

PLANNING COMMITTEE – 18 July 2024

24/0763/RSP – Retrospective: Installation of rooflight and alterations to fenestration at 6 HOLBEIN GATE, NORTHWOOD, HA6 3SH.

Parish: Batchworth Community Council
Expiry of Statutory Period: 08.07.2024

Ward: Moor Park and Eastbury.
Case Officer: Lauren Edwards

Recommendation: That subject to conditions RETROSPECTIVE PLANNING PERMISSION IS GRANTED.

Reason for consideration by the Committee: The application has been called in by Batchworth Community Council unless Officers are minded to refuse due to concerns regarding impact on the privacy of neighbouring properties.

To view all documents forming part of this application please go to the following website:

[24/0763/RSP | Retrospective: Installation of rooflight and alterations to fenestration. | 6 Holbein Gate Northwood HA6 3SH \(threerivers.gov.uk\)](https://www.threerivers.gov.uk/24/0763/RSP-Retrospective-Installation-of-rooflight-and-alterations-to-fenestration-6-Holbein-Gate-Northwood-HA6-3SH)

1 Relevant Planning and Enforcement history

- 1.1 24/0002/COMP – Enforcement enquiry: Flank windows not in accordance with 21/1620/FUL – Pending consideration.
- 1.2 23/0101/CLPD - Certificate of Lawfulness Proposed Development: Construction of an outbuilding - Permitted
- 1.3 21/1620/FUL – Extension of front porch, single storey side/rear extension, part single, part two storey rear extension, conversion of garage into habitable accommodation and loft conversion including rear dormers and front rooflights - Permitted and implemented.
- 1.4 8/482/89 - Conservatory – Permitted.
- 1.5 8/707/82 – Conversion of garage and extension to utility - Permitted

2 Description of Application Site

- 2.1 The application site has an irregular shaped plot owing to its siting on the corner of the cul-de-sac of Holbein Gate, Northwood. Both flank boundaries are splayed such that the width of the plot increases towards the rear.
- 2.2 The application dwelling is a two storey pitched roof detached dwelling which has recently been extended in pursuance to planning permission 21/1620/FUL. Works are now nearing completion.
- 2.3 Owing to the siting of the application site in the corner of the cul-de-sac the application dwelling is set back from the neighbour at No.7 with the neighbour at No.4 sited at an angle such that their rear elevation faces away from the application site.

3 Description of Proposed Development

- 3.1 This application seeks retrospective planning permission for the installation of a rooflight and alterations to fenestration.
- 3.2 There are two first floor flank windows in situ. They are obscure glazed (serving 2 en-suites, a bedroom and the stairwell). The windows have child catches on but are openable below

1.7m (approx. 1.35-1.4m) and top hung such that the openable part is at the bottom of the casement.

3.3 Amended plans have been received to retain the stairwell window in situ but to show the remaining three windows to be altered such that they would be bottom hung (tilting towards the inside of the room) with permanent restrictors (100mm max opening).

3.4 Retrospective permission is also sought for an additional front rooflight which is currently in situ on the front roofslope.

4 Consultation

4.1 Statutory Consultation

4.1.1 National Grid: [No response received]

4.1.2 Batchworth Community Council: [No response received]

Batchworth Community Council strongly object to this application.

1. The addition of fully opening windows on the flank sides facing No 5 and 7 is a clear disregard for the neighbour's privacy. These windows should be removed and replaced with ones that have a 1.7m high top opening only and be fitted with obscure glass as per the original decision notice.

Batchworth Community Council request that this application be called in unless officers are mindful to refuse.

4.2 Public/Neighbour Consultation

4.2.1 Neighbours consulted: 4

4.2.2 Responses received: 1 objection.

4.2.3 Summary of objections:

- Overlooking
- Loss of privacy
- Windows should be changed to those approved or to comply with Condition 4.

4.2.4 Site Notice: Not required.

4.2.5 Press Notice: Not required.

5 Reason for Delay

5.1 Not applicable.

6 Relevant Planning Policy, Guidance and Legislation

6.1 Planning applications are required to be determined in accordance with the statutory development plan unless material considerations indicate otherwise as set out within S38 (6) Planning and Compulsory Purchase Act 2004 and S70 of Town and Country Planning Act 1990).

6.2 National Planning Policy Framework and National Planning Practice Guidance

In 2023 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.

6.3 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, 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, DM6, DM13 and Appendices 2 and 5.

6.4 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.

The Environment Act 2021.

7 **Planning Analysis**

Background

Following a report of an alleged breach of planning control pertaining to the windows (24/0002/COMP) it was ascertained that the windows in situ failed to comply with those shown on the approved plans for 21/1620/FUL. However given that the windows are inserted within the original flanks of the dwelling it was concluded that they breached the conditions of the General Permitted Development Order as they were openable below 1.7m above floor level. The rooflight in the front elevation could generally have been considered

to comprise permitted development however given that it was constructed at the same time as the scheme granted via 21/1620/FUL required planning permission.

