

PLANNING COMMITTEE - Thursday 12th August 2021

12. 21/1395/RSP – Part retrospective: Extension to existing raised patio and additional landscaping works to rear garden at 173 ABBOTS ROAD, ABBOTS LANGLEY, WD5 0BN (DCES)

Parish: Abbots Langley Parish Council
Expiry of Statutory Period: 27.07.2021

Ward: Abbots Langley and Bedmond
Case Officer: Aaron Roberts

Recommendation: That Part Retrospective Planning Permission is Granted

Reason for consideration by the Committee: The previous withdrawn application (21/0417/RSP) was called in by three Members of the Planning Committee due to the extent of land levels changes meaning that the proposal may affect the privacy of the neighbour. This application has been called in, given the previous application was withdrawn.

Update 30.07.2021:

The application was considered by Members at the Planning Committee Meeting on 15 July 2021. At that meeting Members agreed to defer the application to enable a site visit to take place.

1 Relevant Planning and Enforcement History

- 1.1 18/0506/FUL - Proposed two storey rear extension, single storey side and rear extension, front bay, internal alterations and extension to raised patio to the rear - Permitted, partly implemented.
- 1.2 18/0166/COMP - Breach of Conditions 5 & 6 of Planning Permission 18/0506/FUL – Case Closed (breach remedied via the approval of planning application 19/0946/RSP).
- 1.3 19/0946/RSP - Retrospective: Proposed two storey rear extension, single storey side & rear extension, internal alteration, front bay, and raised rear patio – Permitted and implemented.
- 1.4 21/0417/RSP-Part retrospective: Extension to existing patio and additional landscaping works to rear garden- Withdrawn.

2 Description of Application Site

- 2.1 The application site contains a detached dwelling located along the southern side of Abbots Road. The dwelling is finished in brick to the front and finished in white render to the rear.
- 2.2 The dwelling has a stepped front elevation. The land levels drop from the front to the rear of the site and the dwelling is served by a series of raised patios to the rear, which are subject to this application. The front amenity space contains a drive that provides provision for three car parking spaces. The host dwelling also contains an attached garage towards the south-western boundary.
- 2.3 The property has been extended via a two storey rear extension and a single storey side and rear extension.
- 2.4 The neighbouring property to the south-west, No.175 is set on a lower ground level and has a similar original rear building line to that of the application dwelling. The main part of the dwelling of No.175 is set in approximately 1m from the common boundary. The neighbouring property to the north-east, No.171 is set on higher ground level and extends deeper than the extension at No.173.

- 2.5 The site contains protected trees, however, some of these were agreed to be removed as part of planning permission 18/0506/FUL.
- 2.6 During a recent site visit it was apparent that works had almost been completed. This included the planting of hedging along the boundary with No.175 as well as the partial demolition of the pre-existing patio and extension of the patio. A pergola has also been installed on the lowest level of patio (not subject of this application) and from measurements taken on site conforms to permitted development (see explanation below).

