

PLANNING COMMITTEE – THURSDAY 14 JULY 2022

PART I - DELEGATED

6. 22/0217/RSP - Part Retrospective: Erection of detached open-sided garden structure with pizza oven including associated vent at SOUNDGARDEN, BERRY LANE, CHORLEYWOOD, HERTFORDSHIRE, WD3 5ET

Parish: Chorleywood Parish Council
Expiry of Statutory Period: 20.04.2022
Extension of time: 21.07.2022

Ward: Chorleywood South And Maple Cross
Case Officer: David Heighton

Recommendation: That Part Retrospective Planning Permission be Granted.

Reason for consideration by the Committee: Called in by Chorleywood Parish Council for the reasons set out at paragraph 4.1.1 below.

Update: The application was considered by Members at the Planning Committee Meeting on 23rd June 2022.

At the June meeting Members agreed to defer the application pending the consideration of:

- a) Investigation of fitting an additional 'scrubber' or filter to the pizza oven flue.
- b) Consider painting the pizza oven flue including lowering it.
- c) The removal of Condition 2 (i.e. removing the requirement to install new boundary trellis fencing).

1 Relevant Planning and Enforcement History

- 1.1 W/782/62 - Bungalow and Garages
- 1.2 15/0736/CLPD: Certificate of Lawfulness Proposed Development: Single storey side and rear extensions, loft conversion including hip to gable rear extension, rear dormer and front and side rooflights and conversion of garage into habitable accommodation - Lawful
- 1.3 15/1558/FUL: Single storey front, side and rear extensions, loft conversion including hip to gable rear extension, rear dormer and rooflights – Permitted
- 1.4 21/0016/COMP - Enforcement case: Construction of outbuilding and associated flue's – Pending consideration (see section 3.2 below for further details).

2 Description of Application Site

- 2.1 The application site comprises a detached bungalow with an integral garage, known as Soundgarden, located on the northern side of Berry Lane, Chorleywood. The application site falls within land designated as Metropolitan Green Belt.
- 2.2 Berry Lane is a semi-rural road comprising of two storey detached houses and bungalows that differ in architectural style and size which back onto a railway embankment. Open fields forming part of Berry Farm exist opposite on the southern side of Berry Lane.
- 2.3 Soundgarden is positioned at a 45 degree angle from the highway with the front elevation facing south west and is set back from the highway by approximately 20m.

Berry Lane is an undulating road and as such the dwelling is set on lower ground to the highway.

- 2.4 Soundgarden has implemented single storey front and rear extensions including a loft conversion with a rear dormer following its construction in the 1960's. It has a red brick exterior with a pitched and hipped tiled roof with two front gable projections and a stepped rear building line which includes a 1.2m projection with a pitched and hipped roof.
- 2.5 The frontage of the site is divided into a driveway and a landscaped garden. The driveway provides off street parking provision for at least three cars and leads to the integral garage, which provides an additional parking space. Soundgarden is set within a large garden which wraps around the southern and western flanks of the dwelling which is in excess of 1200sqm.
- 2.6 To the west of the application site is Arrin Lodge, which is a large two storey, gable ended brick built detached dwelling. This neighbour is set back significantly within its plot, set off the shared boundary with Soundgarden by approximately 8m and is set on a higher land level than the application site. The boundary between these properties comprises of 1.8m close boarded timber fencing.
- 2.7 To the east of the application site is Laceys, this neighbouring property is set on a similar land level as the application site and is a two storey dwelling. The shared boundary between these two properties is splayed and Laceys is also set at a similar 45 degree angle to the highway. Along the shared boundary between these two properties is a 1.8m - 2m high hedge.
- 2.8 To the immediate rear of the application site is the Chorleywood Common Conservation Area.

