

20 MARCH 2018 PLANNING COMMITTEE

Si 18/0050 Reg'd: 05.02.18 Expires: 02.04.18 Ward: C
Nei. 08.03.18 BVPI 21 Number 6/8 On
Con. Target (Household) of Weeks Target?
Exp: on Cttee' Yes
Day:

LOCATION: 29 Silver Birch Close, Woodham, Woking, KT15 3QW

PROPOSAL: Retrospective application for retention of treehouse to rear of rear garden.

TYPE: Householder Application

APPLICANT: Ms J Clayton

OFFICER: Benjamin Bailey

REASON FOR REFERRAL TO COMMITTEE

The decision on whether to issue an Enforcement Notice falls outside the Management Arrangements and Scheme of Delegations.

SUMMARY OF PROPOSED DEVELOPMENT

This is a householder planning application which seeks retrospective planning permission for the retention of treehouse to rear of rear garden.

PLANNING STATUS

- Urban Area
- Adjacent to Basingstoke Canal Conservation Area
- Adjacent to Basingstoke Canal Corridor
- Adjacent to Urban Open Space
- Adjacent to Site of Special Scientific Interest (SSSI)
- Thames Basin Heaths Special Protection Area (TBH SPA) Zone B (400m-5km)

RECOMMENDATION

Refuse planning permission and authorise formal enforcement proceedings.

SITE DESCRIPTION

The application site forms the residential curtilage of the two storey detached dwelling of No.29 Silver Birch Close, situated within the Urban Area although adjacent to the Basingstoke Canal to the south, which is designated both as a Conservation Area and Urban Open Space in this location.

RELEVANT PLANNING HISTORY

None relevant

CONSULTATIONS

Heritage & Conservation Consultant:	Raises objection due to impact upon Basingstoke Canal Conservation Area.
Arboricultural Officer:	No comments received. Any comments received will be updated at Planning Committee.
Basingstoke Canal Authority:	No comments received. Any comments received will be updated at Planning Committee.

REPRESENTATIONS

None received

RELEVANT PLANNING POLICIES

National Planning Policy Framework (NPPF) (2012)

Section 7 - Requiring good design

Section 11 - Conserving and enhancing the natural environment

Section 12 - Conserving and enhancing the historic environment

Woking Core Strategy (2012)

CS7 - Biodiversity and nature conservation

CS17 - Open space, green infrastructure, sport and recreation

CS20 - Heritage and conservation

CS21 - Design

CS24 - Woking's landscape and townscape

CS25 - Presumption in favour of sustainable development

Development Management Policies Development Plan Document (DMP DPD) (2016)

DM2 - Trees and landscaping

DM4 - Development in the vicinity of Basingstoke Canal

DM20 - Heritage assets and their settings

Supplementary Planning Documents (SPD's)

Outlook, Amenity, Privacy and Daylight (2008)

Design (2015)

Supplementary Planning Guidance (SPG):

Heritage of Woking (2000)

Other Material Considerations

Planning Practice Guidance (PPG)

PLANNING ISSUES

01. The main planning issues to consider in determining this application are:

- Principle of development
- Design and impact upon the character of the area, including the setting of the adjacent Basingstoke Canal Conservation Area and Corridor and adjacent Urban Open Space

- Impact upon neighbouring amenity
- Biodiversity and trees

having regard to the relevant policies of the Development Plan, other relevant material planning considerations and national planning policy and guidance.

Principle of development

02. The application site is within the Urban Area where the principle of ancillary residential outbuildings and structures, within a residential curtilage associated with a dwellinghouse, is acceptable subject to the planning considerations of the impact upon the character and appearance of the surrounding area and impact upon neighbouring amenity, and any other relevant planning considerations.