3 Description of Proposed Development

- 3.1 This application seeks part retrospective planning permission an extension to existing raised patio and additional landscaping works to rear garden. The pre-existing patio approved under 19/0946/RSP has been partially demolished and works have taken place to extend the patio's depth and width, with the works almost complete. Hedging along the boundary with No.175 has also been planted.
- 3.2 Under application 19/0946/RSP a raised patio was permitted and implemented. This included Level +2 and a significant proportion of Level +1, which is to be extended in depth, via steps and composite decking. Level +0 was not permitted under 19/0946/RSP and forms part of this currently pending application.
- 3.3 The section of patio directly adjacent to the bi-folding doors of the rear extension (level +2 as denoted on the submitted plans) measures approximately 1.6m in depth and has a width of 7.3m. Steps lead down to the next section of patio (level +1). This 'middle section' of the patio has an overall maximum depth of approximately 10.6m, including the proposed composite decking and a maximum width of approximately 8.4m, up to the point adjoining the steps leading down to the lower level of the patio (level +0). The lowest level of patio has a depth of approximately 13.5m and a maximum width of 7.8m (when incorporating the steps leading down to the lawn). Given the western boundary's splayed nature, level +0 of the patio is set off the boundary with No.175 by a minimum of approximately 0.3m and a maximum of 0.7m. The lowest level of this section of patio is set a maximum of 0.5m higher than the pre-existing land level and adjoins the natural level of the side alleyway, although the majority of the 'raised patio' of level +0 is less than 0.3m high.
- 3.4 Towards the rear of the patio, there are retaining walls. The retaining walls serving level +1 of the patio have a height of 1.6m from the current external ground level, approximately 0.15m higher than the patio/decking level. The retaining wall serving level +0 of the patio has a height of 0.8m, approximately 0.35m higher than the patio level. Between these walls are steps leading down to the main garden. Additional retaining walls are located between Level +1 and Level +0 as well as separating part of the decking from Level +1.
- 3.5 Privacy measures have been included within the development. These include planting Leylandii hedging along the boundary with No.175 and cedar slatted fencing along the flank of the patio closest to the boundary with No.171, as well as retaining a solid screen along the western flank of level +2 of the patio.
- 3.6 A pergola has been erected on Level +0, which does not form part of this planning application. Given the pergola's height of less than 2.5m from the natural land level, it is considered that this would fall under Schedule 2, Part 1, Class E of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
- 3.7 During the course of the application, amended plans were submitted to better reflect the works on site.

4 Consultation

4.1 Statutory Consultation

4.1.1 Abbots Langley Parish Council: [Concerns raised]

'Members have concerns about the height of the privacy screen and overlooking of the neighbouring property'.

4.1.2 National Grid: [No comments received]

4.1.3 Landscape Officer: [No Objections, subject to conditions]

'Vegetation is present within the rear garden of number 173. No trees are planned to be removed, as part of the proposed landscaping plans.

Protection of trees (non-dischargeable)

During construction of the development hereby permitted, the trees present within the rear garden of 173 Abbots Road Abbots Langley WD5 0BN shall not be lopped or felled without the written consent of the local planning authority. During construction of the development hereby permitted, any trees within or near to the site shall be protected in accordance with the requirements of BS5837 (2012) 'Trees in Relation to Design, Demolition and Construction'. The protection measures shall be implemented prior to any below ground works and shall be retained for the entire period of the duration of any work at the site, in connection with the development hereby permitted'.

4.2 **Public/Neighbour Consultation**

4.2.1 Number consulted: 7

4.2.2 No of responses received: 1 objection.

4.2.3 Site and Press Notice: N/A

4.2.4 Summary of Responses: One Objection

- Overdevelopment
- Overshadowing
- There is a large pergola structure which is not on the plans. **Officers Note:** given the height of the pergola, which is less than 2.5m, it is considered that this is permitted development
- There are 10 conifer trees approximately 5m tall on the boundary, this is not in accordance with Planning Guidelines that stipulate a maximum of no more than 2 conifer trees and hedging a maximum of 2m. **Officers Note:** TRDC planning policy or guidance does not refer to the above
- Tree roots will damage No.175's fence. **Officers Note:** potential damage to property is not a material planning consideration.
- The trees will not be able to be maintained due to the fence and pergola. **Officers Note:** The High Hedges Act enables the Council to intervene if the height of the hedge is having an adverse impact on the neighbour's enjoyment of their home. This act is under the remit of the Environmental Health department.
- A side gate has been erected attached to No.175's fence. **Officers Note:** The side gate does not form part of this planning application and potential damage to property is not a material planning consideration.
- The trees are overhanging into No.175 and obscure light
- Trees have been removed, which may be protected. **Officers Note:** As will be discussed in the Trees and Landscape section, it is not considered that any protected trees were detrimentally impacted as a result of the development

5 **Reason for Delay**

5.1 N/A.

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 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 Design and Impact on Character

7.1.1 Policy CP12 of the Core Strategy (adopted October 2011) relates to the Design of Development and states that the Council will expect all development proposals to have

regard to the local context and conserve or enhance the character, amenities and quality of an area.

