curtilage – Pending Consideration
- 1.6 19/2383/FUL - Single storey side and rear extension – 07.02.2020 - Permitted
- 1.7 19/0622/FUL - First floor side extensions and two storey rear extensions - 04.06.2019 – Permitted & Implemented
- 1.8 13/1526/FUL - Construction of double detached garage with dormer windows - 11.10.2013 – Permitted
- 1.9 12/1500/FUL - Construction of double detached garage - 08.10.2012 – Permitted
- 1.10 11/0915/FUL - Construction of double detached garage - 14.06.2011 – Permitted
- 1.11 08/0635/FUL - Conversion of garage into habitable accommodation with room over, single storey front porch, single storey side extension with roof alterations to side to pitched roof, alterations to side - 25.06.2008 – Permitted
- 1.12 07/2505/FUL - Single storey front and side extension - 15.01.2008 – Withdrawn
- 1.13 05/1428/FUL - Single storey side and front extension - 30.11.2005 – Refused
- 1.14 03/1228/FUL - Single storey side and front extension - 17.10.2003 – Refused
- 1.15 02/01586/FUL - Conversion of garage into habitable accommodation with storey over. Front porch, single storey side extension with roof alterations to side to pitched - 16.01.2003 – Permitted

2 Description of Application Site

- 2.1 The application site comprises a large detached dwelling on the western side of Woodside Walk, formerly known as Oxhey Drive South, which is a gated residential road accessed off The Woods. The streetscene comprises large detached dwellings of varied architectural design set on relatively wide plots in what can be described as a spacious and semi-rural setting.
- 2.2 The application dwelling is a large two-storey dwelling, with roof accommodation served by front and rear dormer windows. The dwelling has a light render exterior and a dark tiled hipped roof form. The dwelling has implemented single-storey extensions to the flanks and has a detached garage in the front driveway.
- 2.3 To the front of the dwelling is a carriage driveway with ample off-street car parking provision. The front and side boundaries of the site are screened by mature vegetation and tall trees. The trees towards the rear of the site are covered by Tree Preservation Orders.
- 2.4 Works have begun on site to implement planning permission 19/0622/FUL.

3 Description of Proposed Development

- 3.1 This application seeks part-retrospective planning permission to vary Condition 2 (Approved Plans) of planning permission 19/0622/FUL to amend plans to include a reduction in depth of the approved first floor rear extension, alterations to the width of the approved extensions, alterations to the rear patio, alterations to fenestration and the regularisation of the site boundaries.
- 3.2 Planning permission (19/0622/FUL) was granted for the majority of the proposed development which is currently being implemented. This application seeks amendments to this planning permission which are described below.
- 3.3 Two of the four approved ground floor front windows, to the extension to the southern side of the dwelling, are to be repositioned some 3.0m further away from the shared boundary with Woodside Manor.
- 3.4 It is proposed that there is a 0.7m increase in width of the hipped roof form at first floor level to the extension to the northern side of the dwelling. The approved 5.5m deep first floor rear extension to this northern side is to be omitted from the proposal and will remain as a ground floor extension only.
- 3.5 It is proposed that the approved doors within the south side elevation at ground floor level are repositioned some 3.0m forward and a ground floor window would be inserted.
- 3.6 The approved full height glazing within the rear elevation on the southern side of the dwelling would be reduced by some 1.0m in width away from the shared boundary with Woodside Manor.
- 3.7 The two approved Juliet balconies within the rear elevation at first floor level will be omitted from the proposal and will remain as windows.
- 3.8 It is proposed that the approved ground floor extension to the southern side of the dwelling is increased in width by 0.15m. This extension would now be spaced 1.1m from the boundary at ground floor level with Woodside Manor. The applicant submits that it had not initially been appreciated by the architect on the plans for 19/0622/FUL that the boundary with Woodside Manor tapered inward towards the rear. The result of which is that the ground floor side extension in this location would be spaced 1.1m from the shared boundary at the front and 0.75m at the rear at ground floor level. The first floor element of the approved extension to this southern side would remain spaced at over 3m from the shared boundary with Woodside Manor.

