

PLANNING COMMITTEE – 23 JANUARY 2020

9. **19/2326/RSP - Part Retrospective: Change of Use: Laying of driveway to side and front of property and alterations to landscaping at 74 WINDMILL DRIVE, CROXLEY GREEN, WD3 3FE (DCES)**

Parish: Croxley Green Parish Council
Expiry of Statutory Period:

Ward: Dickinsons
Case Officer: Clara Loveland

Recommendation: That the decision to be delegated to the Head of Regulatory Services to consider any representations received and 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 Croxley Green Parish Council.

1 **Relevant Planning History**

1.1 19/0941/RSP- Part Retrospective: Change of Use: Laying of driveway to side and front of property. Refused on 07.08.2019 for the following reasons:

R1: Character:

The change of use and laying of driveway to the side of the property by virtue of the loss of a substantial section of the landscaped amenity verge which contributed positively to the character and appearance of the street scene and resultant extent of hardstanding in the prominent corner location has resulted in demonstrable harm to the character and appearance of the street scene, contrary to Policy CP12 of the Core Strategy (adopted October 2011), Policy DM1 and Appendix 2 of the Development Management Policies LDD (adopted July 2013) and Policy CA1 and Appendices B and C of the Croxley Green Neighbourhood Plan (adopted 2018).

R2: Highways:

The access arrangements are not in accordance with the Highway Authority's specifications and have the potential to interfere with the free and safe flow of other highway users, particularly pedestrians, putting pedestrians in danger of conflict, contrary to Policy CP10 of the Core Strategy (adopted October 2011).

1.2 19/0056/COMP – Enforcement Enquiry Material change of use from amenity area to residential curtilage. Case pending.

1.3 17/0388/TPO: Fell Lime tree in front garden. Permitted, subject to re-planting ornamental Cherry.

1.4 98/0211 – Single Storey conservatory to rear. Conditional permission 23.06.1998.

1.5 8/81/88 – Garage, bedroom, bathroom. Application approved 18.03.1988.

2 **Description of Application Site**

2.1 The application site contains an extended detached two storey dwelling located on a corner plot on the northern side of Windmill Drive, Croxley Green. Windmill Drive is largely characterised by detached dwellings of similar design and style although there is also a mixture of dwelling types within the immediate locality. The dwellings along Windmill Drive are located on varying land elevations, largely reducing towards the west.

- 2.2 The application dwelling is located on a higher land level when compared with the adjacent highway. It has a pitched roof and is finished in red brick. It is characterised by a bay window on the front elevation (north-west facing) at ground floor level and shutter style windows at first floor level. There is a porch canopy which extends over the entrance door and integral garage with a front dormer finished in dark tiles sited above.
- 2.3 To the front of the host dwelling adjacent to the boundary with No. 76 there is an area of hard-landscaping with steps centrally located (subject to this application). There is a further area of hard-landscaping to the front of the integral garage which formed the original driveway serving the dwelling, however, this has now been extended and wraps around the south-eastern flank elevation. It is this area of hardstanding to the south of the house which is also the subject of the current application.
- 2.4 To the east of the new area of hardstanding and within the same ownership of the property there is an amenity area containing 2 mature trees. The amenity area is enclosed with the rear garden by a 2m high brick wall.

3 Description of Proposed Development

- 3.1 This application seeks part retrospective planning permission for the change of use, laying of driveway to side and front of property and alterations to landscaping.
- 3.2 The hard surfacing to the front/side has already been installed and has a maximum depth of 13.5m and a maximum width of 7.m.
- 3.3 The proposal includes the removal of a section of brick paving which would be replaced with a soft landscaping buffer (turf) measuring approximately 2m in width by 9.5m in depth. The new soft landscaping would be planted adjacent to the boundary with the adjacent highway, thereby retaining the path to the side access of the house. In addition, it is proposed to return the hard-standing in-front of the house to soft-landscaping (turf), including a flower bed and a new Rowanberry Tree to the north of the central stairs where the hand standing immediately in-front of the house meets Windmill Drive, adjacent to the boundary with No.76.
- 3.4 A soakaway already exists within the site's frontage and is sited immediately adjacent to the highway.
- 3.5 A planning statement outlining the personal circumstances of the applicant and reasons for the development has also been submitted as part of this application.

