

PLANNING COMMITTEE – 10 SEPTEMBER 2020

PART I - DELEGATED

6. **20/1163/FUL - Erection of outbuilding to rear garden including accommodation at first floor level served by dormer window at 11 GALLOWS HILL, ABBOTS LANGLEY, WD4 8PG**

Parish: Abbots Langley
Expiry of Statutory Period: 14.09.2020 (Agreed Extension)

Ward: Gade Valley
Case Officer: Lauren Edwards

Recommendation: That Planning Permission be REFUSED.

Reason for consideration by the Committee: The application has been called in by 3 Members of the Planning Committee (unless Officers are minded to approve the application).

1 **Relevant Planning History**

- 1.1 01/01609/FUL – Part two, single storey rear extension – Permitted 23.01.02. Implemented
- 1.2 04/1703/FUL – Two storey rear extension and single storey rear extension Permitted 05.04.05. Implemented
- 1.3 04/1835/LBC – Listed Building Consent: Two storey rear extension – Permitted 05.04.05. Implemented
- 1.4 17/0656/FUL – Installation of link between roof pitches, new window to front gable and three conservation rooflights to flank roofslope and internal alterations – Permitted
- 1.5 17/0657/LBC – Listed Building Consent: Installation of link between roof pitches, new window to front gable and three conservation rooflights to flank roofslope and internal alterations – Permitted
- 1.6 20/1164/LBC – Listed Building Consent: Erection of outbuilding to rear garden including accommodation at first floor level served by dormer window – Withdrawn (LBC not required)

2 **Description of Application Site**

- 2.1 The application site is located on Gallows Hill. The site contains a two storey detached dwelling which is Grade II Listed and was built in the 17th Century. It is set back considerably from the highway (approximately 30m). There is hardstanding at the front which can accommodate at least 3 vehicles. There is an existing single and two storey rear extension towards the rear of the application dwelling.
- 2.2 The listing description for the application dwelling is: *House. Late C17, extended and altered C20. Timber frame with red brick nogging and ground floor, part whitewashed. Tiled roof. 2 storeys and attic to early bay with gable end to road, perhaps part of a once larger house. Entrance to left in a C19 gabled porch with a pointed arched entrance. Ground floor whitewashed brick, 4 light C20 leaded casement. First floor exposed frame with fairly close studding and a straight brace. Similar window. Broad gable with struts to collar, 2 light attic window. Right return stack. Rear gable end similar to front. Set back slightly to the left is a C20 block separately roofed.*
- 2.3 Land levels slope steeply downwards towards the rear of the application site and as a result the rear garden is terraced.

2.4 The West Coast Mainline railway runs to the rear of the application site and the site is enclosed to the rear by hedging.

3 Description of Proposed Development

3.1 The application seeks Full Planning Permission for the erection of an outbuilding to rear garden including accommodation at first floor level served by dormer window.

3.2 The proposed outbuilding would have a width of 9m and a depth of 5.8m. The outbuilding would have a pitched roof with gable ends with a maximum height of 5.6m and an eaves height of 2.3m.

3.3 The proposed outbuilding would have a mezzanine first floor level served by a pitched roof dormer within the front elevation in addition to three rooflights within both the front and rear roofslopes.

3.4 The proposed outbuilding would be sited a minimum of 3m from the rear boundary of the application site, 3m from the south eastern boundary and 2.8m from the north western boundary.

3.5 Where the land levels slope at the rear of the site a flat surface would be created 0.6m below the highest land level with a new retaining wall constructed to the front of building.

3.6 The building would be green Oak framed with softwood feather edge cladding and clay tiles. A triple casement window, door and patio doors are proposed within the front elevation which would be timber framed.

3.7 The outbuilding would be used as a gym and home office with a store and w/c.

3.8 Amended plans have been received to remove a front porch projection and to only propose one smaller dormer.

4 Consultation

4.1 Statutory Consultation

4.1.1 Abbots Langley Parish Council: No objection.

Fully approve of the design.