3.9 It is acknowledged that whilst boundary treatment to the frontage is indicated on the existing and proposed site plans, this does not form part of this application and therefore is not subject to any approval being granted.

4 Consultation

4.1 Statutory Consultation

4.1.1 Batchworth Community Council:

"Batchworth Community Council strongly objects to Variations, Retrospective and Revisions to planning applications once works have commenced and it is clear that the approval obtained is not being adhered to.

In this particular instance we 100% support the Enforcement Notice served and would like to see drawings identifying the planning consent granted and the current planned construction design. It is unacceptable that the developer reduces the space between his house and the neighbour by 50% as seems to be the case in this instance.

There seems to be history in this instance and we again would support TRDC with the removal of the railings at the front of the house which, again, have not been subject to an approved planning application.

We are of the opinion that no further works should be undertaken on any of the affected areas until this matter is 100% resolved and all outstanding matters are complied with.

We ask that this application is called in for decision by the District Council's Planning Committee unless planning officers are minded to refuse. This is done on the following basis - that the plans submitted are not of sufficient detail for us to clearly identify the information requested above."

4.1.2 National Grid: [No response received]

4.1.3 Landscape Officer: [No response received]

4.2 Public/Neighbour Consultation

4.2.1 Neighbours consulted: 4

4.2.2 Responses received: 2 (1 Objection, 1 Neutral)

4.2.3 Site Notice posted 26.05.2021, expired 17.06.2021

4.2.4 Press notice not required

4.2.5 Summary of objections received:

- The development is significant, extending the house on both sides at two-storey
- The development is built much closer to the boundary than permission has been given for
- The proposal results in overlooking to our driveway and family room
- There is a visual impact given the scale of the development
- The development has impacted several trees across the boundary line within the application site
- The proposal will materially impact the value of our home
- The proposals are not minor alterations and we would have objected initially
- Building so close to the boundary has made the building overbearing
- The proposed extensions are different to the garage building within the adjoining site

- The proposed development does not overly bother us because it is a reasonable distance from our boundary
- If it were not I would have to complain due to its size and scale especially if the architect or builder accidentally foreshortened the minimum gap to the boundary
- Disputes between neighbours are generally just that whereas I lend my support due to the developer offending neighbours
- It is clear that something has gone wrong with the plans or construction

4.2.6 During the course of the application, the agent acting on behalf of the application provided the following summarised response to neighbour comments:

- No objections were made to applications 19/0622/FUL and 19/2383/FUL for extensions to the dwelling
- No objections were made to either of the retrospective applications for the railings
- The applicant installed railings due to being made aware of burglaries in the area – the applicant has provided still CCTV imagery of this occurring – the applicant acknowledges that this is under a separate application.
- The applicant considers that the objections to this application stem from a private dispute over a legal covenant
- The applicant does not wish to reiterate the contents of the planning statement which highlight the minor nature of the changes to the approved scheme

Officer comments:

- This current application seeks to regularise amendments to planning approval 19/0622/FUL for extensions to the dwelling and the railings do no form part of this application.

5 Reason for Delay

5.1 None.

6 Relevant Planning Policy, Guidance and Legislation

6.1 National Planning Policy Framework and National Planning Practice Guidance

In February 2019 the new National Planning Policy Framework was published. This is read alongside the National Planning Practice Guidance (NPPG). The determination of planning applications is made mindful of Central Government advice and the Local Plan for the area. It is recognised that Local Planning Authorities must determine applications in accordance with the statutory Development Plan, unless material considerations indicate otherwise, and that the planning system does not exist to protect the private interests of one person against another. The NPPF is clear that "existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework".

The NPPF states that 'good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities'. The NPPF retains a presumption in favour of sustainable development. This applies unless any adverse impacts of a development would 'significantly and demonstrably' outweigh the benefits.