3 Description of Proposed Development

- 3.1 This application seeks part retrospective planning permission for the erection of a detached open-sided garden structure with pizza oven including associated vent.
- 3.2 In late 2020 / early 2021, an open-sided garden structure, 2.52m high, 5m in width and 5m in depth was constructed within the north western corner of the rear garden of the application site. This structure has been subject to an enforcement investigation, which concluded that planning permission was required on the basis that it exceeds 2.5m in height with the pizza oven and wood burner oven and associated flues integral parts of the structure. The flues exceed the 2.5m height limit also.
- 3.3 The structure in its current form comprises two flues, one serving a BBQ Asado grill, 3.2m in height, and one serving a pizza oven, 4m in height.
- 3.4 During the course of the application, plans were amended to remove the BBQ Asado grill and associated flue (located closest to the neighbouring boundary with Arrin Lodge) and address any inaccuracies (albeit the outbuilding is already in situ). Details have also been submitted to enhance the screening of the remaining pizza oven flue, through the addition of trellis to the existing boundary fence with Arrin Lodge (which has not been erected as of yet), resulting in an overall height of 2.9m for the length of three fence panels adjacent to the outbuilding. Further clarification has been provided with regards to the pizza oven, confirming that it is DEFRA certified.
- 3.5 Update: 01.07.2022

Amended plans have been received, omitting the proposed trellis fencing. The agent on behalf of the applicants has also provided a planning statement which provides a response to each request from the Planning Committee. In summary below:

Painting the pizza flue:

Confirmation that the flue will be painted in a dark green matte finish. This will be secured by condition.

Lowering the flue:

Confirmation that whilst the flue height can be physically reduced, the performance of any flue is influenced by its height. The current flue height is at optimum and lowering would compromise any dispersal, drawing more attention and defeating the purpose of lowering it.

Consideration of fitting a scrubber or other filter:

Following investigation with the manufacturer, Orchard, they have advised that any additional filtration is not required. The pizza oven has been tested and achieved a DEFRA certification. The addition of an extra scrubber or filter would be thought to disrupt the air flow and would alter the specific combustion process. This would require additional testing and would likely invalidate the DEFRA certification. The pizza oven is specifically designed to remove harmful emissions to an acceptable level governed by DEFRA. Therefore, it is considered that the addition of a scrubber or filter would compromise the flue, invalidate the DEFRA certification and is not considered necessary in a smoke controlled zone, which the site is not.

Removal of proposed trellis screen:

The addition of the proposed trellis was associated with the screening of the flue of the Asado Grill. This has since been proposed to be removed and as such, there is no requirement for the trellis screening, which also has been subsequently removed from this application.

Additional screening to façade of outbuilding:

The additional screening would be in the form of bamboo, which is proposed to be applied inside the existing boundary fence, along the last three fence panels which are slightly lower than those to the south. The screen will be cut/finished at the height of the existing fence to the south and so would be no higher than 2m and therefore would not be subject to planning permission.

4 Consultation

4.1 Statutory Consultation

4.1.1 Chorleywood Parish Community Council – [Objection]

The Committee had Objections with this application on the following grounds and wish to CALL IN this application unless officers are minded to refuse the Application on the following grounds

Should the plans change or our Objections have been addressed, please advise the Parish Council so our comments can be amended.

*Loss of privacy and impact of overlooking with the neighbouring property
Incongruous and out of keeping development in a Conservation Area
Impact on neighbouring amenity due to noise and smells
Inaccurate Plans which do not seek permission for the full extent of the proposal.*

Further comments following receipt of amended plans:

The Committee had Objections to this application on the following grounds and wish to CALL IN, unless the Officer are minded to refuse planning permission.

Should the plans or supporting information be amended by the Applicant, please advise the Parish Council so the comments can be updated to reflect the amended.

The development is visible from the road

Unneighbourly development - particularly the flue and the proposed height of fencing which will enclose neighbouring residents

Concerns relating to the inaccuracy of the plans

Excessive development for a domestic garden

Concern relating to odour from the large projecting flue

Concerns relating to the visual impact of the proposal

4.1.2 National Grid: [No comments received, any comments received will be verbally updated]

4.1.3 Environmental Protection Officer: [Made the following comments]

TRDC has not declared any Smoke Control Areas under the Clean Air Act 1993. Within Smoke Control Areas you cannot emit smoke from a chimney (the term 'chimney' usually includes any structures and openings of any kind from or through which smoke may be emitted) unless you're burning an authorised fuel or using 'exempt appliances', for example burners or stoves.

In a Smoke Control Area you can only burn fuel on the list of authorised fuels (which can be viewed at <https://smokecontrol.defra.gov.uk/fuels.php?country=england>), or any of the following 'smokeless' fuels, unless you're using an exempt appliance: Anthracite; semi-anthracite; gas or low volatile steam coal.

