

PLANNING COMMITTEE – 12 NOVEMBER 2020

PART I – DELEGATED

7. **20/1786/FUL – Construction of a lower ground floor and alterations to land levels including construction of raised level to rear at 27 BISHOPS AVENUE, NORTHWOOD, HA6 3DD**

Parish: Batchworth Community Council

Ward: Moor Park & Eastbury
Case Officer: Tom Norris

Expiry of Statutory Period: 27.10.2020
(Extension agreed until 20.11.2020)

Recommendation: That Planning Permission be Granted.

Reason for consideration by the Committee: Called in by three Committee Members unless Officers are minded to refuse.

1 **Relevant Planning History**

- 1.1 20/1786/FUL - Construction of a lower ground floor and alterations to land levels including construction of raised level to rear – Pending consideration
- 1.2 20/1731/PDE - Prior Approval: Single storey rear extension (depth 8 metres, maximum height 3.99 metres, maximum eaves height 2.84 metres) - 25.09.2020 – No objection
- 1.3 20/1204/FUL - Demolition of existing dwelling and construction of a new two storey detached dwelling with basement level accommodation, provision of raised terrace, associated parking and landscaping - 17.08.2020 - Refused

R1 The proposed replacement dwelling, by virtue of its excessive scale and height relative to the immediate neighbours and extensive bulk and massing would result in an unduly prominent form of development which would unacceptably detract from the character and appearance of the area resulting in demonstrable harm to the visual amenity of the streetscene. The development would therefore be contrary to Policies CP1 and CP12 of the Core Strategy (adopted October 2011), Policy DM1 and Appendix 2 of the Development Management Policies LDD (adopted July 2013) and the NPPF (2019).
- 1.4 20/1167/FUL - Demolition of existing dwelling and construction of two storey dwelling with basement and raised platform to rear – 11.08.2020 – Refused

R1 The proposed replacement dwelling, by virtue of its excessive scale and height relative to the immediate neighbours and extensive bulk and massing would result in an unduly prominent form of development which would unacceptably detract from the character and appearance of the area resulting in demonstrable harm to the visual amenity of the streetscene. The development would therefore be contrary to Policies CP1 and CP12 of the Core Strategy (adopted October 2011), Policy DM1 and Appendix 2 of the Development Management Policies LDD (adopted July 2013) and the NPPF (2019).
- 1.5 20/0708/FUL - Demolition of existing dwelling and construction of a new two storey dwelling and construction of a raised patio to the side and rear - 02.06.2020 – Withdrawn
- 1.6 20/0233/FUL - Demolition of existing dwelling and construction of a new two storey dwelling and construction of a raised patio to the side and rear - 24.03.2020 – Withdrawn

- 1.7 19/1377/FUL - Demolition of existing dwelling and construction of detached chalet bungalow including accommodation in the roofspace served by front and rear dormer windows and construction of raised patio to rear - 03.10.2019 – Withdrawn
- 1.8 13/1892/FUL - Raise in roof level to create loft conversion with dormer windows to rear elevations, extension to roof and addition of window to rear elevation, rooflight to side elevation and three rooflights to front elevation - 27.12.2013 – Permitted
- 1.9 08/0882/FUL - Raise in roof level to create loft conversion with dormer windows to rear elevations, extension to roof and addition of window to rear elevation, rooflight to side elevation and three rooflights to front elevation - 17.06.2008 – Permitted
- 1.10 99/0098 - Single storey rear extension - 04.04.1999 – Permitted
- 1.11 98/0917 - Single storey rear extension - 22.12.1998 - Refused

2 Description of Application Site

- 2.1 The application site contains a bungalow located on the northern side of Bishops Avenue, Northwood. The dwelling is largely traditional in character with a red facing brick exterior, dark framed leaded windows and a dark tiled hipped roof. To the front of the dwelling is a paved driveway, large enough to accommodate at least three cars. Within the frontage there is also soft landscaping including relatively high conifer hedging and other shrubs. To the rear of the dwelling there is an amenity garden of some 600sqm in area which slopes down gradually towards the end. The amenity garden is heavily vegetated and includes a number of significantly large trees which are covered by a group Tree Preservation Order (TPO453). The TPO group includes 4 Oak Trees and 1 Scots Pine, with one Oak tree situated in close proximity to the dwelling.
- 2.2 The wider street scene of Bishops Avenue can be characterised by a mixture of bungalows and two-storey dwellings. The application dwelling is at a juncture between a continuation of two-storey dwellings to the east and bungalows to the west. It is noted however that the plot immediately adjoining to the east contains a bungalow. The opposite side of Bishops Avenue consists entirely of two-storey dwellings.

