

**9. 19/0035/RSP – Part Retrospective: Construction of a raised patio to side and rear, boundary treatment, and landscaping at 94 GREENFIELD AVENUE, CARPENDERS PARK, WATFORD, HERTFORDSHIRE, WD19 5DQ.
(DCES)**

Parish: Watford Rural
Expiry of Statutory Period: 12.03.2019

Ward: Carpenders Park
Case Officer: Matthew Roberts

Recommendation: That Planning Permission be granted.

Reason for consideration by the Committee: This application is brought before the Committee as it has been called-in by Watford Rural Parish Council.

1 Relevant Planning & Enforcement History

- 1.1 15/1805/PDE: Prior Approval: Single storey rear extension (depth 8 metres, maximum height 4 metres and eaves height 3 metres). Permitted.
- 1.2 16/0239/CLPD: Certificate of Lawfulness Proposed Development: Single storey rear extension. Granted.
- 1.3 18/0141/COMP: Works not in accordance with 16/0239/CLPD: Large opening not permitted development (contrary to Class A conditions) and raised patio/path. Pending consideration.

2 Description of Application Site

- 2.1 The application site comprises a detached chalet bungalow located on the southern side of Greenfield Avenue, a residential street within Carpenders Park.
- 2.2 The host dwelling has a bonnet style roof form with a rear dormer providing first floor level accommodation. At ground level, a “larger home extension” has been built at the rear and extends 8m from the original rear elevation. The dwelling is built up to the boundary with No.96 Greenfield Avenue to the south west and is set in from the common boundary with No.92 Greenfield Avenue to the north east.
- 2.3 Due to the land levels within the area the host dwelling is sited on a slightly higher land level than No.92 with No.96 located on a relatively similar level land; although all the above mentioned properties have downward sloping gardens. Such is the land levels within the area it has resulted in various rear patios, both sunken and raised.
- 2.4 The frontage of the host property includes an area of hard surfacing with the ability to provide 3 parking spaces. To the side there is a newly constructed raised concrete passageway which extends towards the rear where it meets a 2.2m deep patio area (subject to this application) and is partly enclosed with newly erected close boarded fencing which abuts existing fencing belonging to No.92.

3 Description of Proposed Development

- 3.1 This application seeks part retrospective planning permission for the construction of a raised patio to the side and rear, boundary treatment and landscaping.
- 3.2 As it stands the raised patio extends from the side of the dwelling towards the rear whereby it projects 2.2m from the existing rear elevation. The proposal seeks to extend the depth of the existing raised patio further into the garden by 2.2m, resulting in a total distance of 4.4m from the rear elevation. The design of the raised patio is such that it incorporates a ramp adjacent to the boundary with No.92 and soft landscaping (boxed planting) at both sides to reduce the patios usable space. At the rear, steps are to be built stepping down onto the garden which will remain unaltered.

- 3.3 As part of the application the newly erected close boarded fencing adjacent to the boundary with No.92 will be physically altered so it does not exceed 1.7m from the existing ground level. The fencing would then stagger down in height adjacent to the ramp.
- 3.4 In relation to the boundary with No.96, two existing fences would be raised to meet the top of the concrete posts adjacent to the patio area, but would not exceed 2m above the original ground level.
- 3.5 During the course of the application the plans have been amended to provide more detail and to alter the design of the raised patio area at the rear.

4 Consultation

4.1 Statutory Consultation

4.1.1 Watford Rural Parish Council: [Objection]

"I write in connection with the above planning application. WRPC have examined the plans and local councillors know the site well. We wish to object to the development of land at this location for the following reason:

It has been brought to the attention of the Council that this build has raised the level of the footway sufficiently to impact on the privacy of the neighbouring properties. TRDC Local Plan policy DM1 Residential Design and Layout sets out that developments must have the need for privacy taken into account. This development may contradict Appendix 2 (design Criteria) of the Local Plan under point 1.b as it may be that the neighbouring properties private zones are now visible from the garden.

We respectfully please ask this to be pulled into to planning committee unless officers are minded to refuse.

Finally, please note that our submission is in respect of the proposed development. While we have taken every effort to present accurate information for your consideration, as we are not a decision maker or statutory consultee, we cannot accept any responsibility for unintentional errors or omissions and you should satisfy yourselves on any facts before reaching your decision."

Officer comment: Following receipt of amended plans the parish were informed and confirmed that they still wished for the application to be heard at the Planning Committee.