4.1.2 National Grid: No comments received.

4.1.3 Network Rail: Holding objection [agent to liaise directly with Network Rail]

The outside party is proposing to situate the proposed rear outbuilding less than 3m from the boundary of the railway.

In these circumstances Network Rail is placing a holding objection on the proposal as there should be a minimum 3m gap between any outside party structure and the railway boundary. A 3m gap is requested to ensure that:

- *There are no Party Wall Act 1996 issues for which the applicant would be liable for all costs incurred by Network Rail.*
- *That the building works on site and any future maintenance works can be undertaken without over-sailing railway air-space or encroaching over Network Rail boundary fencing. The outside party will not be allowed to use Network Rail land for the purposes of construction or any future maintenance works.*

- *All foundations must be constructed wholly within the applicant's land ownership footprint without over-sailing or encroaching onto Network Rail land and the railway boundary.*
- *We would be very concerned by the excavation and earthworks right up against our boundary. There is potential for the support zone / foundations / cabling of the railway to be damaged by the proposal should the applicant undertake works within 3m of the boundary with the existing operational railway.*
- *We would also be concerned that the proposal would impact upon the ability of our maintenance teams to maintain and renew railway boundary treatments.*
- *We are concerned that any structure which could over-sail our air-space could prove dangerous to maintenance teams or trains or impact upon our safety critical infrastructure, e.g. signals (which could have their site lines impacted or blocked)*
- *There is also the potential that should the structure fail, that it would collapse onto the railway damaging equipment and on-coming trains causing safety and performance issues.*
- *During the construction phase and for any future maintenance scaffolding will no doubt be erected and could over-sail the railway boundary. Scaffolding must be erected so that there is a fail-safe distance of at least 3m between the railway boundary*
- *We would be concerned that by being built less than 3m from the railway boundary that the proposal will increase Network Rail's liability.*
- *Balconies and windows must not open onto or over railway airspace or the railway boundary.*
- *Rainwater goods could discharge over or onto the railway boundary resulting in flooding or pollution issues. The NPPF states that, "163. When determining planning applications, local planning authorities should ensure flood risk is not increased elsewhere...." We recognise that whilst the council are looking to proposals that are sustainable, the proposal in relation to the flooding, drainage, surface and foul water management risk could increase the risk of flooding, water saturation, pollution and drainage issues 'elsewhere', i.e. on to Network Rail land.*

As Network Rail is funded by public remit we should not have to mitigate the impacts of outside party development. Whilst it is recognised that the council seek to permit sustainable development, negative impacts from the proposal should not be passed to Network Rail.

In this circumstance, having reviewed the issues and the proposals position we feel it is necessary to place a holding objection on the proposal. At this stage the applicant is to make contact with Network Rail Asset Protection to discuss their proposal layout and design and to receive agreement to the siting of the proposed structure.

Officer comment: Officers note that the outbuilding is a minimum of 3m from the rear boundary of the application site however the agent is liaising directly with Network Rail.

4.1.4 Conservation Officer: [Objection]

Made the following comments on the original plans:

This application is for the erection of outbuilding to rear garden including accommodation at first floor level served by dormers.

An application for Listed Building Consent has also been submitted (20/1164/LBC) but as there are no physical alterations to the Listed Building itself this is not required.

The property is a Grade II Listed Building (list entry no. 1100915). The house was constructed in the late seventeenth century it is a timber framed property with red brick nogging and ground floor, part whitewashed, with a nineteenth century gabled porch and twentieth century alterations.

The proposed outbuilding is large. It is domestic in appearance; the central front entrance with covered porch and the large and prominent front dormers are features associated with a dwelling rather than a subservient outbuilding. The scale and design of the proposed outbuilding would be incongruous within the rear garden of the Listed Building. Extending nearly the full width of the plot, the proposed outbuilding would be an overly dominant and domestic structure and would become a competing structure within setting of the Listed Building. Although located at the rear of the plot, the proposed building does not adhere to a sympathetic building hierarchy of the main dwelling and an ancillary, subservient outbuilding. The proposal is considered to compete with and detract from the setting of the designated heritage asset, harming its significance.