3 Description of Proposed Development

- 3.1 This application seeks planning permission for the construction of a lower ground floor and associated alterations to land levels including construction of raised level to rear.
- 3.2 The proposed lower ground floor level would be constructed to the western side of the existing dwelling and would align with the western flank elevation. The land level would be excavated by some 1.3m and the room created would have a width of 8.1m, and a depth of 6.1m. The proposed new level would be contained within the existing ground floor footprint of the dwelling. There would be a set of bifold doors inserted within the rear elevation at lower ground floor level.
- 3.3 The existing raised decking area would be removed and replaced with a new raised platform. This would have a depth of 1.2m from the existing rear elevation, a width of 8.5m, and a base height of 2.5m with an additional balustrade height of 1.3m
- 3.4 The land levels on the eastern section of the rear elevation would be altered to form steps down to the rear garden. This would include the excavation of some 0.5m down from the current level to a width of 4.5m.

4 Consultation

4.1 Statutory Consultation

4.1.1 National Grid: [No response received]

4.1.2 Landscape Officer: [Objection]

"The application is accompanied by an arboricultural and planning integration report, and a tree protection plan dated 6th July 2020 and June 2020 respectively, which relates to an outdated layout.

The application provides no details in respect to existing or proposed level changes, and therefore it is impossible to assess any potential impact upon adjacent trees. Although the proposed lower ground level is beyond the root protection area of adjacent trees, associated level changes, and the unknown elements of the proposed level changes, have the potential to impact adjacent trees.

In light of the above, and the inability of submitted information to demonstrate that existing trees can be adequately protected, I am compelled to raise objections to the proposals."

4.1.3 Batchworth Community Council: [Made the following comments]

"Batchworth Community Council recommends that further information is provided by the applicant regarding existing and proposed site levels and also in relation to neighbouring properties."

4.2 Public/Neighbour Consultation

4.2.1 Neighbours consulted: 9

4.2.2 Responses received: 2 (Objections)

4.2.3 Site Notice not required

4.2.4 Press notice not required

4.2.5 Summary of objections received:

- There are no details of the proposed ground level which could impact my property and privacy
- The Landscape Officer suggests this development could impact surrounding trees where a large Oak tree is very close to my boundary
- I am also concerned that a lower ground floor level could impact my foundations.
- What will be the impact of the alteration to land level on neighbouring properties
- We are concerned that a lower ground floor level could impact on the foundations of our property and could be detrimental to our drainage system

5 Reason for Delay

5.1 Committee cycle.

6 Relevant Planning Policy, Guidance and Legislation

6.1 National Planning Policy Framework and National Planning Practice Guidance

In February 2019 the new National Planning Policy Framework was published. This is read alongside the National Planning Practice Guidance (NPPG). The determination of planning applications is made mindful of Central Government advice and the Local Plan for the area. It is recognised that Local Planning Authorities must determine applications in accordance with the statutory Development Plan, unless material considerations indicate otherwise, and that the planning system does not exist to protect the private interests of one person against another. The 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 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 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 Site Visit

7.1.1 A site visit was undertaken for a separate application proposal in September 2019, prior to the start of social distancing measures being implemented and site visits becoming less frequent. Photographs from this visit were retained however the applicant also provided additional, more up-to-date photographs of the site to aid with consideration of the application. Officers were therefore able to make a full assessment of the impact of the proposed development notwithstanding the fact that any further site visits, during the application time frame, were not able to be carried out.

7.2 Impact on Character and Appearance

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 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.

- 7.2.2 Policy DM1 and Appendix 2 of the Development Management Policies LDD (DMP LDD) (adopted July 2013) set out that development should not have a significant impact on the visual amenities of the area.
- 7.3 Due to the position of the dwelling in the context of the street scene and the location of the proposed lower ground floor level and associated alterations directed to the rear, it is not considered that the proposed development would result in any harm to the character and appearance of the street scene. The proposal would involve the excavation of the ground level to the rear of the dwelling up to 1.5m. The levels currently slope downwards to the rear to the extent that the internal ground floor level is raised at least a metre from the garden level. There are currently areas of raised decking and patio which step down to the garden level. It is not considered that the further excavation to form a lower ground floor level which opens out to the garden level would cause harm to the character of the area or dwelling. The proposals also involve the replacement of the existing raised deck and alterations to the existing patio. It is not considered that either of these elements would result in harm to the character of the dwelling.
- 7.3.1 In summary it is not considered that the proposed development would result in an adverse impact on the character or appearance of the host dwelling, street scene or area and the proposal 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 document.
- 7.4 Impact on amenity of neighbours
- 7.4.1 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.
- 7.4.2 The proposed development, given that it would be confined to below the existing site levels, would not cause harm by virtue of an overbearing impact or loss of light to any neighbour. Similarly it is not considered that the proposed development would give rise to overlooking given the relative position of the proposed lower ground floor fenestration. It is not considered that the proposed replacement decking would lead to harm to neighbouring residential amenity as it would assume a near identical position, depth and height to the existing raised deck.
- 7.4.3 It is noted that some neighbour comments refer to the impact of the proposed development upon neighbouring foundations. This is not a material consideration that can be addressed through the planning process however an informative will be included on any planning permission advising the applicant that the requirements of the Party Wall Act may need to be satisfied separately prior to the commencement of construction works. Similarly, the grant of planning permission would not overcome the requirement to satisfy other legislation such as Building Regulations.
- 7.4.4 The proposed 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.
- 7.5 Highways & Parking
- 7.5.1 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.