4.1.2 National Grid: [No response]

4.2 Public/Neighbour Consultation

- 4.2.1 Number consulted: 7
- 4.2.2 No of responses received: 2 objections
- 4.2.3 On receipt of amended plans a further 7 day re-consultation occurred whereby a previous objector added further comments.
- 4.2.4 Site Notice: Not applicable.
- 4.2.5 Press Notice: Not applicable.
- 4.2.6 Summary of Responses:
- Works completed with no thought or consideration to surrounding neighbours
 - Ground level has been raised well above what can be acceptable or legal

- Breaches my privacy, security and affects the value of my property
- Air bricks are now in a gulley and a sewer drain has been raised
- New proposed plans show cosmetic planting which is inadequate
- Ramp could be used by motor bikes or lively children as a play area
- Results in an overpowering development
- Levels should be returned to pre-development levels
- Sets a worrying precedent
- Dimensions are wrongly presented

4.2.7 **Officer comment:** Matters relating to the value of a property and the fact the air bricks are now in a gulley are not material planning considerations, the latter would be a civil issue. All other matters raised by objectors will be discussed within the analysis section.

5 Reason for Delay

5.1 Committee cycle.

6 Relevant Planning Policy, Guidance and Legislation

6.1 National Planning Policy Framework and National Planning Practice Guidance

On 19 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 2019 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 Development 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 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 and Appendix 2.

6.3 Other

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

7 Planning Analysis

7.1 Overview

- 7.1.1 Following a complaint to the Council an enforcement investigation was opened in relation to unauthorised works at the host property, referenced 18/0141/COMP. Following a site visit, assessment of the previous planning history and the evidence collated in relation to the previous ground levels, it was concluded that the works which had occurred, namely the concrete patio/pathway to the side and rear, required planning permission.
- 7.1.2 Due to the differing land levels the applicant was encouraged to submit a part retrospective planning application and to cease works on the external area. This application has therefore been submitted utilising Section 73A of the Town and Country Planning Act 1990 (as amended) and seeks to formalise works which have taken place and for the proposed works which form part of this application.
- 7.1.3 During the application process much has been made of the original land levels serving the property; however, this application is simply concerned with assessing what is now proposed and whether the proposed levels are acceptable having regard to material planning considerations.
- 7.1.4 Prior to the erection of the "larger home extension" it is apparent that the boundary between the host dwelling and No.92 comprised of fencing and hedging (predominately Ivy) which had grown near to the top of the neighbouring kitchen window, which is built up to the boundary with the host dwelling and contains a flank window within the side elevation. Following the removal of the vegetation (which cannot be relied upon in a planning sense) it would have left both properties clearly exposed from inter-overlooking with or without the construction of the raised pathway/patio.

7.2 Impact on neighbouring amenity

- 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 the 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 The most important concern in relation to this particular application is privacy. Within the Design Criteria it states that in the interests of privacy and to prevent overlooking, a proportion of each garden should be a private zone abutting or close to the dwelling that is not visible from the gardens or ground floor habitable rooms of adjoining properties. This should be a minimum distance of 3 metres from a wall of the dwelling and be permanently screened by walls or fences.
- 7.2.3 The raised patio which extends along the side of the host dwelling and towards the rear is enclosed by close boarded fencing to both neighbouring boundaries. With regards to the boundary with No.92, the applicant has erected a number of new fence panels which abut and rise above existing fencing owned and maintained by the neighbour at No.92. Whilst

the new fencing is clearly visible from the neighbour, especially from their kitchen window and patio area, it is proposed to lower the height of the fencing closest to the neighbour to ensure they are uniform in height. Whilst it is relatively unusual to have two fence lines along a boundary, the proposed height of the fencing is not considered to be so unduly prominent or unneighbourly that it would adversely affect the living conditions of the neighbouring occupiers. It should be noted that the host property has always been on a higher land level and that the kitchen extension of the neighbour is built up to the boundary with the host property with their patio area sunken in relation to the floor level of the house.