Design and impact upon the character of the area, including the setting of the adjacent Basingstoke Canal Conservation Area and Corridor and adjacent Urban Open Space

03. Policy CS21 of the Woking Core Strategy (2012) requires development proposals to *“respect and make a positive contribution to the street scene and the character of the area in which they are situated, paying due regard to the scale, height, proportions, building lines, layout, materials and other characteristics of adjoining buildings and land”*. Furthermore Section 7 of the NPPF (2012) states that *“permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions”* and requires proposals to *“respond to local character and history, and reflect the identity of local surroundings and materials...”*
04. Although described by the applicant within the submitted application form as a “treehouse” the structure has been constructed partly above, and partly overflying (via supporting timber piers), a seemingly pre-existing single storey timber-clad garden outbuilding. The “treehouse” structure is timber-clad and entirely enclosed (with the exception of several openings) to all four elevations, with a maximum height above ground level measuring approximately 5.4m and a very shallow monopitched roof demonstrating an approximate 4.8m eaves height. The submitted plans show a stair to lead up to the structure, the first floor level of which measures approximately 2.7m above ground level, although (as of 27.02.18) the stair has yet to be installed. The structure appears otherwise substantially externally complete. Due to the above factors, including the position of the structure elevated above a seemingly pre-existing single storey timber clad garden outbuilding, the structure has the outward appearance of a two storey timber-clad garden outbuilding as opposed to the external appearance typically associated with a “treehouse” whereby a clear visual separation would occur between ground level and the lower part of the structure.
05. The structure has an incongruous form and scale which is readily at odds with the sylvan nature of the rear gardens of dwellings in Silver Birch Close, although it is not apparent in public views achievable from either Silver Birch Close or Sheerwater Road due to intervening features and distance. Notwithstanding this the structure is however readily apparent in views from neighbouring gardens, including adjacent No.28 and No.30, where the incongruous and uncharacteristic appearance is prominent in its own right and atypical of the sylvan nature of the rear gardens. Furthermore, in this instance the application site is adjacent to the Basingstoke Canal, this section of which forms part of the wider Basingstoke Canal Conservation Area and Canal Corridor and which is also designated as Urban Open Space. The “treehouse” structure is located within close proximity to the Basingstoke Canal towards the terminus of the rear garden of the dwelling of No.29.

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06. Therefore the impact of the proposed development upon the setting of the Basingstoke Canal Conservation Area and Corridor also needs to be taken into account. In addition to the Conservation Area designation new development in the vicinity of Basingstoke Canal is also subject to the criteria of Policy DM4 of the Development Management Policies DPD (2016), which states that *“development proposals which would conserve and enhance the landscape, heritage, architectural or ecological character, setting or enjoyment of the Basingstoke Canal and would not result in the loss of important views in the vicinity of the Canal will be permitted, if all other relevant Development Plan policies are met”*.
07. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 sets out that, in considering applications within, or affecting the setting of, Conservation Areas, Local Planning Authorities shall pay *“special attention...to the desirability of preserving or enhancing the character or appearance of that area”*. This is reflected within Policy CS20 of the Woking Core Strategy (2012), Policy DM20 of the Development Management Policies DPD (2016) and Section 12 of the National Planning Policy Framework (2012) (NPPF). Policy CS20 advises that new development must respect and enhance the character and appearance of the area in which it is proposed and should also make a positive contribution to the character, distinctiveness and significance of the historic environment.
08. Policy CS17 is also relevant in this instance, due to the Urban Open Space designation of this section of the Basingstoke Canal, and states that *“development will not normally be permitted which would have a detrimental impact upon the landscape quality, ecological value or water quality of the following corridors...these include the...Basingstoke Canal”*. The reasoned justification text to Policy CS17 states that *“the Council recognises that water resources, such as river and canal corridors are of great importance for...recreation and landscape value. Rivers and canals are also an important source of open space”*. Policy CS24 states that *“all development proposals will provide a positive benefit in terms of landscape and townscape character, and local distinctiveness and will have regard to landscape character areas. To protect local landscape and townscape character, development will be expected to: conserve, and where possible enhance existing character, especially key landscapes such as...the canal/river network”*.
09. The Basingstoke Canal was completed in 1794, originally intended to boost agricultural trade in Central Hampshire, providing an economical form of transport for bulk cargoes as well as providing an important system of transport for the construction of the London and South-west railway. By the mid 1960's the Canal was semi-derelict, most of the tow paths overgrown, the locks in a state of decay and the water channel choked in places by silt, weeds and refuse. Surrey and Hampshire County Councils began a co-ordinated programme of restoration in the early 1970's, aided by voluntary bodies, and culminated in the re-opening of the Canal in 1991. Whilst it is acknowledged that the Basingstoke Canal is an industrial feature, although now forming a 'green corridor' through Woking, and neighbouring Boroughs, this section of the Canal, to the east of Sheerwater Bridge and up to the Woking Borough boundary with Runnymede, is sylvan and semi-rural in character, hence the designation of this section of the Canal as Urban Open Space, in contrast to sections of the Canal which transect more developed, urban areas of the Borough.
10. The “treehouse” structure is readily apparent in public views from the towpath on the opposite, southern side of the Basingstoke Canal. Whilst it is acknowledged that timber close-board fencing appears to form the rear boundary of the curtilage of No.33 Silver Birch Close, and some close-board timber fencing is apparent in association with the electrical sub-station, to the south-west (near to Sheerwater Bridge), and that