4 Consultation

4.1 Statutory Consultation

4.1.1 Croxley Green Parish Council:

"Croxley Green Parish Council supports the comments made by the planning officer that the verge should be fully returned to its previous state. If the planning officer is minded to approve the application then CGPC would like it to be called into Committee."

4.1.2 National Grid: [No response]

4.1.3 Hertfordshire County Council – Highway Authority: [No objection]

Decision

Notice is given under article 18 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 that the Hertfordshire County Council as Highway Authority does not wish to restrict the grant of permission.

HIGHWAY INFORMATIVE:

Hertfordshire County Council (HCC) recommends inclusion of the following highway informative / advisory note (AN) to ensure that any works within the public highway are carried out in accordance with the provisions of the Highway Act 1980:

(AN) Storage of materials: The applicant is advised that the storage of materials associated with the construction of this development should be provided within the site on land which is not public highway, and the use of such areas must not interfere with the public highway. If this is not possible, authorisation should be sought from the Highway Authority before construction works commence. Further information is available via the website <https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/business-and-developer-information/business-licences/business-licences.aspx> or by telephoning 0300 1234047.

COMMENTS / ANALYSIS:

The application comprises of part retrospective planning permission for an extended driveway, access and associated works at 74 Windmill Drive, Croxley Green. Windmill Lane is designated as an unclassified local access road, subject to a speed limit of 30mph and is highway maintainable at public expense. The property is on a corner plot at a junction of Windmill Drive approximately 30 to 40m from the edge of the cul-de-sac.

The property has an existing vehicle crossover (VXO)/ dropped kerb, which previously led to a single driveway and garage. The works that have been completed previously include an extension to the existing driveway and an additional single driveway /hardstanding area (replacing the front lawn). This application comprises of retaining part of the extended driveway whilst converting the new additional hardstanding back to a grassed area in addition to a new pedestrian access ramp, the details of which are shown on submitted plan no. 2035.1 H. The proposals do not include any alterations to the existing VXO.

The proposals are considered to be acceptable by HCC as Highway Authority. HCC has no objections or further comments on highway grounds, subject to the inclusion of the above informative.

4.1.4 Landscape Officer: [No Objection]

“This is a retrospective application, and therefore any damage to adjacent trees has already occurred. The current scheme allows a higher level of soft landscaping with a new tree planted at the front, which is a welcome improvement on the previous scheme. As such I have no objections to the scheme.”

Officer comment: Due to the nature of the works it is not considered that any adjacent trees were damaged. A tree within the front garden had previously been agreed to be removed via 17/0388/TPO however a new tree had not been planted (hence the introduction of a new tree as part of this application).

4.2 Public/Neighbour Consultation

4.2.1 Number consulted: 11

4.2.2 No of responses received: No response received to date. A verbal update will be provided at committee if any responses are received.

4.2.3 Site Notice: Not required. Press notice: Not required.

4.2.4 Summary of Responses:

- None to date.

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 24 July 2018 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 2018 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. Policies 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.

The Croxley Green Neighbourhood Plan Referendum Version was adopted in December 2018. Relevant policies include: Policy CA2 and Appendices B and C. The site is within Character Area 2.

7 Planning Analysis

7.1 Overview

7.1.1 The Local Planning Authority (LPA) was alerted to an alleged breach of planning control in March 2019. Following this report an enforcement case was opened and investigated under 19/0056/COMP. This case determined that whilst the land subject to the recent hard surfacing works to the side of the house falls within the ownership of 74 Windmill Drive, the area of land prior to the works taking place was not considered to fall within the curtilage of a dwellinghouse. As a result, the hard surfacing cannot benefit from permitted development rights afforded by Schedule 2, Part 1, Class F of the Town and Country Planning (General Permitted Development) Order 2015 (as amended). Thus, the recent works sought to

extend the curtilage of the dwellinghouse and consequently have materially changed the use of the land for which planning permission is required.

