

PLANNING COMMITTEE - 17 DECEMBER 2019

PART I – DELEGATED

8. **19/1998/RSP – Part Retrospective: Erection of gate and fencing fronting Windmill Drive at THE WINDMILL, 34 WINDMILL DRIVE, CROXLEY GREEN, WD3 3FD**

Parish: Croxley Green Parish Council
Expiry of Statutory Period: 17.12.2019

Ward: Dickinsons
Case Officer: David Heighton

Recommendation: That Part Retrospective Planning Permission be Granted subject to conditions.

Reason for consideration by the Committee: This application is brought before the Committee as it has been called-in by three Members of the Planning Committee.

1 Relevant planning and enforcement history

- 1.1 19/1567/LBC: Listed Building Consent: Various repair works to property including brick repairs, replacement doors and windows – Approved – 08.10.2019
- 1.2 19/0204/COMP: Unauthorised works. Pending consideration.

2 Description of Application Site

- 2.1 The Windmill is a Grade II listed former mill, which was constructed in the early nineteenth century and converted to a residential dwelling and substantially altered and extended in the 1960/70s. The plot within which The Windmill is situated is largely square in shape and measures approximately 1,800sqm in area, with a gated access and driveway to The Windmill located to the south west of the site, along the shared boundary with number 36 Windmill Drive. The area surrounding the site comprises varying developments of residential dwellings which are of a more modern architectural style and design. There is an existing timber outbuilding located to the north west of The Windmill.
- 2.2 The Windmill had not been occupied for some time until the applicant moved in, which is apparent when viewing the internal arrangements and the condition of the exterior and interior features. The existing twentieth century windows are in round headed openings, and the building retains a leaded roof with timber parapet.
- 2.3 The existing extension to The Windmill is two storey in nature and adjoins the south eastern aspect, with the highest point adjoining The Windmill and the set down element comprising the majority of the massing, set furthest away from the Listed Building. To the rear, handmade droplet tiles cover the extension at first floor level, with an existing lean-to greenhouse structure infilling the irregular shape of the extension.
- 2.4 The pre-existing railing and metal five bar gate have been replaced with close-boarded timber fencing and an entrance gate (both subject to this application) along the southern front boundary. The parcel of land between the application site and Windmill Drive is owned by the Council and contains a number of protected trees (TPO902).

3 Description of Proposed Development

- 3.1 This application seeks part retrospective permission for the erection of a gate and fencing, along the southern front boundary adjacent to Windmill Drive for a distance of approximately 43.5m.

- 3.2 The existing fence differed in height due to the land levels, which measure 2.3m in height adjacent to the entrance gate to a maximum of 2.4m from ground floor level adjacent to No. 32 Windmill Drive.
- 3.3 Amended plans were submitted during the course of the application in order to reduce the height of the fence. The timber closed boarded fence would be reduced by 0.3m, with the trellis element removed and concrete posts cut to have a maximum height of 2m above ground level adjacent to the entrance gate and 2.1m adjacent to No.32 Windmill Drive.
- 3.4 The plans were also amended to change the style of the gate to a timber five-bar gate, similar to the original gate.

4 Consultation

4.1 Statutory Consultation

4.1.1 Croxley Green Parish Council: [Objection]

Croxley Green Parish Council has the following concerns:

That the application is only for the front fence and does not cover the work undertaken to the sides and back of the property.

*That measurements taken of the fence show that it exceeds the permitted height
On inspection the gravel board is showing above ground and not buried as per the plan.
The drawing exaggerates the slope.*

That damage has been done to wildlife habitats.

We would also like to draw the case officer's attention to the Neighbourhood Plan point 5.2.6 on page 39 which discourages gated developments.

If case officer is minded to approve the application then CGPC would like the application to be considered by the TRDC Planning Committee.

4.1.2 National Grid: [No response received]

4.1.3 Landscape Officer: [No objection]

There are some trees protected by TPOs directly adjacent to the boundary the subject of this application. The original TPO016 protected a number of trees within a wider area than the verge to the front of this property within A2 of the Order.

