

## PLANNING COMMITTEE – 27 FEBRUARY 2020

### PART I – DELEGATED

#### 12. **20/0048/RSP – Part retrospective: Alterations to frontage including extension to drive at 87 KINDERSLEY WAY, ABBOTS LANGLEY, WD5 0DG.**

Parish: Abbots Langley Parish Council  
Expiry of Statutory Period: 12.03.2020

Ward: Abbots Langley And Bedmond  
Case Officer: Aaron Roberts

Recommendation: That Part Retrospective Planning Permission be Granted.

Reason for consideration by the Committee: This application is brought before the Committee as the planning agent is a Councillor.

#### **1 Relevant Planning History**

- 1.1 8/24/75 – Rear extension to dwelling – Permitted – 28.01.1975
- 1.2 95/0725 – Part two and single storey side extension – Refused – 09.01.1996
- 1.3 96/0499 – Single storey front and side extension – Permitted – 06.08.1996
- 1.4 17/1592/FUL- Single storey front and rear extension and alterations to frontage including extension to drive- Permitted - 28.09.2017
- 1.5 19/0775/RSP- Retrospective: Single storey front and rear extension and alterations to frontage including extension to drive- Withdrawn
- 1.6 19/0012/COMP- Works not in accordance with planning permission 17/1592/FUL: Changes to driveway (land levels, materials and drainage) - Pending consideration.

#### **2 Description of Application Site**

- 2.1 The application site is a rectangular residential plot located on the north side of Kindersley Way, Abbots Langley. Kindersley Way is characterised by a mixture of detached and semi-detached, two-storey dwellings. Due to the topography of the area the land levels fall down significant from Kindersley Way towards the houses.
- 2.2 The application dwelling is a two-storey, semi-detached house with a pitched roof form and red brick exterior. To the front the dwelling has been extended via a single storey partial splayed hipped roof addition. To the rear there is a single storey rear extension. Within the frontage, a raised driveway has also been installed, which forms part of this application. The driveway is suitable to enable parking for approximately 4 cars.
- 2.3 The western boundary of the application site adjoins No. 85 Kindersley Way which contains a dwelling of the same style to that of the application site. This dwelling has also extended to the rear. To the front there is no formal boundary treatment between the properties with the neighbours frontage predominately laid to lawn.
- 2.4 The property to the east, No. 89 Kindersley Way is a two-storey semi-detached house with a red brick exterior. It is set forward of the application dwelling and has been extended to the rear.

#### **3 Description of Proposed Development**

- 3.1 This planning application seeks part retrospective planning permission for alterations to frontage including extension to drive.



- The evergreen planted screen would result in a loss of light and have the potential to destabilise the foundation of the house
- Loss of trees to the front of the garden - A tree to the front of No.85's garden was removed without permission (Officers note: this is not a material planning consideration as the trees are not protected, furthermore the removal without permission may be a form of trespass and therefore a civil matter)
- Loss of light- If a van or a large vehicle is parked on the driveway, due to the proximity to the lounge window there would be a loss of light.
- Safety Concerns- There are no railings or safety barriers. As the drive is approximately 4 feet above the level of No.85's garden a vehicle could roll over the edge (Officers note: this is not a material planning consideration).
- Suggested recommendation's - Remove the stepped structure and replace with the design approved within 17/1592/FUL, remove the timber cladding along the boundary and add a balustrade/ fence to the edge of the raised driveway so that vehicles cannot accidentally drive off the edge.

## **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**

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, DM6, DM13 and Appendices 2 and 5.

### 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.

## 7 **Planning Analysis**

### 7.1 Overview

7.1.1 This application has been submitted as a result of an enforcement case opened in January 2019. Following multiple site visits, it was ascertained that the driveway was not built in accordance with planning permission 17/1592/FUL in relation to its height and design. Under planning permission 17/1592/FUL, alterations to the frontage including an extension to the drive was permitted. The submitted plans show that the steps were proposed to be built more centrally, extending to the boundary with No.89, with a height of approximately 0.6m. The driveway was proposed to be partially excavated below the pre-existing land level, rather than raised higher than the ground level.