some ancillary garden outbuildings are visible within the rear gardens of properties within Silver Birch Close from the Canal towpath, all of these structures are relatively limited in height and are not considered comparable to the approximate 5.4m maximum height of the “treehouse” structure the subject of the current application. It is also acknowledged that a seemingly pre-existing garden outbuilding was present in the location of the “treehouse”, which has been built partly above this structure. Whilst this is the case this seemingly pre-existing structure was relatively limited in height, appearing to constitute ‘permitted development’ under the provisions of Part 1, Class E of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), and again is not considered comparable to the approximate 5.4m maximum height of the “treehouse” structure the subject of the current application.

11. Overall, by reason of its scale, form and prominent location within close proximity to the Basingstoke Canal, and its appearance as a substantially elevated garden shed, the “treehouse” structure appears incongruous and out of context with its surroundings and therefore fails to respect and make a positive contribution to the character of the area in which it is situated, fails to conserve or enhance the landscape and heritage character, setting and enjoyment of the adjacent Basingstoke Canal Corridor and Urban Open Space, and fails to preserve the setting of the adjacent Basingstoke Canal Conservation Area. It is therefore contrary to Policies CS20, CS21 and CS24 of the Woking Core Strategy (2012), Policies DM4 and DM20 of the Development Management Policies Development Plan Document (DMP DPD) (2016), Sections 7 and 12 of the National Planning Policy Framework (NPPF) (2012), Supplementary Planning Document 'Design (2015)' and Supplementary Planning Guidance 'Heritage of Woking (2000)'.

Impact upon neighbouring amenity

12. Policy CS21 of the Woking Core Strategy (2012) advises that proposals for new development should achieve a satisfactory relationship to adjoining properties, avoiding significant harmful impact in terms of loss of privacy, loss of daylight or sunlight, or an overbearing effect due to bulk, proximity or loss of outlook. Further guidance on assessing neighbouring amenity impacts is provided within SPD 'Outlook, Amenity, Privacy and Daylight (2008)'. The key neighbouring amenity considerations in this instance are those of adjacent No.28 and No.30 Silver Birch Close.

No.28 Silver Birch Close

13. No.28 Silver Birch Close is a two storey detached dwelling situated to the east. The “treehouse” structure is located adjacent to the very terminus of the rear garden of No.28, which measures approximately 33.0m in depth, although is located immediately adjacent to the common boundary, on the No.28 side of which are located x2 timber garden sheds. Given these cumulative factors it is not considered that the “treehouse” structure gives rise to a significantly harmful impact, by reason of loss of daylight or sunlight, or overbearing effect due to bulk, proximity or loss of outlook, to either the dwelling or rear garden of No.28 such that a breach of Policy CS21 occurs. Whilst it is acknowledged that the “treehouse” structure appears incongruous and discordant when viewed from the rear elevation, and rear garden, of adjacent No.28 it is nonetheless not considered that its presence causes a significantly harmful loss of outlook or overbearing effect to this dwelling or its rear garden. Furthermore there is no ‘right to a view’ across third party land. The absence of significant harm in this respect does not alter the conclusion of harm with regard to design and character.