As it was not precisely clear from this description which trees were present in this particular part of the verge adjacent to the property, the Council decided to make another more specific Order protecting individual trees within this belt. This Order was made on 29th August 2019 and protected 5 individual trees (2xOak, 2 x Ash and 1xSycamore) and a group (G1) of 2xPine, 1x Holly, 2x Lime, 1x Elder and 1x Hawthorn.

The main elements of construction are complete and as such any impact on trees will have already been caused. It is my belief that the extent of any impact is quite minimal and as such it would be difficult to mount a successful prosecution against the owner/developer for damage to protected trees.

For this reason I do not intend to object to the proposals.

4.1.4 Conservation Officer: [Objection]

The Windmill is a grade II listed building. Dating from the early-mid 19th century, it became redundant in the early 20th century and was extended and converted to a dwelling in the

1970s. The land around the windmill was developed in the 1970s/'80s with the houses along Windmill Drive laid out, compromising the original open setting of the windmill.

The boundary fronting Windmill Drive appears to follow the historic boundary of the mill as shown on historic OS maps. The mature trees along the boundary are certainly depicted on historic maps. The previous railings along the boundary appear to have been a historic feature, possibly late 19th/early 20th century in date, but they have now been removed. The survival of remnants of the building's setting are important because of the encroachment of the housing development and the loss of so much of its original setting.

Whilst the windmill now occupies a largely suburban site and has been converted to a dwelling, it was once a rural industrial building. The fencing and gates as erected are particularly suburban in character due to their materials, height and additional trellis. They do not relate to the character of the windmill which derives from its distinct functional form illustrating its former use. For this reason, the fencing and gates are considered to be unsympathetic additions to the setting of the listed building and detract from its surviving historic character. It is considered that a low level of less than substantial harm has been caused to the significance of the building (para. 196 of the NPPF). Regard should also be given to para. 193 of the NPPF which requires great weight to be afforded to the conservation of heritage assets.

A timber five-bar gate and a lower level fence supplemented with hedging or other appropriate planting may be an acceptable alternative.

Officer comment: Following the comments by the Conservation Officer the plans have been amended as advised above, reducing the height of the fencing and changing the design of the gate to a timber five-bar gate.

4.2 Public/Neighbour Consultation

4.2.1 Number consulted: 43

4.2.2 No of responses received: 32

Objections: 23

Support: 8

Petition: 43 Signatures

4.2.3 Site Notice: Posted – 25.10.2019 Expired – 15.11.2019

Press Notice: Published – 01.11.2019 Expired – 22.11.2019

4.2.4 Summary of Responses:

Objects

- New gate and fence detracts from the neighbourhood
- Impact on local heritage asset
- Plans are misleading
- Impact on wildlife
- Loss of mature trees and vegetation

Supports

- Matches existing fencing, in keeping
- Entitled to privacy
- Security measure
- Previous fencing, dangerous and in a state of disrepair
- Windmill clearly still visible

- No TPO's have been removed
- Mature trees and vegetation screen the development and encourage wildlife

Officer comment: All material planning considerations are outlined within the relevant analysis section below. Boundary disputes are a civil matter and the submitted documentation is taken in good faith in this regard.

5 Reason for Delay

5.1 [No delay]

6 Relevant Planning Policy, Guidance and Legislation

6.1 National Planning Policy Framework and National Planning Practice Guidance

In 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 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, 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, DM3, DM6, DM9, DM13 and Appendices 2 and 5.

The Croxley Green Neighbourhood Plan Referendum Version was adopted in December 2018. Relevant policies include: CA2 and Appendix B. Character area 2.

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 setting of Listed Building, character and street scene