7.1.2 This planning application has therefore been submitted in response to the enforcement investigation to date but its submission is not conclusive as to its acceptability which will be discussed within the following analysis section.

### 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'. 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 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.

7.2.3 The raised driveway has been installed towards the south of the application site and adjoins the pavement of Kindersley Way, so is therefore located in a prominent location within the street scene. Owing to the varying land levels and given the removal of a tree to the frontage, there are views of the driveway from Kindersley Way. However, it is not considered that the development would appear at odds within its residential setting, given the varying nature of Kindersley Way, including other examples of raised driveway structures, including to the frontage of No's. 83 and 81. When viewed by either pedestrian or vehicular traffic, the development would not appear as an incongruous addition.

7.2.4 In summary, the proposed development would not result in any significant adverse impact on the character and appearance of the locality so as to justify refusal of the application and the development would therefore be acceptable in accordance with Policies CP1 and CP12 of the Core Strategy and Policy DM1 and Appendix 2 of the Development Management Policies LDD.

### 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 and disposition of privacy, prospect, amenity and garden space'. Policy DM1 and Appendix 2 of the Development Management Policies document set out that residential 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.

7.3.2 The most important concerns in relation to this particular application is whether any harm arising via overlooking potential and whether the raised driveway results in an unneighbourly form of development. The raised driveway is set along the boundary with No.85. The retaining structure has a maximum height of approximately 0.8m along the boundary. The steps leading down from the driveway to the ground level orientate towards the west and then to the north. At present, given the orientation of the steps, when walking down the driveway towards the steps and when using the steps there are views into No.85's lounge window. In order to mitigate this overlooking issue, planting is proposed along the boundary with No.85, following the boundary line from the principal elevation to the retaining wall of the driveway. English Holly will be planted evenly within the border of the site, planted at a height of 1.7m to mitigate any overlooking concerns. Given the height of the planting along the boundary and that it extends the depth of the gap between the front elevation and the retaining structure, it is considered that the vegetation screening protects the residential amenity of the occupiers of No.85 Kindersley Way and is less prominent than 2m high fencing which could be erected under permitted development (if constituted a means of enclosure). The screening along the boundary would therefore assist in preventing direct overlooking into No.85 and also prevent overlooking from No.85 onto the drive.

7.3.3 Additionally, a significant section of the raised driveway is to be removed. The section proposed to be removed is situated along the boundary with No.85 and has a depth of approximately 2.3m and a width of 1.1m. This will reduce the perception of the development from the neighbouring perspective and prevent it from appearing unneighbourly with No.85. The screening as discussed above will also soften the impact of the development.

7.3.4 The objection letter stated that the driveway has the potential to result in a loss of light, particularly if large vehicles such as a van or a boat are parked on the drive. Given the separation distance of at least 6.7m between the section of drive which accommodates vehicles and the lounge window of No.85, it is not considered that the parking of vehicles on the drive would result in a loss of light which would significantly impact upon the amenity of the neighbouring occupiers. It is acknowledged that any vehicles would be notably higher when viewed from the front of the neighbouring property; however, given the separation distances between the amended drive and the front of No.85 it is not considered to result in significant harm to justify refusal of planning permission. The neighbour also had concerns with regards to the proposed vegetation causing a loss of light. However, it must be noted that under permitted development it is possible for the owner of No.87 to erect a 2m high fence along the entire boundary.

7.3.5 Given the land levels and boundary treatment, it is not considered that the development negatively impacts upon the amenity of the occupiers of No.89 Kindersley Way.

7.3.6 To safeguard privacy, a condition has been added to ensure that the proposed planting is installed and permanently maintained in accordance with the approved plans. A condition

has also been added to ensure that the section of driveway proposed to be removed within three months.

- 7.3.7 Having regard to the above the development is not considered to result in significant harm to neighbouring amenity and thus would be acceptable in accordance with Policies CP1 and CP12 of the Core Strategy and Policy DM1 and Appendix 2 of the Development Management Policies LDD.