- 7.1.2 A planning application was submitted in an attempt to formalise the breach under reference 19/0941/RSP; however, this was refused by the LPA in August 2019. It was considered that the extent of soft landscaping to the side of the house, in conjunction with the hard surfacing to the front of the house had an unacceptable impact on the character of the area. The previous application was also refused as it was unclear as to whether the hard surfacing to the front was going to be used for parking as it had no formal access onto the adjacent highway.
- 7.1.3 Following the refusal the applicant engaged with the LPA and this application therefore follows recent discussion which attempt to overcome the previous reason for refusal.
- 7.1.4 As highlighted above, the current application has been supported by a planning application which highlights the personal circumstances of the applicant. The personal circumstances relate to the health issues of the applicant which are noted with the development considered to aid the applicant's accessibility to the house. The planning merits of the application are set out below.

7.2 Impact on Character and Street Scene

- 7.2.1 Policy CP1 of the Core Strategy (adopted October 2011) seeks to protect and enhance our natural, built and historic environments from inappropriate development 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'.
- 7.2.2 The Croxley Green Neighbourhood Plan (adopted December 2018) states that new development should seek to conserve and, wherever possible, enhance the key elements of the character and appearance of the Character Areas. The Neighbourhood Plan comments in relation to the Windmill Drive estate that;

"Windmill Drive is accessed from The Green with a low density layout of detached, linked and terraced houses with some flats in attractive landscape surrounds".
- 7.2.3 The dwelling originally benefitted from a single width driveway to the front of the integral garage, which historically appeared to be set back within the plot before the house was extended. Prior to works there was a front garden, laid to lawn between the highway and dwelling, adjacent to No. 76 to the north. This lawn has been removed and laid to hardstanding. It should be noted that this particular area benefits from permitted development rights as the works were within the curtilage of the dwelling and did not require planning permission (permitted by Schedule 2, Part 1, Class F of the General Permitted Development Order 2015 (as amended)). However, the proposal seeks to return this area to soft-landscaping, including the introduction of a flower bed to the northern side and a new Rowanberry Tree.
- 7.2.4 In respect of the extension of the driveway beyond the southern flank elevation of the dwelling, whilst within the ownership of the applicant, this area was previously laid to lawn and formed part of an amenity area, falling outside of the residential curtilage of the dwelling. Images prior to the works being undertaken show this large area to be laid to lawn and contributing positively to the character and appearance of the street scene and wider estate which comprise numerous examples. As noted above, the attractive landscape areas are a

key quality of the area as identified within the Neighbourhood Plan. Whilst an area of soft landscaped highway verge has been retained to the rear of the driveway, the loss of soft landscaping in such a prominent corner position has resulted in demonstrable harm to the character and appearance of the street scene.

7.2.5 In order to mitigate the harm to the streetscene the proposal seeks to reduce the extent of the hard surfacing to the side of the dwelling by introducing a 2 metre wide landscape buffer along the majority of the existing hard surfacing adjacent to the highway. Its introduction would assist in softening the impact of the existing hard surfacing on the corner of the road. To further enhance the visual amenity of the area and to compensate the retained paved driveway to the side, the area in front of the house will be largely returned to soft landscaping which will assist in softening the overall frontage. When considering the extent of soft landscaping it is considered that the new frontage and driveway extension would be acceptable and overcomes the previous character reason for refusal. As a result, the personal circumstances of the applicant do not need to be weighed into the planning balance.

7.2.6 As a result, subject to the removal of permitted development rights (Class F) (to ensure the soft landscaping is retained), the proposed development is considered to be in accordance with Policy CP1 and CP12 of the Core Strategy (adopted October 2011), Policy DM1 and Appendix 2 of the Development Management Policies Document (adopted July 2013) and the Croxley Green Neighbourhood Plan (adopted December 2018).

7.3 Impact on amenity of neighbours

7.3.1 Policy CP12 of the Core Strategy states that development should 'protect residential amenities by taking into account the need for adequate levels of disposition of privacy, prospect, amenity and garden space'.

7.3.2 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.