14. The “treehouse” structure demonstrates a door opening within its front elevation although also proposes a front stair which is not yet (as of 27.02.18) in-situ. A side-facing window faces the common boundary with No.28 and is currently clear-glazed although the submitted plans annotate this side-facing window as consisting of “*obscured glass*”. There is some vegetative screening in front of the “treehouse” structure within the rear garden of the application property, which largely obscures the position of the doorway and intended stair when viewed from No.28 although the side-facing window is readily apparent when viewed from No.28. However this existing vegetative screening could be removed by existing or future occupiers of the application property, further planting may not form a viable or permanent solution even if effective and none is proposed within the current application. It is not considered therefore that vegetative screening can be relied upon to mitigate potential harm by reason of overlooking.
15. The submitted plans show a stair to lead up to the structure, the first floor level of which measures approximately 2.7m above ground level. The door opening within the front elevation, together with the stair if installed, is indirectly orientated back towards the rear elevation of No.28, and also faces indirectly towards the most sensitive area of private rear amenity space serving No.28, that closely related to the dwelling (eg. patio area). Dwellings on this southern side of Silver Birch Close have a well defined character in that rear amenity spaces terminate close to the Basingstoke Canal; in this relatively unique circumstance there is therefore something of an expectation of occupiers that privacy would not be compromised as this is a situation whereby future development would not be expected given the constraints and designations of the Basingstoke Canal to the rear.
16. Overall, by reason of its elevated first floor height, orientation and location of openings and provision of an external stair, it is considered that the “treehouse” structure gives rise to a significantly harmful impact to the rear elevation, and private rear garden area, of adjacent No.28 Silver Birch Close by reason of both overlooking, and a perception of overlooking, and subsequent loss of privacy. This is contrary to Policy CS21 of the Woking Core Strategy (2012), Supplementary Planning Documents ‘Outlook, Amenity, Privacy and Daylight (2008)’ and ‘Design (2015)’ and the provisions of the National Planning Policy Framework (NPPF) (2012).

No.30 Silver Birch Close

17. No.30 Silver Birch Close is a two storey detached dwelling situated to the west. The “treehouse” structure is located towards the terminus of the rear garden of No.30, which measures approximately 36.0m in depth, and approximately 4.0m from the common boundary. Given these cumulative factors it is not considered that the “treehouse” structure gives rise to a significantly harmful impact, by reason of loss of daylight or sunlight, or overbearing effect due to bulk, proximity or loss of outlook, to either the dwelling or rear garden of No.30 such that a breach of Policy CS21 occurs. Whilst it is acknowledged that the “treehouse” structure appears incongruous and discordant when viewed from the rear elevation and rear garden of adjacent No.30 it is nonetheless not considered that its presence causes a significantly harmful loss of outlook or overbearing effect to this dwelling or its rear garden. Furthermore there is no ‘right to a view’ across third party land. The absence of significant harm in this respect does not alter the conclusion of harm with regard to design and character.
18. The “treehouse” structure demonstrates a door opening within its front elevation although also proposes a front stair which is not yet in-situ. No other openings would face towards No.30 or its rear amenity space. There is some intervening vegetative screening between No.30 and the structure although this vegetative screening

appears to be located within the residential curtilages of both No.30 and of the application property and could be removed by existing or future occupiers of No.30 and/or the application property. Further planting may not form a viable or permanent solution even if effective and none is proposed within the current application. It is not considered therefore that vegetative screening can be relied upon to mitigate potential harm by reason of overlooking.

19. The submitted plans show a stair to lead up to the structure, the first floor level of which measures approximately 2.7m above ground level. The door opening within the front elevation, together with the staircase if installed, is indirectly orientated back towards the rear elevation of No.30, and also faces indirectly towards the most sensitive area of private rear amenity space serving No.30, that closely related to the dwelling (eg. patio area). Dwellings on this southern side of Silver Birch Close have a well defined character in that rear amenity spaces terminate close to the Basingstoke Canal; in this relatively unique circumstance there is therefore something of an expectation of occupiers that privacy would not be compromised as this is a situation whereby future development would not be expected given the constraints and designations of the Basingstoke Canal to the rear.
20. Overall, by reason of its elevated first floor height, orientation and location of openings and provision of an external stair, it is considered that the “treehouse” structure gives rise to a significantly harmful impact to the rear elevation, and private rear garden area, of adjacent No.30 Silver Birch Close by reason of both overlooking, and a perception of overlooking, and subsequent loss of privacy. This is contrary to Policy CS21 of the Woking Core Strategy (2012), Supplementary Planning Documents ‘Outlook, Amenity, Privacy and Daylight (2008)’ and ‘Design (2015)’ and the provisions of the National Planning Policy Framework (NPPF) (2012).