Current views from the Listed Building to the rear of the garden feature a backdrop of dense and mature trees around the boundary which provide a verdant and secluded setting for the Listed Building. The scale and design of the proposed outbuilding and the large expanse of hardstanding proposed would be inappropriate and would detract from its secluded and verdant setting.

I consider the proposals to have a negative impact on the way in which this Listed Building is experienced and appreciated. The proposals would, in my opinion, fail to preserve the setting of the Listed Building, contrary to Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. With regards to the National Planning Policy Framework (2019), the level of harm to the Listed Building (a designated heritage asset) is considered to be 'less than substantial' as per paragraph 196. 'Great weight' should be given to the heritage asset's conservation as per paragraph 193.

Having reviewed the amended scheme the Conservation Officer maintains their objection:

The appearance of the outbuilding is still overly domestic. The dormer and two entrance doors (bi-folds and a central entrance door) are not representative of a subservient, ancillary structure. The proposed outbuilding is still too large and the amended plans do not go far enough to address previous concerns. Therefore, all previous comments are still relevant

4.2 Public/Neighbour Consultation

4.2.1 Number consulted: 19

4.2.2 No of responses received: 1 objection

4.2.3 Site Notice Expired 03.08.2020

4.2.4 Press notice Expired 24.07.2020

4.2.5 Summary of Response:

- Overlooking
- Loss of privacy to second floor windows
- Loss of property value
- Neighbour would feel more comfortable with the erection of a barrier e.g trees

5 Reason for Delay

5.1 Committee cycle (extension of time agreed)

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, DM13, Appendices 2 and 5.

6.3 Other

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

The Localism Act received Royal Assent on 15 November 2011. The growth and Infrastructure Act achieved Royal Assent on 25 April 2013.

The Wildlife and Countryside Act 1981 (as amended), the Conservation of Habitats and Species Regulations 2010, the Natural Environment and Rural Communities Act 2006 and the Habitat Regulations 1994 may also be relevant.

7 Planning Analysis

7.1 Impact on Character, Street Scene and Heritage Asset

- 7.1.1 Policy CP1 of the Core Strategy seeks to promote buildings of a high enduring design quality that respect local distinctiveness and Policy CP12 of the Core Strategy 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’, and to ‘conserve, and enhance natural and heritage assets’.

- 7.1.2 It is acknowledged that owing to its siting at the end of the rear garden, together with the land level changes, only limited views of the proposed outbuilding would be had from Gallows Hill. However the lack of views from public vantage points does not, in itself, justify the acceptability of a development.
- 7.1.3 By virtue of its excessive scale and design features the proposed outbuilding fails to appear as an ancillary building and appears more consistent with residential design. The proposed outbuilding would have a maximum height of 5m with a first floor level served by a dormer window and rooflights with fenestration at ground floor level. Features such as dormer windows are generally associated with dwellings. The proposed outbuilding would not appear as an ancillary or subservient addition to the site and would be an incongruous feature within the plot and wider area where only smaller scale single storey ancillary buildings prevail. The proposed outbuilding would therefore be at odds with smaller ancillary structures which would be expected within the residential setting of application site and would result in harm to the character of the area.
- 7.1.4 The Conservation Officer also objects to the proposal as they consider the outbuilding would have an unacceptable impact on the setting of the Listed Building. The Conservation Officer considers that the outbuilding appears domestic in appearance and would be of a scale and design which would be incongruous within the rear garden of a Listed Building. It is considered that the proposed outbuilding would be an overly dominant structure and would compete with the setting of the Listed Building. Even in its amended form by virtue of its overall scale the proposed outbuilding would fail to respect the building hierarchy and would compete with the main dwelling and would not appear as an ancillary, subservient outbuilding. The proposed outbuilding would detract from the setting of the Heritage Asset and would be inappropriate within the secluded and verdant setting of the rear garden.
- 7.1.5 By virtue of its overall scale and design features the proposed outbuilding would fail to appear as an ancillary outbuilding, resulting in the introduction of an incongruous feature within the residential area of the application site. The proposed outbuilding would also detract from the setting of the Listed Building and would therefore result in less than substantial harm as outlined within Paragraph 196 of the NPPF. It is not considered that there any public benefits in this case which would outweigh that harm. The proposal would be contrary to 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).