Unauthorised fuels, such as wood, can only be burned in exempt appliances such as some boilers, cookers and stoves. The list of appliances can be viewed at <https://smokecontrol.defra.gov.uk/appliances.php?country=england>. You must only use the types of fuel that the manufacturer says can be used in the appliance. The appliance and the flue must be installed in accordance with the requirements of the Building Regulations.

In the list of exempt appliances, there are 15 entries for Valoriani pizza ovens. I am not sure when the list was last updated, as I do not believe that Valoriani products are distributed by Wood Fired Ovens by Jamie Oliver anymore. The list does not include any entries for Solus grills.

The appliance categories are as follows: Air heater; Boiler; Cooker with boiler; Gasifier; Generic exemption; Incinerator; Inset appliance; Oven; Pellet stove; Pizza oven; Roomheater; Stove.

I do not believe that any of these categories would include an appliance such as an open grill.

When somebody is considering purchasing a wood-burning stove, it is recommended that they consider purchasing an appliance that has been approved for use in Smoke Control Areas by Defra or an Ecodesign Ready stove, whether they live in a smoke control area or not. Such appliances have been tested to high standards to demonstrate low smoke emissions. I would assume that the same statement should be able to be applied to pizza ovens that are considered to be exempt appliances.

When a development proposal is received, that includes the installation of a domestic appliance in which solid fuels are burnt, for example a wood burning stove, we would not ask for an air quality impact assessment to be carried out. In reality, it is unlikely that we will be made aware of such an appliance being installed.

From a local air quality management perspective, the statutory instruments do not provide a mechanism for dealing with complaints regarding air quality. As the Environmental Health Team have advised, complaints regarding smoke emitted from premises are investigated under the provisions of the Environmental Protection Act 1990.

4.1.4 Conservation Officer: [No Objection]

This is a part retrospective application for the erection of detached open-sided garden structure with pizza oven including associated vent and erection of trellis fence.

The property is located within the setting of the Chorleywood Common Conservation Area.

As per previous advice, the garden kitchen structure would not detract from the setting of the Conservation Area. Its low height minimises its visual impact and permits views of the trees to the rear of the site, maintaining the verdant character of the lane in views from the road.

It is understood that the grill and associated flue would be removed, and trellis fencing added. This would have no impact on the Conservation Area's setting, therefore I would raise objection to the proposal. The proposal would preserve the character and appearance of the Conservation Area, as per Section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. No harm is caused to its significance in accordance with Section 16 of the NPPF.

4.1.5 Environmental Health Officer: [No Objection]

I have viewed the revised drawings for the outbuilding at Soundgarden. Furthermore, I note that the owner has proposed to remove the Asado Grill with its associated flue.

I visited the said property and noted that the installation of the Wood-burning equipment is distant (about 2m) from the closest neighbouring property. The flue complies with the minimum height recommended by Building regulations. As the outbuilding sits in a valley, the vent's size and height will likely prevent any wind eddies from interfering with the draw of the chimney and the evacuation of smoke during usage.

Understandably, the equipment is Defra Exempt, and the owner explained that the stove gives off a few puffs as the fire starts and almost no smoke for over 90% of the burning time while using only the finest kiln-dried wood.

I would mention that residents in the Three Rivers District area are not in a smoke control zone. However, in individual circumstances, where wood-burning equipment causes a smoke nuisance to neighbour properties, Environmental Health recommends using "smokeless" fuels. The Council is obliged to investigate such complaints and consider the appropriate enforcement action under the Environmental Protection Act 1990 relating to public health and nuisance issues, including smoke and fumes from fires or stoves.

Further updated comments 01.07.2022:

I note the adjournment of June's planning committee meeting, pending further considerations, including fitting a scrubber or filter to the pizza oven flue.