7.5.2 The site would retain a driveway large enough to accommodate at least three cars, in line with the Council's adopted parking standards for a dwelling of this size.

7.6 Rear Garden Amenity Space

7.6.1 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.

7.6.2 The dwelling would retain a garden of over 600sqm and the proposed development does not impact on the rear amenity space.

7.7 Trees & Landscape

7.7.1 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.

7.7.2 The amenity garden is heavily vegetated and includes a number of significantly large trees which are covered by a group Tree Preservation Order (TPO453). The TPO group includes 4 Oak Trees and 1 Scots Pine, with one Oak tree situated in close proximity to the dwelling.

7.7.3 The Landscape Officer was consulted on the proposed development and raised objection to the proposals, stating that no details are provided in respect to existing or proposed level changes, and therefore it is impossible to assess any potential impact upon adjacent trees. Although the proposed lower ground level is beyond the root protection area of adjacent trees, associated level changes, and the unknown elements of the proposed level changes, have the potential to impact adjacent trees.

7.7.4 Following receipt of the Landscape Officer's comments, the applicant provided an updated Tree Report and Tree Protection Plan. The information confirmed that there would be no works to construct the basement within the root protection zone of the Oak Tree in close proximity to the dwelling and that protective measures would be in place on site during the course of development for the root protection area of the tree to be adequately protected. It is considered appropriate for a condition to be included on any planning permission for a detailed construction method statement to be provided to the LPA prior to works commencing on site.

7.8 Biodiversity

7.8.1 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.

7.8.2 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.

8 Recommendation

8.1 That PLANNING PERMISSION BE GRANTED subject to the following conditions:

8.2 Conditions

- C1 The development hereby permitted shall be begun before the expiration of three years 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.

- C2 The development hereby permitted shall be carried out in accordance with the following approved plans: TRDC0001 (Block Plan), 3852/16, 3852/17, 3852/1B, 3852/2, Tree Protection Plan Rev D

Reason: For the avoidance of doubt and in the proper interests of planning and in the interests of the visual amenities of the locality and the residential amenity of neighbouring occupiers, 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).

- C3 The proposed development hereby permitted, shall be carried out in accordance with the materials as shown on the approved plans and Materials Schedule and no external materials shall be used other than those approved.

Reason: In the interests of the visual amenity of the area in accordance with Policies CP1 and CP12 of the Core Strategy (adopted October 2011) and Policy DM1 and Appendix 2 of the Development Management Policies LDD (adopted July 2013).

- C4 The development hereby approved shall be carried out in accordance with the Arboricultural and Planning Integration Report prepared by GHA Tress dated 29 October 2020. The protective measures detailed on drawing Tree Protection Plan Rev D shall be erected and maintained on site throughout the entire course of the development until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed within any area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made. No fires shall be lit or liquids disposed of within 10.0m of an area designated as being fenced off or otherwise protected in the approved scheme.

Reason: To prevent damage to trees during construction and to meet the requirements of Policies CP1 and CP12 of the Core Strategy (adopted October 2011) and Policy DM6 of the Development Management Policies LDD (adopted July 2013).

- C5 No development or other operation shall commence on site until a method statement has been submitted to and approved in writing by the Local Planning Authority. This method statement shall include details of timetables of works, method of demolition, removal of material from the site, importation and storage of building materials on the site, details and depths of underground service routes, methods of excavation and construction methods, in particular where they lie close to trees. The construction methods to be used shall ensure the retention and protection of trees, shrubs and hedges growing on or adjacent to the site. The development shall only be implemented in accordance with the approved method statement.

Reason: This condition is a pre commencement condition to prevent damage to trees during construction, to protect the visual amenities of the trees, area and to meet the requirements of Policies CP1 and CP12 of the Core Strategy (adopted October 2011) and Policy DM6 of the Development Management Policies LDD (adopted July 2013).

8.3 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) - 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 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 development maintains/improves the economic, social and environmental conditions of the District.
- 14 The applicant is reminded that the requirements of the Party Wall Act may need to be satisfied prior to the commencement of works on site.
- 15 Due to the presence of National Grid apparatus in proximity to the application site, the Applicant should contact National Grid before any works are carried out to ensure National Grid apparatus is not affected by any of the proposed works. Further 'Essential Guidance' can be found on the National Grid website at www.nationalgrid.com or by contacting National Grid on 0800688588.