#### 7.4 Amenity Space

- 7.4.1 Policy CP12 of the Core Strategy states that development should take into account the need for adequate levels and disposition of amenity and garden space. Section 3 (Amenity Space) of Appendix 2 of the Development Management Policies document provides indicative levels of amenity/garden space provision.

- 7.4.2 Given that no additional bedrooms are being proposed, it is considered that there is sufficient amenity space provision to accommodate the proposed development and serve the dwelling.

#### 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 The application has been submitted with a Biodiversity Checklist which 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.

#### 7.6 Trees and Landscaping

- 7.6.1 Policy DM6 of the DMP 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.

- 7.6.2 The application site is not located within a Conservation Area, however there is an individually protected tree to the rear of the site, which has not been impacted by this development. The submitted plans state that the vegetation to the south of the site is to be retained. During the course of the application it has been noted that a tree, close to the southern boundary of the site had been removed. It is unclear whether this fell within the curtilage of No.85 or No.87 Kindersley Way. Either way, the removal of this tree is not a material planning consideration as the trees was not protected, furthermore the removal without permission may be a form of trespass and therefore a civil matter.

- 7.6.3 During the application process the Landscape Officer has informally stated that the proposed English Holly planning was appropriate for this location and would not create any issues to foundations.

## 7.7 Highways, Access and Parking

- 7.7.1 Core Strategy Policy CP10 requires development to provide a safe and adequate means of access and to make adequate provision for all users, including car parking. Policy DM13 and Appendix 5 of the Development Management Policies document set out Parking Standards.
- 7.7.2 Prior to the works, the driveway could accommodate approximately 3 cars. The driveway in its current and proposed capacity could accommodate approximately 4 cars. The raised driveway results in an increase of one car parking space compared with the pre-existing condition. It is therefore considered that the proposal is acceptable in terms of parking provision.
- 7.7.3 The driveway has been constructed in a porous material to allow the movement of water through the surface and reduce surface runoff.

## 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 alterations to the frontage including drive extension hereby permitted shall be completed in accordance with the following approved plan: 1164 SK101G.

Reason: For the avoidance of doubt and 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, DM6, DM13 and Appendices 2 and 5 of the Development Management Policies LDD (adopted July 2013).

- C2 Within THREE MONTHS of the date of this decision, the proposed section of the raised driveway (including hard surfacing and timber sleepers) shall be removed as shown on drawing number '1164 SK101G'. The driveway shall be permanently maintained as such thereafter.

Reason: To safeguard the residential amenities of the occupiers of No.85 Kindersley Way, 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 THREE MONTHS of the date of this decision and following compliance with Condition 2 above, the proposed hedging (English Holly) shall be planted at a minimum height of 1.7m along the boundary with No.85 Kindersley Way as shown on drawing number '1164 SK101G' and shall be permanently maintained to ensure it does not fall below a height of 1.7m. Once planted if any part of the soft landscaping is removed, dies or becomes severely damaged or diseased within five years of the completion of development they shall be replaced with trees/hedging of appropriate size and species in the next planting season (i.e. November to March inclusive).

Reason: To safeguard the residential amenities of the occupiers of No.85 Kindersley Way, 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](mailto: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](http://www.hertfordshirebc.co.uk).

Community Infrastructure Levy (CIL) - If your development is liable for CIL payments, it is a requirement under Regulation 67 (1) of The Community Infrastructure Levy Regulations 2010 (As Amended) that a Commencement Notice (Form 6) is submitted to Three Rivers District Council as the Collecting Authority no later than the day before the day on which the chargeable development is to be commenced. DO NOT start your development until the Council has acknowledged receipt of the Commencement Notice. Failure to do so will mean you will lose the right to payment by instalments (where applicable), lose any exemptions already granted, and a surcharge will be imposed.

Care should be taken during the building works hereby approved to ensure no damage occurs to the verge or footpaths during construction. Vehicles delivering materials to this development shall not override or cause damage to the public footway. Any damage will require to be made good to the satisfaction of the Council and at the applicant's expense.

Where possible, energy saving and water harvesting measures should be incorporated. Any external changes to the building which may be subsequently required should be discussed with the Council's Development Management Section prior to the commencement of work.

12 The 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.