- 7.2.4 In respect of the raised patio area, it would have a maximum depth of 4.4m enclosed predominately by box planters which would reduce the useable space of the patio. In relation to No.92, the main raised patio area would be set in by approximately 3m from the boundary with a ramp sloping downwards into the garden immediately adjacent to the said boundary. The submitted plans indicate that fencing adjacent to the ramp would step down with the slope of the garden, thereby reducing its visual impact from a neighbouring perspective. Whilst concerns have been raised in respect of the use of the ramp, it is proposed to assist a family member. Having regard to the siting of the raised patio area in relation to the proposed boundary treatments, it is not considered that its use would result in the private area of the neighbouring property from being overlooked. Whilst views of the rear parts of the garden will be visible, this is not uncommon in residential areas and the proposed fencing would prevent unacceptable views into the private zone of the neighbouring property.
- 7.2.5 With regards to No.96, existing close boarded fencing along the boundary would be increased to a height of 1.8m above the current raised patio level to prevent any overlooking potential into the neighbouring garden. It should be noted that the raised patio area would be set in from the boundary with No.96 by 1.2m at its minimum. The raised fencing would not appear visually prominent from neighbouring outlook.
- 7.2.6 Whilst objections have been raised in respect of the visual impact of the new fencing and the erosion of privacy from the raised patio area, it is not considered that the development would have an unacceptable impact on neighbouring amenity having regard to Policy DM1 of the Development Management Policies LDD.
- 7.2.7 To safeguard privacy, conditions have been recommended to ensure that the raised patio area is permanently maintained in accordance with the approved plans, meaning a planning application would be required to make future changes. Additionally, it is considered reasonable to require the fencing along the boundaries to be dropped in height within 1 month from the date of the decision.

7.3 Design and impact on character

- 7.3.1 Policy CP12 of the Core Strategy sets out that development should have 'regard to local context and conserve or enhance the character, amenities and quality of an area'.
- 7.3.2 The proposed raised patio to the side and rear of the host dwelling would not be evidently visible from Greenfield Avenue and thus would not have an impact on the visual amenity of the streetscene.
- 7.3.3 Due to the nature of the land levels within the area, raised patios are not uncommon features within the area.
- 7.3.4 As a result the introduction of a raised patio at the host dwelling is not considered unacceptable and thus would accord with Policy DM1 and Appendix 2 of the Development Management Policies LDD (adopted July 2013).

7.4 Amenity of Future Occupiers

7.4.1 Amenity space standards for residential development are set out in Appendix 2 of the Development Management Policies LDD. For a four bedroom dwelling it states that an indicative level of 105 square metres is required.

7.4.2 The proposal does not significantly reduce previous levels of amenity space with the resultant area totalling approximately 195sqm which exceeds the required levels.

7.5 Parking & Access

7.5.1 Parking would remain unaffected by the development proposal.

7.6 Wildlife and 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.

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. The site is not in or located adjacent to a designated wildlife site. The Local Planning Authority is not aware of any records of protected species within the immediate area that would necessitate further surveying work being undertaken and given the nature of the proposed development there would not be any adverse impacts on biodiversity.

7.7 Infrastructure Contributions

7.7.1 Policy CP8 of the Core Strategy requires development to make adequate contribution to infrastructure and services. The Three Rivers Community Infrastructure Levy (CIL) was adopted in February 2015 and came into force on 1 April 2015. CIL is therefore applicable to this scheme. The Charging Schedule sets out that the application site is within 'Area C' within which the charge per sq.m of residential development is £1Nil.

8 Recommendation

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

C1 The permitted raised patio to the rear including boundary treatment and soft landscaping which has not yet been built shall be carried out in accordance with the following approved plans: 1223-002-PL Rev D & 1223-003-PL Rev D.

Reason: For the avoidance of doubt, to safeguard neighbouring amenity and in the proper interests of planning in accordance with Policies CP1, CP9 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 Within ONE month of the date of this decision, the close boarded fencing bordering No.92 Greenfield Avenue shall be altered in height in accordance with drawing number 1223-003-PL Rev D and be permanently maintained in that condition thereafter.

Reason: To safeguard the residential amenities of the occupiers of No.92 Greenfield Avenue 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 Within ONE month of the date of this decision, the close boarded fencing bordering No.96 Greenfield Avenue shall be altered in height in accordance with drawing number 1223-002-PL Rev D and be permanently maintained in that condition thereafter.

Reason: To safeguard the residential amenities of the occupiers of No.96 Greenfield Avenue 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).

- C4 The purpose built planting boxes shall be erected in accordance with the approved drawing numbers 1223-001-PL Rev D; 1223-002-PL Rev D & 1223-003-PL Rev D and be permanently maintained thereafter.

Reason: To safeguard the residential amenities of the occupiers of No.92 & 96 Greenfield Avenue 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).

- C5 Following the construction of the ramp (as per Condition 1 above), it shall be permanently maintained thereafter in its approved position and angle of slope.

Reason: To prevent unacceptable levels of overlooking and to safeguard the residential amenities of the occupiers of No.92 Greenfield Avenue 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:**

- 11 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 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 submitted amendments which result in a form of development that maintains/improves the economic, social and environmental conditions of the District.
- 13 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.