As I visited the above property to make an informed decision, I would further submit that regarding:

a) The location

The outbuilding comprising the wood burner oven sits in a valley close to woodland; smoke emitted by the wood burner would linger and take longer to disperse if the owner inappropriately lowered the flue height. Therefore, I would not recommend reducing the flue height beyond the manufacturer's recommended specification.

b) Height and size

There are minimum requirements in height and stature for these pieces of equipment for optimum performance, mainly to prevent wind eddies from interfering with the draw of the flue and the evacuation of smoke during usage. I would not advise any deviations from the Building regulation recommendations offering manufacturers guidance.

c) Defra Exemptions

Defra Certification ensures that emissions from flues, mainly particulate matter and smoke, are minimised to avoid air quality spikes in smoke-controlled areas. However, if the goal of fitting a scrubber or filter to vents improves the performance of the equipment, I would advise that the owner treads carefully in undertaking alterations to pieces of equipment which potentially invalidate the Defra Exemption.

d) Type of fuel

Although Three Rivers District Council is not in a smoke-controlled zone, Environmental Health Section is obliged to investigate nuisance complaints under the Environmental Protection Act 1990 relating to public health and nuisance issues, including smoke and fumes from fires or stoves. Given the neighbour's concerns about the wood burner/stove at Soundgarden, I would recommend using "smokeless" fuels - the Council's general advice in individual situations if burning wood or coal could cause a nuisance.

4.2 Public/Neighbour Consultation

4.2.1 Site Notice: Posted: 25.02.2022 Expired: 18.03.2022

Press Notice: Published: 04.03.2022 Expired: 25.03.2022

4.2.2 Number consulted: 13 including re-consultation following submission of revised drawings.

4.2.3 No of responses received: 10

4.2.4 Summary of responses:

8 Objections

- Out of keeping, unsightly and out of place
- Sets an unwanted precedent
- Unneighbourly, too close to the boundary
- Risk to health, there must be unpleasant smoke and smells emanating from it
- Fire hazard risk
- Commercial equipment
- In Green Belt and subject to Chorleywood Common Article 4

11 Support

- Acceptable height
- Neighbour dispute
- Little or no smoke produced, dry wood used
- Waste of time/taxpayers money
- Comments objecting to the application are not within the locality
- As a neighbour, not been adversely affected by smoke/fumes or noise and not witnessed it being used on an industrial scale, domestic products
- Not in a Conservation Area
- Removal of grill and addition of trellis should be deemed acceptable
- Used in the spring and summer only

Officer comment:

It should be noted that the application site does not fall within the Chorleywood Common Conservation Area, but adjoins it to the rear.

5 Reason for Delay

5.1 To negotiate amendments, seek comments from consultees and consult on revised plans.

6 Relevant Planning Policy, Guidance and Legislation

6.1 National Planning Policy Framework and National Planning Practice Guidance

6.1.1 In July 2021 the revised 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 2021 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".

6.1.2 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, CP11 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, DM2, DM3, DM6, DM9, DM13 and Appendices 2 and 5.

6.3 Other

Chorleywood Neighbourhood Plan (2021)

Chorleywood Common Conservation Area Appraisal (2010)

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 the Green Belt

7.1.1 The application site is located within the Metropolitan Green Belt with the local area largely characterised by suburban forms of development, woodland and open common land. Paragraph 137 of the NPPF states that the Government attached great importance to Green Belts. The essential characteristics of Green Belts are their openness and their permanence. The National Planning Policy Framework sets out that Green Belt serves five purposes:

- To check the unrestricted sprawl of large built-up areas;
- To prevent neighbouring towns merging into one another;
- To assist in safeguarding the countryside from encroachment;
- To preserve the setting and special character of historic towns; and
- To assist in urban regeneration by encouraging the recycling of derelict and other urban land.

- 7.1.2 Paragraph 147 of the NPPF sets out that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
- 7.1.3 The construction of new buildings in the Green Belt is considered inappropriate however paragraph 149 of the NPPF sets out six exceptions to inappropriate development which include:
- (a) Buildings for agriculture and forestry;
 - (b) The provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport, outdoor recreation, cemeteries and burial grounds and allotments; as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it;
 - (c) The extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building;
 - (d) The replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces;
 - (e) limited infilling in villages;
 - (f) limited affordable housing for local community needs under policies set out in the development plan (including policies for rural exception sites); and
 - (g) limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would: –
 - not have a greater impact on the openness of the Green Belt than the existing development; or
 - not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority.
- 7.1.4 The outbuilding is detached from and set away from the host dwelling and as such it cannot be considered an extension to the existing building given the physical separation from the main dwelling. As such, the outbuilding cannot fall within the scope of paragraph 149 and thus when applied to the NPPF it is regarded as inappropriate development in the Green Belt.
- 7.1.5 At local level Policy CP11 of the Core Strategy (adopted October 2011) sets out that there is a general presumption against inappropriate development that would not preserve the openness of the Green Belt, or which would conflict with the purposes of including land within it. Whilst Policy CP11 pre-dated the NPPF (2012), it reflects the wording of both NPPF 2012 and 2021 and thus can be afforded weight as part of the decision making process.
- 7.1.6 In addition Policy DM2 of the Development Management Policies LDD makes an exception for the provision of ancillary buildings (d). Policy DM2 is a part of the statutory Development Plan for Three Rivers, and post-dates the 2012 NPPF (it was adopted following examination in 2013). It was therefore adopted at a time when national planning policy in respect of development in the Green Belt was very similar as it is today (i.e. very limited difference between 2012 NPPF and 2021 NPPF in