7.3.3 The nature of the development is such that it does not cause harm to adjacent neighbours.

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 this confirms no protected species would be impacted by the proposal.

7.5 Trees and Landscaping

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 within a conservation area however all trees are protected by TPO 016.
- 7.5.3 In 2017 the Landscape department under reference 17/0388/TPO permitted the removal of a Lime tree within the front garden (before works commenced). The Lime tree was removed subject to re-planting. It has become apparent that no tree had been re-planted. The submitted plans indicate that a new Rowanberry Tree will be planted within the front garden, north of the central steps, to compensate the loss of the Lime tree.
- 7.5.4 The Landscape Officer has commented that the proposed introduction of soft-landscaping including a new tree would be welcomed. As such, no objections are raised.

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 It is understood that the dwelling contains 4 bedrooms and would therefore require 3 off-street spaces. The dwelling prior to the works benefited from a garage and driveway to the front of the garage providing a total of 2 off-street spaces.
- 7.6.3 Whilst the proposal includes a reduction of hardstanding to the front of the host dwelling, adjacent to neighbour No. 76, the hardstanding to the side of the house (as amended) will still enable 3 off-site parking spaces. A further space can be accommodated by the garage. As a result, the proposal will accord with the parking standards.
- 7.6.4 It is further noted that the Highways Authority do not object to the proposal as the area in front of the house is to be returned to soft landscaping and would therefore not be used for parking.

8 **Recommendation:**

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

- C1 The removal of the paved area and paved driveway with turf and flower beds (as shown hatched in green and red on drawing number 2035.1 Rev H) hereby permitted, shall be carried out and completed in accordance with drawing numbers TRDC 001 (Location Plan) & 2035.1 REV H before the expiration of THREE 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 visual amenity of the streetscene in accordance with Policies CP1, CP9, CP10 and CP12 of the Core Strategy (adopted October 2011), Policies DM1, DM6, DM9 and DM13 and Appendices 2 and 5 of the Development Management Policies (adopted July 2013) and Policy CA2 and Appendices B and C of the Croxley Green Neighbourhood Plan (2018).

- C2 The new Rowanberry Tree as shown on drawing number 2035.1 Rev H shall be planting before the end of the first planting and seeding season immediately following the grant of planning permission.

Once planted, if the new Rowanberry Tree is removed, dies or become severely damaged or diseased within five years from when it was first planted it shall be

replaced with a tree of appropriate size and specie in the next planting season (i.e. November to March inclusive).

Reason: This condition is required to ensure the completed scheme has a satisfactory visual impact on the character and appearance of the area in accordance with Policies CP1, CP9, CP10 and CP12 of the Core Strategy (adopted October 2011), Policies DM1, DM6, DM9 and DM13 and Appendices 2 and 5 of the Development Management Policies (adopted July 2013) and Policy CA2 and Appendices B and C of the Croxley Green Neighbourhood Plan (2018).

- C3 Immediately following compliance with Condition 1 above, notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any other order revoking and re-enacting that Order) (with or without modification), the following Class of Schedule 2 of the Order as amended are withdrawn:

Part 1

Class F – any hard surface

Reason: To ensure adequate planning control over further development having regard to the visual amenities of the site, in accordance with the interests of planning in accordance with Policies CP1, CP9, CP10 and CP12 of the Core Strategy (adopted October 2011), Policies DM1, DM6, DM9 and DM13 and Appendices 2 and 5 of the Development Management Policies (adopted July 2013) and Policy CA2 and Appendices B and C of the Croxley Green Neighbourhood Plan (2018).

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 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 applicant and/or their agent and the Local Planning Authority engaged in pre-application discussions which result in a form of development that maintains/improves the economic, social and environmental conditions of the District.
- 14 The applicant is advised that the storage of materials associated with the construction of this development should be provided within the site on land which is not public highway, and the use of such areas must not interfere with the public highway. If this is not possible, authorization should be sought from the Highway Authority before construction works commence. Further information is available via the website <https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/business-and-developer-information/business-licences/business-licences.aspx> or by telephoning 0300 1234047.