6.2 The Three Rivers Local Plan

The application has been considered against the policies of the Local Plan, including the Core Strategy (adopted October 2011), the Development Management Policies Local Development Document (adopted July 2013) and the Site Allocations Local Development

Document (adopted November 2014) as well as government guidance. The policies of Three Rivers District Council reflect the content of the NPPF.

The Core Strategy was adopted on 17 October 2011 having been through a full public participation process and Examination in Public. Relevant policies include Policies CP1, CP3, CP8, CP9, CP10 and CP12.

The Development Management Policies Local Development Document (DMLDD) was adopted on 26 July 2013 after the Inspector concluded that it was sound following Examination in Public which took place in March 2013. Relevant policies include DM1, DM4, DM6, DM10, DM13, Appendix 2 and Appendix 5.

6.3 Other

The Community Infrastructure Levy (CIL) Charging Schedule (adopted February 2015).

The Localism Act received Royal Assent on 15 November 2011. The growth and Infrastructure Act achieved Royal Assent on 25 April 2013.

The Wildlife and Countryside Act 1981 (as amended), the Conservation of Habitats and Species Regulations 2010, the Natural Environment and Rural Communities Act 2006 and the Habitat Regulations 1994 may also be relevant.

7 Planning Analysis

7.1 Impact on Character and Appearance

- 7.1.1 Policy CP1 of the Core Strategy (adopted October 2011) seeks to promote buildings of a high enduring design quality that respect local distinctiveness and Policy CP12 of the Core Strategy relates to design and states that in seeking a high standard of design, the Council will expect development proposals to have regard to the local context and conserve or enhance the character, amenities and quality of an area.
- 7.1.2 Policy DM1 and Appendix 2 of the Development Management Policies LDD (DMP LDD) (adopted July 2013) set out that development should not have a significant impact on the visual amenities of the area. Extensions should not be excessively prominent and should respect the existing character of the dwelling, particularly with regard to the roof form, positioning and style of windows and doors, and materials. The Design Criteria at Appendix 2 states in relation to two storey side extensions that in order to prevent a terracing effect and maintain appropriate spacing between properties in character with the locality, two storey extensions may be positioned on the flank boundary provided that the first floor element is set in by a minimum of 1.2m. This distance must be increased in low density areas or where the extension would have an adverse effect on an adjoining property.
- 7.1.3 It was considered in granting approval for 19/0622/FUL that the proposed development was acceptable in terms of its impact upon the character and appearance of the host dwelling and the street scene.
- 7.1.4 It is not considered that the proposal to reposition the ground floor front windows on the extension to the southern side of the dwelling further away from the shared boundary with Woodside Manor would result in any harm to the character and appearance of the dwelling relative to the approved scheme.
- 7.1.5 It is not considered that the proposal to increase the width of the hipped roof form at first floor level to the extension to the northern side of the dwelling by 0.7m would result in any harm to the character and appearance of the dwelling relative to the approved scheme. An approximate spacing of 8.0m would be retained from this part of the extensions to the shared boundary to the north. It is considered that the proposal to omit the 5.5m deep first

floor rear extension to this northern side would be acceptable in this regard by virtue of it being a reduction to the approved scheme.