respect of Green Belt). On this basis, it is considered that full weight can be given to DM2 in decision making terms.

7.1.7 Policy DM2 states that the Council will only support the provision of ancillary buildings in the Green Belt where it can be demonstrated that the development would:

- Be of a scale and design clearly subordinate to the dwelling and of a height and bulk such that the building would not adversely affect the openness of the Green Belt.
- Be sited in an appropriate location that would not be prominent in the landscape and would not result in the spread of urbanising development.
- Avoid features normally associated with the use of a building as a dwelling such as dormer windows.

7.1.8 When applied to Policy DM2 part (d) the outbuilding is of a size and scale that is clearly subordinate to the main dwelling house. It does not result in a prominent feature within the landscape. The outbuilding is largely open and does not contain any features normally associated with the use of a building as a dwelling. By virtue of its size it is considered ancillary and there is no evidence to date that has been submitted that suggests it has been used for commercial purposes since its construction. The outbuilding is of a comparable size in both height and footprint in comparison to other existing outbuildings within the wider surrounding area. The outbuilding is also not readily visible from open vantage points and does not result in any demonstrable harm to the openness of the site or wider landscape. The outbuilding therefore complies with Policy DM2 and thus is an acceptable form of development in the Green Belt and does not adversely affect openness.

7.2 Impact on character, streetscene and setting of Chorleywood Common Conservation Area

7.2.1 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 states that development should '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 document set out that development should not have a significant impact on the visual amenities of an area and that extensions should respect the existing character of the dwelling, particularly with regard to the roof form, positioning and style of windows and doors, and materials.

7.2.3 The application site does not fall within the Chorleywood Common Conservation Area; however, it does back onto it. Policy DM3 of the Development Management Policies LDD states that planning permission will not be granted for development outside but near to a Conservation Area if it adversely affects the setting, character, appearance of or views in to or out of that Conservation Area.

7.2.4 Policy 2 of the Chorleywood Neighbourhood Plan is also relevant to this application and states: 'All development should seek to make a positive contribution to the 'street scene' by way of frontage, building line, scale and design.'

7.2.5 The outbuilding by virtue of its location is not prominent within the existing street scene or surroundings, given it is set back significantly within the site. Whilst there is a very limited view of the outbuilding from Berry Lane, the adjacent plant building and

main dwelling house largely obscures it from view. It therefore would in the main be visible from the neighbouring property, Arrin Lodge, to the west. Therefore, to mitigate its visual impact the flue (black) closest to the shared boundary associated with the Asado grill will be removed. Furthermore, the outbuilding is constructed largely of timber, which would not be considered as an uncommon feature in residential areas. Whilst it is noted that the flue serving the pizza oven is visible from neighbouring outlook, its impact would be mitigated by virtue of its positioning, set in from the shared boundary and located to rear of the garden with a backdrop of the woodland. Furthermore, it would be painted a dark green colour, which would blend in with the existing backdrop, which would be subject to a condition.

7.2.6 In addition, the outbuilding is considered acceptable, and does not impact on the setting of the adjacent Chorleywood Common Conservation Area in accordance with Policy DM3 of the Development Management Policies. The Conservation Officer has been consulted and considers that the development has no adverse effect on the setting of the Conservation Area and as such holds no objection to the proposal.

