

11. **18/0990/RSP - Part Retrospective: Extension and conversion of garage to accommodate a gym/exercise room, store and shower room at 84 WHARF WAY, HUNTON BRIDGE, KINGS LANGLEY, HERTFORDSHIRE, WD4 8FN for Ria Chawda. (DCES)**

Parish: Abbots Langley Parish Council
Expiry of Statutory Period: 26 July 2018

Ward: Gade Valley
Case Officer: Matthew Roberts

Recommendation: That Planning Permission be granted.

Reason for consideration by the Committee: Called in by Abbots Langley Parish Council.

1 Relevant Planning and Enforcement History

- 1.1 06/1346/FUL: Redevelopment of land to include 143 residential units, 3 commercial units for uses including light industrial, retail and office use, car parking, access and landscaping. Permitted on 24.11.2006 (Condition 4 removed permitted development right for garage conversions).
- 1.2 14/1391/FUL: Construction of outbuilding. Permitted on 28.10.2014 (not implemented in accordance with permission).
- 1.3 15/2038/FUL: Proposed outbuilding to rear with basement. Withdrawn.
- 1.4 16/0041/COMP: Enforcement Enquiry: Erection of rear outbuilding. Pending consideration.

2 Description of Application Site

- 2.1 The application site comprises a mid-terrace two storey dwelling situated within the north eastern corner of a residential development known as Wharf Way in Hunton Bridge.
- 2.2 Wharf Way forms part of a modern development consisting of an array of relatively high density housing coupled with parking courts.
- 2.3 To the rear of the dwelling there is a small garden area enclosed by close boarded fencing with a pitched roofed outbuilding located at the very rear. The outbuilding is physically attached to an original pitched roofed garage (currently being converted) which is accessed via a parking court.
- 2.4 The parking court is accessed via Wharf Way through an undercroft which opens out onto a large parking area served by garages and a number of allocated parking spaces. The application site includes an allocated parking space in front of the former garage.
- 2.5 To the east of the application site there is a watercourse which runs alongside the development but there is a small buffer zone of planting between the watercourse and the host dwelling and housing to the south east.
- 2.6 In terms of policy designations the application site falls within Flood Zone 2.

3 Description of Proposed Development

- 3.1 This application seeks part retrospective planning permission for the extension and conversion of the garage to accommodate a gym/exercise room, store and shower room.
- 3.2 The pitched roofed outbuilding at the rear of the garden measures 5.5m in width, 4.5m in depth and has a maximum height of 3.5m sloping down to an eaves height of 2.3m. It will provide a gym/exercise room. The outbuilding is physically attached and internally linked to the original garage which will accommodate a shower room and a store. The original

garage door has been replaced with a section operating like a normal door to provide pedestrian access.

3.3 The works have been substantially completed although neither the extension nor the former garage is currently in use.

3.4 The application has been supported by a Design & Access Statement, Biodiversity Checklist and CIL Information Requirement Form.

4 Consultation

4.1 Statutory Consultation

4.1.1 Abbots Langley Parish Council: [Object]

"Members object to the extension and conversion of the garage as an addition to the existing large outbuilding, the loss of parking as a result of the redevelopment of the garage and the contrived proposed alternative arrangements. If approved, it should not be used as a separate residence with subdivision of the plot. If officers are minded to approve this application then Members request that it is referred to Three Rivers Planning Committee for consideration."

4.1.2 Environment Agency: [No objection]

"Paragraph 102 of the National Planning Policy Framework (NPPF) requires applicants for planning permission to submit a Flood Risk Assessment (FRA) when development is proposed areas identified at risk of flooding. The applicant has not submitted a FRA with this planning application which is contrary to the requirements of the NPPF and a valid reason for refusal. However, the application site is located within Flood Zone 2, the current application is for a change of use identified as less vulnerable classification within the National Planning Practice Guidance (NPPG). The site lies outside of 1:100+20% climate change outline and we would not expect a higher allowance to be required in the FRA. Additionally the structure is already present and we feel it would be unreasonable to object due to a lack of a FRA."

4.1.3 Canal and River Trust: [No objection]

"This application falls outside the notified area for its application scale. We are therefore returning this application to you as there is no requirement for you to consult us in our capacity as a Statutory Consultee."

4.1.4 National Grid: [No comments received]

4.2 Public/Neighbour Consultation

4.2.1 Number consulted: 4 No of responses received: 2

4.2.2 Site Notice: Expired 04.07.2018 Press notice: Not applicable.

4.2.3 Summary of Responses:

- Previous owner commenced building work and adjoined it to the new building
- Enforcement Order set up with little follow up
- New owner has continued to build without planning permission
- I don't believe it will be used as a gym but a standalone residence
- Why has the garden been fenced?
- Parking already incredibly cramped
- Loss of parking space

Officer response: In response to the comments received it should be acknowledged that an enforcement case was opened but no formal notice has been served. Building without planning permission is not an offence and this application has been submitted utilising Section 73A of the Town and Country Planning Act 1990 (as amended) which allows for the submission of an application for development already carried out. During the planning application stage the fencing within the rear garden has been removed and is no longer sub-divided. The material planning considerations will be discussed within the analysis section.