- 7.1.6 It is not considered that that the repositioning of the approved doors within the south side elevation at ground floor level and the insertion of ground floor window would result in any harm to the character and appearance of the dwelling relative to the approved scheme.
- 7.1.7 It is considered that the proposal to reduce the width of the approved full height glazing within the rear elevation on the southern side of the dwelling would be acceptable in this regard by virtue of it being a reduction to the approved scheme.
- 7.1.8 It is considered that the proposal for the approved Juliet balconies to be omitted from the proposal and to remain as windows would be acceptable by virtue of it being a reduction to the approved scheme.
- 7.1.9 It is not considered that the proposal to increase the width of the ground floor element of the extension to the southern side of the dwelling by 0.15m would result in any harm to the character and appearance of the dwelling relative to the approved scheme. Whilst comments in relation to the proximity of the ground floor extension to the boundary are noted, it is not considered to be unacceptable in principle for ground floor level development to be built up to a site boundary. It is acknowledged that the site boundary in this location has been redrawn to taper inward to the rear thus resulting in the ground floor element of the extension being closer to the boundary. Notwithstanding, given the relative scale of the ground floor extension, particularly its height, and when factoring in the minimal difference in width of 0.15m from the approved scheme, it is not considered that this element of the proposed development would result in harm to the character and appearance of the dwelling or area to justify the refusal of planning permission. The first floor element of this extension to the southern side of the dwelling would maintain a spacing of over 3.0m to the shared boundary which is well in excess of the 1.5m first floor spacing stipulated for lower density areas.
- 7.1.10 In summary it is not considered that the proposed development would result in an adverse impact on the character or appearance of the host dwelling, street scene or area and the proposal would be acceptable in accordance with Policies CP1 and CP12 of the Core Strategy and Policy DM1 and Appendix 2 of the Development Management Policies document.

7.2 Impact on amenity of neighbours

- 7.2.1 Policy CP12 of the Core Strategy states that development should 'protect residential amenities by taking into account the need for adequate levels and disposition of privacy, prospect, amenity and garden space'. Policy DM1 and Appendix 2 of the Development Management Policies document set out that development should not result in loss of light to the windows of neighbouring properties nor allow overlooking, and should not be excessively prominent in relation to adjacent properties. Two-storey development should not intrude the 45 degree splay line measured from a point on the shared boundary level with the rear wall of the dwelling. Development should not incorporate balconies, or first floor conservatories which overlook neighbouring properties to any degree.
- 7.2.2 It was considered in granting approval for 19/0622/FUL that the proposed development was acceptable in terms of its impact upon the residential amenity of adjoining neighbours.
- 7.2.3 It is not considered that the proposal to reposition the ground floor front windows on the extension to the southern side of the dwelling further away from the shared boundary with Woodside Manor would result in any harm to the residential amenity of adjoining neighbours relative to the approved scheme.

- 7.2.4 It is not considered that the proposal to increase the width of the hipped roof form at first floor level to the extension to the northern side of the dwelling by 0.7m would result in any harm to the residential amenity of adjoining neighbours relative to the approved scheme. It is considered that the proposal to omit the 5.5m deep first floor rear extension to this northern side would be acceptable in this regard by virtue of it being a reduction to the approved scheme.
- 7.2.5 It is not considered that that the repositioning of the approved doors within the south side elevation at ground floor level and the insertion of ground floor window would result in any harm to the residential amenity of adjoining neighbours relative to the approved scheme. The ground floor door and window would look directly towards the flank wall of the garage within the neighbouring site and, by virtue of the fenestration being confined to ground floor level, is not considered to result in overlooking nor is it considered necessary or reasonable to condition these windows to be fitted with obscure glazing.
- 7.2.6 It is considered that the proposal to reduce the width of the approved full height glazing within the rear elevation on the southern side of the dwelling would be acceptable in this regard by virtue of it being a reduction to the approved scheme.
- 7.2.7 It is considered that the proposal for the approved Juliet balconies to be omitted from the proposal and to remain as windows would be acceptable in this regard by virtue of it being a reduction to the approved scheme. These windows are existing therefore would not result in overlooking over and above the existing situation.
- 7.2.8 It is not considered that the proposal to increase the width of the ground floor element of the extension to the southern side of the dwelling by 0.15m would result in any harm to the residential amenity of adjoining neighbours relative to the approved scheme. Whilst comments in relation to the proximity of the ground floor extension to the boundary are noted, it is not considered to be unacceptable in principle for ground floor level development to be built up to a site boundary. It is again acknowledged that the site boundary in this location has been redrawn to taper inward to the rear thus resulting in the ground floor element of the extension being closer to the boundary. Notwithstanding, given the relative scale of the ground floor extension, particularly its height, and when factoring in the minimal difference in width of 0.15m from the approved scheme, it is not considered that this element of the proposed development would result in harm to the residential amenity of the adjoining neighbour to justify the refusal of planning permission. It is not considered that the proposed amendments would lead to a harmful loss of light to the front or rear outlook of this adjoining neighbour nor would it result in an overbearing impact.
- 7.2.9 The proposed development would therefore be acceptable in accordance with Policies CP1 and CP12 of the Core Strategy and Policy DM1 and Appendix 2 of the Development Management Policies LDD.