7.2.7 The development does not result in demonstrable harm to the character or appearance of the application dwelling, street scene or setting of the Chorleywood Common Conservation Area. The development is considered to be acceptable in accordance with Policies CP1 and CP12 of the Core Strategy, Policies DM1, DM3 and Appendix 2 of the Development Management Policies LDD, the Chorleywood Common Conservation Area Appraisal (2010) and Policy 2 of the Chorleywood Neighbourhood Development Plan (2020).

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 **Update 01.07.2022**

The predominantly open-sided outbuilding is located adjacent to the north western corner of the site and is adjacent to the shared boundary, closest to neighbour at Arrin Lodge. It is stated that the outbuilding is 12m from the neighbouring property rather than 17.5m and therefore the pizza flue is approximately 15m from the neighbouring property rather than 20m. Officers have been unable to confirm the measurements on site; however based on past plans submitted at the neighbouring property the stated distances are likely to be more accurate; however, as the outbuilding is already in situ, it is evident where it is positioned in relation to the neighbouring dwelling. Whilst the outbuilding and associated flue is visible to this neighbour, it is set on a lower land level and would be set back approximately 12m from the nearest point of this neighbouring dwelling. Furthermore, the existing boundary treatment would partially screen the outbuilding from this neighbouring property. It is also noted that further screening would be added, adjacent to this shared boundary. Therefore given its siting, the outbuilding would not result in loss of light or be considered as overbearing to this neighbouring property.

7.3.3 By virtue of the size and positioning of the outbuilding, it does not give rise to any adverse harm to the other neighbouring property, Laceys by way of visual intrusion or loss of light.

- 7.3.4 The outbuilding is in the main, open-sided in nature. Given the existing and proposed boundary treatment including the site circumstances, considering the single storey nature of the outbuilding, including the length of the garden, no overlooking arises.
- 7.3.5 Policy DM9 of the Development Management Policies LDD states that 'the Council will refuse planning permission for development, including changes of use, which would or could give rise to polluting emissions to land, air and/or water by reason of disturbance, noise, light, smell, fumes, vibration, liquids, solids or other (including smoke, soot, ash, dust and grit) unless appropriate mitigation measures can be put in place and be permanently maintained.
- 7.3.6 It is acknowledged there may have been some smoke emission generated through early use of the pizza oven and Asado grill, which may have been aggravated by burning unspecified wood. However the revised application has proposed to remove the Asado grill and associated flue, which would be subject to a condition to secure its removal. The remaining pizza oven flue is set in from the shared boundary with the nearest neighbour to the west at Arrin Lodge by approximately 2.9m and is therefore set away from the neighbouring dwelling by approximately 15m. It is also located in the very north western corner, which is bounded by woodland. From the information received it is not anticipated that unacceptable levels of smoke would drift into the adjacent neighbouring property and into the house. Further dry, seasoned wood is being used, meaning the smoke is minimised and only generated at the beginning of the process of heating to cooking temperature. Given this, the use of the outbuilding for a cooking operation for a pizza oven would not be considered as unneighbourly or breach Policy DM9. From a planning perspective, it is not therefore considered that the impact resulting from the use pizza oven and structure would be unacceptable or in its revised form, un-neighbourly. With regards to any smoke emissions, the Environmental Health (EH) Officer has been consulted, having visited the site. The EH Officer does not consider that the revised development results in an unacceptable impact. If unacceptable levels of smoke emissions or smells were to take place this element would be controlled by Environmental Health legislation.
- 7.3.7 Given the revised form, removing the Asado grill and the nearest associated flue and the remaining flue at a distance of approximately 20m from the nearest point on the neighbouring dwelling, Arrin Lodge, no objection is raised in regard to the form, location and use of the pizza oven and associated flue. Further, the application site is not within a smoke controlled zone and the pizza oven is DEFRA certified (as a DEFRA Smoke Exempt Appliance). It is also noted that the Environmental Health Officer comments that the remaining equipment is DEFRA exempt. All Valoriani pizza ovens supplied by Valoriani UK are DEFRA (Department for Environment, Food & Rural Affairs) Licensed and have been awarded a clean air exemption certificate due to their low emissions ratings.

7.3.8 Update 01.07.2022

The Environmental Health Officer has confirmed that they consider that reducing the height of the flue would be inappropriate as it would compromise any dispersal. Further, the manufacturer have advised that the current height of the flue is at an optimal level for performance and dispersal.