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

On 27 March 2012, the framework of government guidance in the form of Planning Policy Statements and Planning Policy Guidance Notes was replaced by the National Planning Policy Framework (NPPF) and 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 states that 'good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people'. 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, 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, DM8, DM13 and Appendices 2 and 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.

Roads in Hertfordshire: Highway Design Guide 3rd Edition

7 Planning Analysis

7.1 Overview

- 7.1.1 Following the grant of planning permission for a flat roofed outbuilding in 2014 under reference 14/1391/FUL, works commenced on site. The works involved the erection of an outbuilding but they did not accord with the 2014 permission as it initially involved a basement (now removed) and a pitched roof form. Due to the personal circumstances of a former owner the outbuilding was left unfinished for a long period of time. Once works recommenced the outbuilding was physically connected with the former garage.
- 7.1.2 The close boarded fencing which had been erected and split the rear garden into two has been removed.
- 7.1.3 It should be noted that the original planning permission (Reference: 06/1346/FUL) which covered the wider residential development removed the ability to convert the garages without planning permission.
- 7.1.4 This application has therefore been submitted to formalise the works from a planning perspective.

7.2 Impact on Character and Street Scene

- 7.2.1 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 (adopted October 2011) 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'. The *Design Criteria* as set out in Appendix 2 of Policy DM1 of the Development Management Policies LDD states that extensions must not be excessively prominent to the general streetscene.
- 7.2.2 The extended element of the former garage has been constructed out of brickwork to match its connected building and follows the prevailing use of brickwork across the wider development. The pitched roof on the extension also follows the roof form on the former garage and those within the parking court and elsewhere within the development. The outbuilding has a height of 3.5m which is approximately 1m lower than the height of the former garage. In terms of the footprint of the extended element, it is 0.5m deeper than the outbuilding approved under 14/1391/FUL but of a similar width (5.7m approved under 14/1391/FUL). Whilst higher than other domestic buildings within the vicinity, the extension is subordinate to the former garage which is higher and more prominent. As such, when considering the location of the extension, sited to the very rear of the garden, it is in-keeping with the wider character of the residential development and does not have a detrimental impact on the visual amenity of the area.
- 7.2.3 The replacement of the garage door has not materially altered the visual appearance of the building. No other openings are visible from public vantage points.
- 7.2.4 The development therefore complies with Policy CP1 of the Core Strategy and Policy DM1 of the Development Management Policies LDD.

7.3 Impact on amenity of neighbours

- 7.3.1 The *Design Criteria* as set out in Appendix 2 states that extensions must not appear excessively prominent, result in loss of light to the windows of neighbouring properties or allow overlooking.
- 7.3.2 The extension to the former garage only has openings (conservatory style doors and a single window) within the western elevation which face the rear of the host dwelling. As the openings are at ground level, the existing boundary treatments consisting of close boarded fencing are sufficient to prevent any overlooking issues.
- 7.3.3 Due to the location of the extension it does not result in any loss of light to neighbouring dwellings. Whilst the extension is relatively high, as advised previously, it is not considered excessively prominent to neighbouring properties given its siting at the rear of the garden.
- 7.3.4 To mitigate concerns regarding the future use of the extension and the converted garage a condition is recommended which seeks that the building shall only be used for incidental purposes and not as an independent dwelling or commercial business. The applicant has applied on the basis that the use of the extension and former garage is for a purpose incidental to the main dwelling, 84 Wharf Way. The incidental use of the building for the stated purpose is not considered to have a detrimental impact on neighbouring amenity through noise or disturbance.

7.4 Amenity Space Provision for future occupants

- 7.4.1 The *Design Criteria* as set out within Appendix 2 of the Development Management Policies LDD states that a three bed dwelling should have 84 square metres of amenity space.
- 7.4.2 Due to the construction of the extension to the former garage there is a resultant amenity space of approximately 78sqm. Whilst this amount is below the indicative standards, the resultant garden area is sufficient to meet the needs of the occupiers and does not appear out of character with the immediate area to warrant refusal of the application.

7.5 Wildlife and Biodiversity

- 7.5.1 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.
- 7.5.2 The protection of biodiversity and protected species is a material planning consideration in the assessment of applications in accordance with Policy CP9 of the Core Strategy (adopted October 2011) and Policy DM6 of the DMLDD. National Planning Policy requires Local Authorities to ensure that a protected species survey is undertaken for applications that may be affected prior to determination of a planning application.
- 7.5.3 A Local Biodiversity Checklist has been completed by the applicant and submitted with the application. The Checklist concludes that no biodiversity survey or assessment is required in this instance, and the Local Planning Authority is not aware of any protected species on this site.