7.3 Trees & Landscape

- 7.3.1 Policy DM6 of the Development Management Policies LDD sets out that development proposals should seek to retain trees and other landscape and nature conservation features, and that proposals should demonstrate that trees will be safeguarded and managed during and after development in accordance with the relevant British Standards.
- 7.3.2 There are a number of Tree Preservation Orders within the application site covering two Oak trees and a Eucalyptus tree within the rear garden of the site and a Beach, Birch and Conifer tree within the frontage. It was considered in granting approval for 19/0622/FUL that the proposed development was acceptable in terms of its impact upon trees subject to a condition for Tree Protection and the planting of a replacement Beech Tree due to the poor health and condition of an existing one. This condition will remain on any new permission granted.

7.3.3 It is acknowledged that neighbour comments received during the course of the application allege that the conifer trees along the southern boundary of the site have been impacted by the proposed development. Whilst this is noted, these trees are not protected and, whilst they serve as additional boundary screening within the application site, they can be removed without the need to seek the express written consent of the Local Planning Authority.

7.3.4 The proposed development would therefore be acceptable in accordance with Policy DM6 and of the Development Management Policies LDD.

7.4 Highways & Parking

7.4.1 Core Strategy Policy CP10 requires development to provide a safe and adequate means of access and to make adequate provision for all users, including car parking. Policy DM13 and Appendix 5 of the Development Management Policies document set out parking standards.

7.4.2 The parking arrangements would remain as approved under 19/0622/FUL and would remain acceptable. No changes are proposed to the existing access which also remains acceptable.

7.5 Rear Garden Amenity Space

7.5.1 Policy CP12 of the Core Strategy states that development should take into account the need for adequate levels and disposition of privacy, prospect, amenity and garden space.

7.5.2 The dwelling would retain a garden of approximately 900sqm in area which is considered to be acceptable.

7.6 Biodiversity

7.6.1 Section 40 of the Natural Environment and Rural Communities Act 2006 requires Local Planning Authorities to have regard to the purpose of conserving biodiversity. This is further emphasised by regulation 3(4) of the Habitat Regulations 1994 which state that Councils must have regard to the strict protection for certain species required by the EC Habitats Directive. The Habitats Directive places a legal duty on all public bodies to have regard to the habitats directive when carrying out their functions.

7.6.2 The protection of biodiversity and protected species is a material planning consideration in the assessment of this application in accordance with Policy CP9 of the Core Strategy and Policy DM6 of the Development Management Policies document. National Planning Policy requires Local Authorities to ensure that a protected species survey is undertaken for applications where biodiversity may be affected prior to the determination of a planning application. A Biodiversity Checklist was submitted with the application and states that no protected species or biodiversity interests will be affected as a result of the application.

8 Recommendation

8.1 That PART RETROSPECTIVE PLANNING PERMISSION BE GRANTED and has effect from the date on which the development was started and is subject to the following conditions:

8.2 Conditions

C1 The development hereby permitted shall be carried out in accordance with the following approved plans: TRDC0001 (Location Plan), 3305.100.D, 3305.101.C, 3305.102.C, 3305.103.C, 3305.104.D

Reason: For the avoidance of doubt and in the proper interests of planning and in the interests of the visual amenities of the locality and the residential amenity of neighbouring occupiers, in accordance with Policies CP1, CP9, CP10 and CP12 of the Core Strategy (adopted October 2011) and Policies DM1, DM6, DM13 and Appendices 2 and 5 of the Development Management Policies LDD (adopted July 2013).