The applicant is proposing to paint the flue a dark green colour, via an aerosol application, designed for heated metal, which would mitigate the existing view of the flue against the existing backdrop. Details of the precise colour and method of application would be subject to a condition.

The Environmental Health Officer is also concerned that the addition of a scrubber or filter could potentially invalidate the DEFRA exemption certification. The summary of the investigation by the applicant with the manufacturer also confirms that any addition of a scrubber or filter to the flue would be detrimental to the DEFRA certification and would in fact also result in the pizza oven and flue working less efficiently. The pizza oven and its associated flue are designed specifically to remove harmful emissions. The DEFRA certification is the highest national level of certification regarding emissions in the UK. Further, the addition of a scrubber or filter would need a minimum of two years testing with regard to DEFRA certification.

7.3.9 In terms of noise impact, whilst the covered structure enables greater use within the rear garden, given the existing and existing boundary treatment of close boarded fencing, the distance to the neighbouring dwellings and site circumstances, with the adjoining neighbour closet to the outbuilding set on a higher land level, that no unacceptable impacts would arise. Further, its use is likely to be intermittent and from the submitted details for purposes ancillary to the existing dwelling house.

7.3.10 The outbuilding and associated use does not result in any unacceptable adverse impacts on the residential amenity of any neighbouring dwelling so as to justify refusal of the application and the development is therefore acceptable in accordance with Policies CP1 and CP12 of the Core Strategy and Policies DM1, DM9 and Appendix 2 of the Development Management Policies LDD.

7.4 Amenity Space Provision for future occupants

7.4.1 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 and section 3 (Amenity Space) of Appendix 2 of the Development Management Policies document states that a five bedroom dwelling should provide 126sqm amenity space.

7.4.2 There is sufficient amenity space provision to accommodate the proposed development and serve the dwelling in accordance with the standards as set out within the Design Criteria of the DMP LDD.

7.5 Trees and Landscaping

7.5.1 Policy CP12 of the Core Strategy expects development proposals to 'have regard to the character, amenities and quality of an area', to 'conserve and enhance natural and heritage assets' and to 'ensure the development is adequately landscaped and is designed to retain, enhance or improve important existing natural features'.

7.5.2 Policy DM6 of the Development Management Policies document sets out that development proposals should seek to retain trees and other landscape and nature conservation features, and that proposals should demonstrate that trees will be safeguarded and managed during and after development in accordance with the relevant British Standards.

7.5.3 There are a number of trees within the application site and on adjoining sites. No protected trees would be affected as part of the development.

7.6 Highways, Access and Parking

7.6.1 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 and advise that a four or more bedroom dwelling should provide parking for three vehicles.

- 7.6.2 The hardstanding to the front of the dwelling would have provision for at least three vehicles. The parking provision within the application site would be unaffected by the development and is considered sufficient.

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.

- 7.7.2 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.

- 7.7.3 A Local Biodiversity Checklist has been completed by the applicant and submitted with the application. The Checklist concludes that no biodiversity survey or assessment is required in this instance, and the Local Planning Authority is not aware of any protected species on this site. Given the nature of the development, it is not considered that there would be any significant impact on any protected species or wildlife therefore complying with Policies CP1 and CP9 of the Core Strategy and Policy DM6 of the Development Management Policies LDD.

7.8 Other Considerations

- 7.8.1 Each application has to be judged on its merits and in respect to the two appeal decisions highlighted during the neighbour consultation process, these will be commented on below:

- 7.8.2 APP/A1910/D/18/3213188 – 28 Silverthorn Drive, Hemel Hempstead, HP3 8BU – Appeal Dismissed

In this case, the inspector concluded that in respect of the BBQ structure and associated flues have the potential to materially and unacceptably harm the living conditions of the neighbouring occupiers.

However, in comparison to the current application, the construction of the BBQ structure was immediately adjacent to the patio adjoining the rear elevation of the neighbouring property and further was at a much larger scale to this application. As such, this referred to scheme is considered materially different from the submitted application and is given no weight in terms of a direct comparison.

- 7.8.3 APP/H1515/D/19/3222398 – 3 Jasmine Close, Great Warley, Essex, CM13 3FL – Appeal Dismissed

In this case, the inspector concluded that in respect of the pizza oven, that it would have a harmful effect on the living conditions of the neighbouring occupiers with particular regard to emissions of smoke and smells.