- 7.1.2 Policy DM1 and Appendix 2 of the Development Management Policies LDD (adopted July 2013) set out that development should not have a significant impact on the visual amenities of the area. Development proposals must not be excessively prominent in relation to adjacent properties or to the general street scene; respect the character of the property/street scene particularly with regard to the roof form, positioning and style of windows and doors and materials.
- 7.1.3 The raised patio would be to the rear of the property and therefore would not be readily visible from the streetscene. Given the nature of the land levels within the gardens of properties along Abbots Road, raised patios are common within rear gardens in Abbots Road. Due to its scale, design and the fact that both neighbouring properties contain a raised patio, it is not considered that the raised patio and associated privacy screens result in any harm to the character of the dwelling or wider area.
- 7.1.4 The development therefore does not result in unduly prominent additions and is acceptable with regard to its impact on the host dwelling, street scene and wider area. The development complies with Policies CP1 and CP12 of the Core Strategy and Policy DM1 and Appendix 2 of the DMP LDD.

7.2 Impact on amenity of neighbours

- 7.2.1 Policy CP12 of the Core Strategy advises that development will be expected to protect residential amenity. Appendix 2 of the DMP LDD comments that all developments are expected to maintain acceptable standards of privacy for both new and existing residential buildings and development should not result in loss of light to the windows of neighbouring properties nor allow overlooking.
- 7.3 The rear patios extend a total depth of approximately 12.9m from the rear wall of the existing dwelling and due to the drop in land levels and height of the fencing along the boundary with No.175 there is potential for overlooking into this neighbouring property. It must be noted, however, that prior to the works, there was a pre-existing situation of mutual overlooking between properties along this part of Abbots Road due to the sloping land levels and existing raised patios. In order to resolve the issues relating to potential overlooking, along the south-western boundary with No. 175, Leylandii hedging has been planted, the full depth of the patio. According to the agent, this will grow to a height of approximately 12-14ft, which will offer comprehensive screening. Given the relative proximity of level +0 to the boundary with No.175 and the maximum 0.5m raised height to level off the patio, it could be argued that there is the potential for overlooking. However, it is considered that overlooking from level +0 is limited given the hedging along the boundary with No.175. Additionally, the highest section of Level +0 relative to No.175's fence is at the very rear of the patio, a significant distance from the private amenity space of No.175 and this area of patio is unlikely to be readily used. Without the hedging, overlooking from level +1 would be achievable and would not be acceptable in terms of impact to neighbouring amenity without the provision of a higher boundary enclosure/screen to protect the amenities of neighbours. As such, a condition would be added to ensure that the hedging is maintained permanently, to act as a privacy screen. Additionally, to prevent overlooking from level +2 into No.175, a solid screen along the western flank of level +2 of the patio has been erected, with a height of 1.8m from the patio level and would be conditioned to be maintained permanently. Given the proposed privacy measures including hedging along the western boundary and solid privacy screen at level +2, it is not considered that the proposed alterations to the patio leads to a perceived sense of or actual overlooking into No.175. The objection comments refer to the hedging resulting in a loss of light. Whilst the newly planted hedging is visible above the fencing, it is not considered that it is so prominent so as to appear overbearing or result in unacceptable loss of light to the neighbouring garden given the orientation of the

sun to warrant the refusal of the planning application. A condition has been recommended which seeks to control the height of the hedging.

7.4 The patio would also be extended in depth close to the boundary with the other neighbouring dwelling, No.171. The pre-existing cedar slatted fence along the flank of the patio closest to the boundary with No.171, has been extended the entire depth of the patio. This has a height of approximately 2m from level +1 of the patio. Given the vegetation along the eastern boundary and that this neighbour sits on a higher land level, the screening does not detrimentally impact the amenity of this neighbour and prevents a perceived sense of or actual overlooking.