- 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 (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'. Development should make efficient use of land but should also respect the 'distinctiveness of the surrounding area in terms of density, character, layout and spacing, amenity, scale, height, massing and use of materials'; 'have regard to the local context and conserve or enhance the character, amenities and quality of an area' and 'incorporate visually attractive frontages to adjoining streets and public spaces'.
- 7.1.2 Policy DM1 and Appendix 2 of the Development Management Policies Local Development Document (adopted July 2013) set out that development should not lead to a gradual deterioration in the quality of the built environment, have a significant impact on the visual amenities of the area and that extensions should respect the existing character of the dwelling, particularly with regard to the roof form, positioning and style of windows and doors, and materials.
- 7.1.3 Policy DM3 of the DMP LDD relates to Heritage Assets such as Conservation Areas and Listed Buildings. It states that the Council will preserve the Districts Listed Buildings and will only support applications where the extension/alteration would not adversely affect its character both internally or externally or its wider setting. Development should preserve and enhance Conservation Areas. Policy CP12 of the Core Strategy and development should conserve and enhance heritage assets. The NPPF under paragraph 193 states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.
- 7.1.4 Policy CA2 of the Croxley Green Neighbourhood Plan outlines that domestic extensions should seek to conserve and enhance the Character Areas through the careful control of massing, alignment and height. Extensions that have an overbearing or adverse visual effect on the Character Area in which it is located will be resisted.
- 7.1.5 The general character of the area is suburban in character and this is reflected by the use of various forms of boundary treatment within the vicinity. The application property, is a Grade II listed building, which previously had a low level railings to a maximum height of 1.3m to the southern boundary, which was in the main screened from view by a line of mature trees and vegetation. These particular railings are not considered to be original and are not specifically mentioned within the listing for the building (List Entry Number: 1100797).
- 7.1.6 In respect of the fencing and gate currently in situ (as built) the Conservation Officer objects on the basis that they do not relate to the character of the building which derives from its former historic use. As such they are considered unsympathetic additions which detract from the setting of the listed building. It is the opinion of the Conservation Officer that the existing development therefore attracts a low level of less than substantial harm in accordance with paragraph 193 of the NPPF. However, during discussions with the applicant the drawings have been amended to reflect the views of the Conservation Officer.

This includes removing the existing unsympathetic with a timber five-bar gate. In addition, the decorative trellis is shown to be removed (along with concrete posts) to ensure that the fencing has a maximum height of 2m. There other similar boundary treatments enclosing the site from adjacent properties. Taking account of the amended plans it is considered that changes would therefore have a neutral impact on the setting of the listed building. As no harm would result the amended development is considered to accord with Policy DM3 of the Development Management Policies LDD and the NPPF (2019).

- 7.1.7 In terms of the impact of the amended proposal on the character of the area, it is noted that the boundary fence would appear more prominent within the street scene than the previous front boundary treatment. However, given its positioning, set back from the highway it is not considered to appear unduly prominent to such an extent to harm the visual amenity of the area. Furthermore, the amended fencing would also respond to the suburban character of the area which includes a variety of boundary treatments. Therefore, it is not considered that the boundary fence as amended would appear so unduly prominent or incongruous within the street scene so as to justify the refusal of planning permission.
- 7.1.8 It should be noted that the street scene elevation shows the height from the pavement, given the slight drop in land levels down to the fencing. The section drawing clearly shows the height of the fencing relative to the adjacent vegetated verge and highway, which have been checked and measured following a site visit.
- 7.1.9 The entrance gates are set back from Windmill Drive by approximately 10.5m. The land levels of the site slope down towards dwelling, as such, the proposed timber five-bar gate would be set on lower land level to that of the highway. The amended gates would replicate the original gates in form and style and thus, would not result in an unduly prominent feature. Whilst the gates would be timber, the materials would respect the character of the area and would not appear contrived. As such, the proposed amended gates would not result in any demonstrable harm on the visual amenities of the street scene or character and appearance of the surrounding area.
- 7.1.10 Therefore, it is considered that the amended proposal would not have a harmful impact on the setting of the listed building nor would it have a detrimental impact on the character or appearance of the host dwelling and area. The development would therefore be acceptable in accordance with Policies CP1 and CP12 of the Core Strategy, Policies DM1, DM3 and Appendix 2 of the Development Management Policies LDD, Policy CA2 and Appendix B of the Croxley Green Neighbourhood Plan (adopted December 2018) and the NPPF (2019).