However, in comparison to the current application, the construction of the open-sided structure and pizza oven, was set on the shared boundary, immediately adjacent to the flank elevation of the neighbouring property, in a more densely populated location. As such, this referred to scheme is considered materially different from the submitted application and is given no weight in terms of a direct comparison.

- 7.8.4 Having studied the drawings, photos and aerial photography of the above appeal examples, in conclusion, whilst the description of works have some similarity, the position of the direct neighbouring property is in complete contrast with the current application. As such, they bare no relation to this application and in fact only provide further clarity on why this application is considered to be acceptable.

8 Recommendation

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

- C1 Within TWO MONTHS from the date of this decision, a Rust-Oleum High Temperature Stove & BBQ Aerosol Spray Paint 650°C Matt (or similar), in dark green shall be applied to the pizza oven flue (including any replacement flue). Once applied, it shall be permanently retained in the abovementioned colour thereafter.

Reason: To mitigate the impact of the outbuilding from neighbouring outlook and to preserve the visual amenity of the area, in accordance with Policies CP1 and CP12 of the Core Strategy (adopted October 2011) and Policy DM2 and Appendix 2 of the Development Management Policies LDD (adopted July 2013).

- C2 Within THREE MONTHS from the date of this decision, the Asado Grill and associated black flue shall be permanently removed from the outbuilding as shown on drawing numbers TRDC 003 (South and East Elevation to garden) dated 28.06.2022, TRDC 004 (North Elevation) received 01.06.2022, TRDC 005 (Plan View Roof V2) dated 30.05.2022, TRDC 006 (West Elevation V3) dated 28.06.2022. Following their removal, the outbuilding roof shall be made good and shall be permanently maintained as such thereafter.

Reason: In the interest of neighbouring amenity and in the proper interests of planning and to safeguard the character and appearance of the Conservation Area and the openness of the Green Belt in accordance with Policies CP1, CP9, CP10, CP11 and CP12 of the Core Strategy (adopted October 2011) and Policies DM1, DM2, DM3, DM6 and DM13 and Appendices 2 and 5 of the Development Management Policies LDD (adopted July 2013), the Chorleywood Common Conservation Area Appraisal (2010) and Policy 2 of the Chorleywood Neighbourhood Development Plan (2020).

- C3 The outbuilding subject to this application shall not be occupied or used at any time other than incidental to the enjoyment of, and ancillary to, the residential dwelling located on the site and it shall not be used as an independent dwelling at any time.

Reason: The creation and use of a separate and independent unit would result in inappropriate development and would not comply with Policies CP1, CP11 and CP12 of the Core Strategy (adopted October 2011) and Policies DM1, DM2 and Appendix 2 of the Development Management Policies LDD (adopted July 2013).

- 8.1 Informatives:

- 11 With regard to implementing this permission, the applicant is advised as follows:
All relevant planning conditions must be discharged prior to the commencement of work. Requests to discharge conditions must be made by formal application. Fees are £116 per request (or £34 where the related permission is for extending or altering a dwellinghouse or other development in the curtilage of a dwellinghouse). Please note that requests made without the appropriate fee will be returned unanswered.

There may be a requirement for the approved development to comply with the Building Regulations. Please contact Hertfordshire Building Control (HBC) on 0208 207 7456 or at buildingcontrol@hertfordshirebc.co.uk who will be happy to advise you on building control matters and will protect your interests throughout your build project by leading the compliance process. Further information is available at www.hertfordshirebc.co.uk.

Community Infrastructure Levy (CIL) - Your development may be liable for CIL payments and you are advised to contact the CIL Officer for clarification with regard to this. If your development is CIL liable, even if you have been granted exemption from the levy, please be advised that before commencement of any works it is a requirement under Regulation 67 of The Community Infrastructure Levy Regulations 2010 (As Amended) that CIL form 6 (Commencement Notice) must be completed, returned and acknowledged by Three Rivers District Council before building works start. Failure to do so will mean you lose the right to payment by instalments (where applicable), and a surcharge will be imposed. However, please note that a Commencement Notice is not required for residential extensions IF relief has been granted.

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 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.