7.4.1 In summary, subject to conditions, the proposed development does not result in any adverse impact on the residential amenity of any neighbouring dwelling and the development is therefore acceptable in accordance with Policy CP12 of the Core Strategy and Policy DM1 and Appendix 2 of the Development Management Policies LDD.

7.5 Amenity Space

7.5.1 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.

7.5.2 The proposed development has not altered the levels of amenity space provided. Sufficient amenity space provision therefore has been maintained in accordance with the standards as set out within the Design Criteria of the DMP LDD.

7.6 Parking

7.6.1 Policy DM13 of the DMP LDD requires development to make provision for parking in accordance with the parking standards set out at Appendix 5 of the same document.

7.6.2 The number of bedrooms within the dwelling has not changed as a result of the development. The dwelling has four bedrooms. According to Appendix 5 of the DMP LDD a four-bedroom dwelling should have three assigned spaces. The front amenity space provision can accommodate three cars in accordance with the requirements of the DMP LDD.

7.7 Wildlife and 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 LDD. 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. The application is accompanied by a biodiversity checklist which states that no protected species or biodiversity interests have been affected as a result of the development. 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.

7.8 Trees and Landscaping

- 7.8.1 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.
- 7.8.2 The application site is not located within a conservation area, however the site contains a number of individually protected trees. Records show that a protected tree (Blue Spruce) was located in close proximity to the rear of the dwelling however it no longer exists and this was also noted within the delegated report for 18/0506/FUL. As such there is not a protected tree located near the vicinity of the dwelling or patio. It is not known when the protected Blue Spruce was removed. The un-protected tree close to the boundary with No.171 would be retained within the composite decking. Following previous correspondence with the agent, the decking would be built around the tree, with a gap between the decking and tree. As part of the application process, the Landscape Officer was consulted. They suggested a condition relating to felling and lopping and tree protection measures. However, given that the works are substantially complete and the remaining works are not in the vicinity of any protected trees, it is not considered that their recommended conditions are necessary in this case.
- 7.8.3 It is not considered that the development has resulted in any direct harm to any protected trees within the site.

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 Those parts of the development hereby permitted that have not yet been carried out 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 and maintained in accordance with the following approved plans: DPM.21.173AR.SITE.01 REV A, DPM.21.173AR.P01 REV G, DPM.21.173AR.P02 REV A, DPM.21.173AR.P03 REV G.

Reason: For the avoidance of doubt and in the proper interests of 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).

C3 Within ONE MONTH from the date of this permission, a Landscape Management Plan for the hedging adjacent to the boundary with No.175 Abbots Road for the full depth of the rear patio level +0 (as shown on drawing number DPM.21.173AR.P01 REV G) shall be submitted to and approved in writing by the Local Planning Authority. The Landscape Management Plan shall include details as to the on-going future maintenance (to ensure the planting does not fall below a height of 2.5m) and confirmation that replacement planting of a similar height will be planted in the event of death or damage. The Landscape Management Plan as approved shall be carried out as agreed.

Reason: To ensure that the planting will provide acceptable screening to prevent unacceptable levels of overlooking into 175 Abbots Road, 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 privacy screen along the western side of level +2 of the rear patio shall be permanently maintained in accordance with drawing numbers DPM.21.173AR.P01 REV G and DPM.21.173AR.P03 REV G.

Reason: To safeguard the amenities of the occupiers of neighbouring residential properties 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).

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

- I2 The Local Planning Authority has been positive and proactive in its consideration of this planning application, in line with the requirements of the National Planning Policy Framework and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015. The Local Planning Authority suggested modifications to the development during the course of the application and the applicant and/or their agent submitted amendments which result in a form of development that maintains/improves the economic, social and environmental conditions of the District.
- I3 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.