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 The amended proposal for the erection of a maximum height of 2.1m high close boarded fence along the southern of boundary of the site. The fence would replace an existing railing. It is noted that the fence would have a different appearance to the railing, however, given the amended height of the existing boundary treatment and that the adjoining neighbours are set in 4m and 2.5m respectively from the adjoining shared boundaries, it is not considered that this element would appear overbearing or result in loss of light to these neighbours.
- 7.2.3 Due to the siting and nature of the development which would include lowering of the front boundary treatment it is not considered that any harm would occur to the residential amenities of the surrounding neighbouring properties from being overbearing. Likewise it is

not considered that there would be any significant impact to those neighbours opposite. The separation by the adjacent highway would be sufficient to mitigate any significant impact and to prevent it from being an overbearing form of development.

7.2.4 The gates due to their siting do not result in any loss of light or harm to the visual amenities of the surrounding neighbouring properties.

7.2.5 In summary, the proposed development would be in accordance with Policy CP12 of the Core Strategy (adopted October 2011) and Policy DM1 and Appendix 2 of Development Policies Local Development Document (adopted July 2013.)

7.3 Amenity Space Provision for future occupants

7.3.1 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. Specific standards for amenity space are set out in Appendix 2 of the Development Management Policies LDD.

7.3.2 Following the proposed development the application site would retain sufficient amenity space for future occupiers and as such would comply with Appendix 2 of the DMP LDD.

7.4 Wildlife and Biodiversity

7.4.1 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.

7.4.2 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.

7.4.3 The application has been submitted with a Biodiversity Checklist and 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.

7.5 Trees and Landscaping

7.5.1 Policy CP12 of the Core Strategy expects development proposals to 'have regard to the character, amenities and quality of an area', to 'conserve and enhance natural and heritage assets' and to 'ensure the development is adequately landscaped and is designed to retain, enhance or improve important existing natural features'. Policy DM6 of the Development Management Policies LDD states that development should be designed in such a way as to allow trees and hedgerows to grow to maturity without causing undue problems of visibility, shading or damage.

7.5.2 The application site is not located within a conservation area, however, there are 5 individually protected trees to front verge of the site which make up group G1 of a new TPO (TPO902). Whilst the works have already taken place within the root protection zones of the trees, given the relatively limited excavation works, the Landscape Officer when assessing the impact has concluded that any damage is minimal. It is therefore concluded that the works have not adversely effected the health of the protected trees to such an extent that will result in their loss.

7.6 Highways, Access and Parking

- 7.6.1 Policy DM13 of the Development Management Policies LDD requires developments to ensure that sufficient parking is provided in accordance with the parking standards set out at Appendix 5 of the Development Management Policies LDD.
- 7.6.2 The proposed development does not increase the number of bedrooms of the application dwelling and therefore the parking provision remains as existing. There is hardstanding for at least two vehicles to the frontage of the application site and it is therefore considered that the proposal is acceptable in terms of parking.

8 **Recommendation**

- 8.1 That Part Retrospective Planning Permission be GRANTED and has effect from the date on which the development was carried out and is subject to the following conditions:

- C1 The development hereby permitted (amended gate and amended fencing) shall be carried out and completed before the expiration of 3 MONTHS from the date of this permission.

Reason: In pursuance of Section 91(1) of the Town and Country Planning Act 1990 and as amended by the Planning and Compulsory Purchase Act 2004 and to remove the current harm to the setting of the Grade II Listed Building in accordance with Policies CP1 and CP12 of the Core Strategy (adopted October 2011), Policies DM1, DM3 and Appendix 2 of the Development Management Policies LDD (adopted July 2013) and the NPPF (2019).

- C2 The reduction in height of the fencing and replacement of the gate hereby permitted shall be carried out and completed in accordance with the following approved plans: 374/P2/1, 374/P2/2, 374/P2/3, 374/P2/4 (received 04.12.2019), 374/P2/5 (received 04.12.2019) and in accordance with the timescale set out at Condition 1. The boundary fence and gate shall be permanently maintained as such thereafter.

Reason: For the avoidance of doubt, in the proper interests of planning and in accordance with Policies CP1, CP9, CP10 and CP12 of the Core Strategy (adopted October 2011) and Policies DM1, DM3, DM6, DM13 and Appendices 2 and 5 of the Development Management Policies LDD (adopted July 2013), Policy CA2 and Appendices B of the Croxley Green Neighbourhood Plan (adopted December 2018) and the NPPF (2019).

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 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.