7.6 Trees and Landscaping

- 7.6.1 Policy DM6 of the Development Management Policies LDD advises that development proposals should demonstrate that existing trees, hedgerows and woodlands will be safeguarded and managed during and after development in accordance with the relevant British Standards.

7.6.2 The application site does not contain any protected trees nor has any vegetation of amenity value been removed as part of the development.

7.7 Highways, Access and Parking

7.7.1 The *Parking Standards* as set out in Appendix 5 of the Development Management Policies LDD states that a three bed dwelling should have two assigned spaces within the curtilage.

7.7.2 Prior to the conversion of the garage the application site benefited from two spaces; one within the garage and one allocated space in front. However, due to the conversion works the house now only benefits from one parking space within the curtilage which results in a shortfall of one space.

7.7.3 Notwithstanding the shortfall in parking, it is considered that there are sufficient material considerations which could be considered to outweigh the policy requirement. Firstly, from observations while on site it is clear that strict parking controls are in place across the development. The Management Company for the development have confirmed that parking can only occur within the allocated bays which are permitted for permanent residential usage. Whilst it is acknowledged that the shortfall in one space could potentially displace parking locally, this is unlikely to occur within the residential development itself given the restrictions in place. Outside the development the immediate area of Hunton Bridge (Bridge Road and Old Mill Road), is also heavily constrained with double yellow lines and various highway bollards meaning the occupiers would have to park at a considerable distance (300m plus) from their home. There are no opportunities to park immediately outside the site given the layout of the development.

7.7.4 In addition to the above the garage prior to its conversion was also unlikely to be of sufficient size (measuring 5m in depth by 2.5m in width) to accommodate private motor vehicles. Whilst the measurements would be acceptable for external parking spaces it fails to accord with the *Roads in Hertfordshire: Highway Design Guide 3rd Edition* which stipulates that "...in order to be an effective storage space for cars, on-plot garages must measure at least 6m long and 3m wide." As such, due to the garage's internal width there was potentially insufficient circulation space to open car doors and move around the vehicle, therefore making the space impractical.

7.7.5 Nevertheless, based on the above it is not considered that the shortfall of one space would have an unacceptable impact on parking stress and displacement within the local area to warrant refusal of the application.

7.8 Flood Risk and Drainage

7.8.1 Policy DM8 of the Development Management Plan LDD states that development will only be permitted where it would not be subject to unacceptable flood risk of flooding; and would not unacceptably exacerbate risk of flooding elsewhere.

7.8.2 The application site is located within Flood Zone 2. The Environment Agency were consulted and have stated that the current application is for a less vulnerable form of development and that the building as whole lies outside of the 1:100 +20% climate change zone. As a consequence they do not object.

8 **Recommendation**

8.1 That PART RETROSPECTIVE PLANNING PERMISISON BE GRANTED and has effect from the date on which the development is carried out and is subject to the following conditions:

- C1 The development hereby permitted, shall be carried out and maintained in accordance with the following approved plans: N1712/LP/01; N1712/0A/01 Rev A & N1712/1A/01 Rev A.

Reason: For the avoidance of doubt, to safeguard neighbouring amenity and in the proper interests of planning in accordance with Policies CP1, CP9, CP10 and CP12 of the Core Strategy (adopted October 2011) and Policies DM1, DM6, DM8, DM13 and Appendices 2 and 5 of the Development Management Plan LDD (adopted July 2013).

- C2 The development hereby permitted, shall not be occupied at any time other than for purposes incidental to the residential use of the dwelling known as 84 Wharf Way and it shall not be used as an independent dwelling or for commercial purposes at any time.

Reason: The creation of a separate and independent unit and use for commercial purposes would not comply with Policies CP1, CP10 and CP12 of the Core Strategy (adopted October 2011) and Policies DM1 and Appendices 2 and 5 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 £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) - Your development may be liable for CIL payments and you are advised to contact the CIL Officer for clarification with regard to this. It is a requirement under Regulation 67 (1), Regulation 42B(6) (in the case of residential annexes or extensions), and Regulation 54B(6) for self-build housing) 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 Environment Agency:

We would like to draw the applicants attention to the developments requirement to have obtained a Flood Risk Activity Permit (FRAP) prior to the commencement of works. Under the terms of the Water Resources Act 1991, and the Thames Land Drainage Byelaws 1981, the prior consent of the Environment Agency is required for any proposed works or structures, in, under, over or within 8 metres of a watercourse designated a 'main river'. This is separate to and in addition to any planning permission granted. We advise the applicant to contact the Environment Agency for any future works or developments within this bylaw zone.