7.2 Proposed use of outbuilding

- 7.2.1 The proposed outbuilding would be used as an office and gym. The floor area of the office would be consistent with a small home office. Given this in addition to its siting within the rear garden of the application site accessed via the existing driveway the use would be ancillary. However it is not considered that this outweighs the harm to the character of the area and heritage asset as outlined above.

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 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 Whilst generally guidance for first floor windows on dwellings the guidance of Appendix 2 of the DMP LDD is considered to be a helpful tool in this case. Appendix 2 outlines that where garden length alone is relied upon for screening a minimum of 14m should be

achieved and where properties are back to back a separation distance of 28m should be retained.

7.3.3 The proposed outbuilding would be sited 47m from the application dwelling and even further from the neighbouring properties at No.9 and No.13 who are sited closer to the road than the application dwelling. As such it is not considered, given the separation distances, that the proposed outbuilding would result in any harm to neighbouring amenity. It is therefore not considered reasonable to require additional planting or boundary treatment to be installed by condition.

7.3.4 In summary the proposed development would not result in any adverse impact on the residential amenity of any neighbouring dwelling and the development would therefore be acceptable in this regard 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 The application site would retain over 500sqm of amenity space which would be ample to serve the size of the application dwelling however this does not outweigh the harm identified above in respect of character and harm to the heritage asset.

7.5 Trees and Landscaping

7.5.1 The application site is not located within a Conservation Area nor are there any protected trees on or near the site. The site is enclosed by hedging with younger plants to the rear boundary. Owing to the siting of the outbuilding a minimum of 3m from the boundaries of the application site it is unlikely the building would have a considerable impact on the trees. Nevertheless it is not considered that the boundary vegetation is of such quality or amenity value to be worth of the consideration for the inclusion of a TPO. As such the proposed development would not result in any harm in this respect.

7.6 Highways, Access and Parking

7.6.1 The proposal would not result in any additional bedrooms with at least 3 onsite parking spaces retained at the front of the site.

7.7 Biodiversity

7.7.1 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. The Habitats Directive places a legal duty on all public bodies to have regard to the habitats directive when carrying out their functions.

7.7.2 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 Local Planning Authority is not aware of any records of bats (or other protected species) within the immediate area that would necessitate further surveying work being undertaken.

7.8 Other Matters

7.8.1 In relation to the comments received by Network Rail, Officers note that the outbuilding is shown to be a minimum of 3m from the rear boundary of the application site, however, the

agent is liaising directly with Network Rail. A verbal update will be provided to the committee by Officers to advise on the progress of discussions between parties.

8 Recommendation

8.1 That PLANNING PERMISSION BE REFUSED for the following reason:

R1 By virtue of its overall scale and design features the proposed outbuilding would fail to appear as an ancillary outbuilding resulting in the introduction of an incongruous feature within the residential area of the application site. The proposed outbuilding would also detract from the setting of the Listed Building and would therefore result in less than substantial harm as outlined within Paragraph 196 of the NPPF. It is not considered that there any public benefits in this case which would outweigh that harm. The proposal would be contrary to 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).

8.2 **Informatives:**

I1 The Local Planning Authority has been positive and proactive in considering 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. Whilst the applicant and/or their agent and the Local Planning Authority discussed the scheme during the course of the application, the proposed development as amended fails to comply with the requirements of the Development Plan and does not maintain/improve the economic, social and environmental conditions of the District. The Local Planning Authority encourages applicants to have pre-application discussions as advocated in the NPPF. The applicant and/or their agent did not have formal pre-application discussions with the Local Planning Authority