- C2 All new works or making good to the retained fabric shall be finished to match in size, colour, texture and profile those of the existing building.

Reason: To ensure that the external appearance of the building is satisfactory in accordance with Policies CP1 and CP12 of the Core Strategy (adopted October 2011) and Policy DM1 and Appendix 2 of the Development Management Policies LDD (adopted July 2013).

- C3 The protective measures detailed within the Method Statement contained in the Arboricultural Impact Assessment and the submitted Tree Protection Plan (SAL/ACL/AWWN/19457) be erected and maintained on site throughout the entire course of the development until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed within any area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made. No fires shall be lit or liquids disposed of within 10.0m of an area designated as being fenced off or otherwise protected in the approved scheme.

Reason: To prevent damage to trees during construction and to meet the requirements of Policies CP1 and CP12 of the Core Strategy (adopted October 2011) and Policy DM6 of the Development Management Policies LDD (adopted July 2013).

- C4 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any other revoking and re-enacting that order with or without modification), no windows/dormer windows or similar openings [other than those expressly authorised by this permission] shall be constructed in the flank elevations of the dwelling hereby approved.

Reason: To safeguard the residential amenities of neighbouring properties in accordance with Policies CP1 and CP12 of the Core Strategy (adopted October 2011) and Policy DM1 and Appendix 2 of the Development Management Policies LDD (adopted July 2013).

Informatives

- I1 With regard to implementing this permission, the applicant is advised as follows:

All relevant planning conditions must be discharged prior to the commencement of work. Requests to discharge conditions must be made by formal application. Fees are £116 per request (or £34 where the related permission is for extending or altering a dwellinghouse or other development in the curtilage of a dwellinghouse). Please note that requests made without the appropriate fee will be returned unanswered.

There may be a requirement for the approved development to comply with the Building Regulations. Please contact Hertfordshire Building Control (HBC) on 0208 207 7456 or at buildingcontrol@hertfordshirebc.co.uk who will be happy to advise you on building control matters and will protect your interests throughout your build project by leading the compliance process. Further information is available at www.hertfordshirebc.co.uk.

Community Infrastructure Levy (CIL) - If your development is liable for CIL payments, it is a requirement under Regulation 67 (1) of The Community Infrastructure Levy Regulations 2010 (As Amended) that a Commencement Notice (Form 6) is submitted to Three Rivers District Council as the Collecting Authority no later than the day before

the day on which the chargeable development is to be commenced. DO NOT start your development until the Council has acknowledged receipt of the Commencement Notice. Failure to do so will mean you will lose the right to payment by instalments (where applicable), lose any exemptions already granted, and a surcharge will be imposed.

Care should be taken during the building works hereby approved to ensure no damage occurs to the verge or footpaths during construction. Vehicles delivering materials to this development shall not override or cause damage to the public footway. Any damage will require to be made good to the satisfaction of the Council and at the applicant's expense.

Where possible, energy saving and water harvesting measures should be incorporated. Any external changes to the building which may be subsequently required should be discussed with the Council's Development Management Section prior to the commencement of work.

- 12 The applicant is reminded that the Control of Pollution Act 1974 allows local authorities to restrict construction activity (where work is audible at the site boundary). In Three Rivers such work audible at the site boundary, including deliveries to the site and running of equipment such as generators, should be restricted to 0800 to 1800 Monday to Friday, 0900 to 1300 on Saturdays and not at all on Sundays and Bank Holidays.
- 13 The Local Planning Authority has been positive and proactive in its consideration of this planning application, in line with the requirements of the National Planning Policy Framework and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015. The development maintains/improves the economic, social and environmental conditions of the District.