7.1 Impact on the character and appearance of the host dwelling and the locality

- 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 The additional rooflight within the front roofslope is proportionate in size and scale to the host roof. Even when considered with the other two rooflights the overall number and scale of rooflights does not appear excessive. Furthermore a number of other front rooflights evident in the locality such that additional rooflight would not appear incongruous.
- 7.1.3 Whilst the flank windows are visible from some angles on the street it is not considered that the presence of such windows appears incongruous within the residential setting of the application site.
- 7.1.4 As such it is not considered that the development results 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 (adopted October 2011) and Policy DM1 and Appendix 2 of the Development Management Policies LDD (adopted July 2013).

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.
- 7.2.2 There are four first floor flank windows currently in situ. They serve a stairwell and an ensuite in the eastern flank facing No.7 Holbein Gate and a bedroom and an en suite in the western flank facing No.5 Holbein Gate. Currently the windows are all purpose made obscure glazed. With the exception of the window serving the stairwell which is above the drop of the stairs they are top hung such that they open below 1.7m. With the exception of the stairwell window having made an internal site visit it was considered that all 3 remaining windows as currently in situ result in both actual and perceived overlooking towards the private amenity space and windows of both neighbours.
- 7.2.3 The stair window is above the drop on the stairs as and such does not afford any unacceptable views towards neighbours. Therefore it is considered acceptable for this window to be retained in its current form.
- 7.2.4 As set out above the three other windows are not considered acceptable in their current form and as such amended plans have been received to show these 3 windows to be replaced with bottom hung windows and permanently fitted restrictors which would limit the maximum opening to 100mm. Having a window bottom hung with restricted opening, tilting into the room in which they serve, would mean that the portion of the window which would have the greatest opening depth would be at the top. Therefore views could not be had up and over into neighbour gardens when an average height person were stood in a natural position within the room. The windows would also remain as obscure glazed to mitigate both actual and perceived overlooking. A condition would be added to require the 3 windows to be altered to this effect within 3 months of the date of any permission granted.

- 7.2.5 The front rooflight is angled skyward and is located within the front roofslope. Thus does not afford any unacceptable overlooking to neighbouring amenity.
- 7.2.6 In summary, subject to conditions, the development does not result in any adverse impact on the residential amenity of any neighbouring occupier so as to justify refusal of the application and the development would therefore be acceptable 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).
- 7.3 Highways & Parking
- 7.3.1 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.
- 7.3.2 Appendix 5 outlines that dwellings with four or more bedrooms should provide 3 on-site parking spaces. The proposal has not resulted in the creation of any additional bedrooms and the existing parking provision to the frontage would remain.
- 7.4 Rear Garden Amenity Space
- 7.4.1 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.
- 7.4.2 Appendix 2 requires 105 sqm of amenity space. The proposal does not result in the creation of any additional bedroom or loss of existing amenity space.
- 7.5 Trees & Landscape
- 7.5.1 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.
- 7.5.2 The application site is not located within a Conservation Area nor are there any protected trees on or near the site. Furthermore owing to the nature of the development it is not considered that any adverse impacts would have resulted or could result in the future in this respect.
- 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.
- 7.7 Mandatory Biodiversity Net Gain

7.7.1 Paragraph 13 of Schedule 7A of the Town and Country Planning Act 1990 sets out that every planning permission granted for the development of land in England shall be deemed to have been granted subject to the 'biodiversity gain condition' requiring development to achieve a net gain of 10% of biodiversity value. This is subject to exemptions, and an exemption applies in relation to planning permission for a development which is the subject of a householder application, within the meaning of article 2(1) of the Town and Country Planning (Development Management Procedure) (England) Order (2015).

7.7.2 In this case, the applicant has confirmed that if permission is granted for the development to which this application relates the biodiversity gain condition would not apply because this application is a Section 73 application and would also relate to householder development.

8 Recommendation

8.1 That retrospective PLANNING PERMISSION IS GRANTED subject to conditions:

C1 Within THREE MONTHS of the date of this permission the first floor flank windows serving the bedroom and two en-suite bathrooms shall be replaced with purpose made obscurely glazed bottom hung and internally tilted windows, fitted with a restrictor which restricts the opening of the windows to no more than 100mm (as more particularly shown on plan number 24A). The windows shall be permanently maintained in that condition thereafter. In the event a restrictor serving the windows is removed or broken, a restrictor shall be re-installed or a new one installed as necessary within ONE MONTH in accordance with the above and maintained thereafter with this process to be repeated in perpetuity.

Reason: To safeguard the amenities of the occupiers of neighbouring residential 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).

C2 The flank window serving the stairwell and front rooflight shall be maintained in accordance with the details shown on plans numbers 24A, 23 and 22.

Reason: To safeguard the amenities of the occupiers of neighbouring residential 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).

8.2 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 £145 per request (or £43 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 Local Planning Authority suggested modifications to the development during the course of the application and the applicant and/or their agent submitted amendments which result in a form of development that maintains/improves the economic, social and environmental conditions of the District.