Biodiversity and trees

21. Whilst it is noted that the site is adjacent to a Site of Special Scientific Interest (SSSI) (this section of the Basingstoke Canal) having regard to nature of the “treehouse” structure, having been constructed partly above, and partly overflying (via supporting timber piers), a seemingly pre-existing single storey timber-clad garden outbuilding, it is not considered that harmful impacts to biodiversity have arisen in this instance as any disturbance to ground and vegetation appears minimal. Whilst the “treehouse” structure has been constructed within close proximity to trees the trees in question are not protected by virtue of Tree Preservation Order (TPO) and do not appear to be situated within the Basingstoke Canal Conservation Area.

LOCAL FINANCE CONSIDERATIONS

22. The uplift in as built ancillary residential floorspace does not exceed 100 sq.m and the development is therefore not Community Infrastructure Levy (CIL) liable.

CONCLUSION

23. Overall, by reason of its scale, form and prominent location within close proximity to the Basingstoke Canal, and its appearance as a substantially elevated garden shed, the “treehouse” structure appears incongruous and out of context with its surroundings and therefore fails to respect and make a positive contribution to the character of the area in which it is situated, fails to conserve or enhance the landscape and heritage character, setting and enjoyment of the adjacent Basingstoke Canal Corridor and Urban Open Space, and fails to preserve the setting of the adjacent Basingstoke Canal Conservation Area. It is therefore contrary to Policies CS20, CS21 and CS24 of

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the Woking Core Strategy (2012), Policies DM4 and DM20 of the Development Management Policies Development Plan Document (DMP DPD) (2016), Sections 7 and 12 of the National Planning Policy Framework (NPPF) (2012), Supplementary Planning Document 'Design (2015)' and Supplementary Planning Guidance 'Heritage of Woking (2000)'.

24. Furthermore, by reason of its elevated first floor height, orientation and location of openings and provision of an external stair, it is considered that the “treehouse” structure gives rise to a significantly harmful impact to the rear elevation, and private rear garden area, of both adjacent No.30 Silver Birch Close and No.28 Silver Birch Close by reason of both overlooking, and a perception of overlooking, and subsequent loss of privacy. This is contrary to Policy CS21 of the Woking Core Strategy (2012), Supplementary Planning Documents ‘Outlook, Amenity, Privacy and Daylight (2008)’ and ‘Design (2015)’ and the provisions of the National Planning Policy Framework (NPPF) (2012). It is therefore recommended that planning permission is refused.

BACKGROUND PAPERS

Site visit photographs

Site Notice (Development Affecting a Conservation Area)

Consultation response from Heritage and Conservation Consultant

RECOMMENDATION

Refuse planning permission for the following reasons:

01. By reason of its scale, form and prominent location within close proximity to the Basingstoke Canal, and its appearance as a substantially elevated garden shed, the “treehouse” structure appears incongruous and out of context with its surroundings and therefore fails to respect and make a positive contribution to the character of the area in which it is situated, fails to conserve or enhance the landscape and heritage character, setting and enjoyment of the adjacent Basingstoke Canal Corridor and Urban Open Space, and fails to preserve the setting of the adjacent Basingstoke Canal Conservation Area. It is therefore contrary to Policies CS20, CS21 and CS24 of the Woking Core Strategy (2012), Policies DM4 and DM20 of the Development Management Policies Development Plan Document (DMP DPD) (2016), Sections 7 and 12 of the National Planning Policy Framework (NPPF) (2012), Supplementary Planning Document 'Design (2015)' and Supplementary Planning Guidance 'Heritage of Woking (2000)'.
02. By reason of its elevated first floor height, orientation and location of openings and provision of an external stair, it is considered that the “treehouse” structure gives rise to a significantly harmful impact to the rear elevation, and private rear garden area, of both adjacent No.30 Silver Birch Close and No.28 Silver Birch Close by reason of both overlooking, and a perception of overlooking, and subsequent loss of privacy. This is contrary to Policy CS21 of the Woking Core Strategy (2012), Supplementary Planning Documents ‘Outlook, Amenity, Privacy and Daylight (2008)’ and ‘Design (2015)’ and the provisions of the National Planning Policy Framework (NPPF) (2012).

It is further recommended:

- a) That the Head of Legal Services be instructed to issue an Enforcement Notice under Section 172 of The Town & Country Planning Act 1990 (as amended) in respect of the above land requiring the remedy of the breach of planning control to be achieved through the removal of the “treehouse” structure and all resulting materials and spoil

from the site arising from such within three (3) months of the Enforcement Notice taking effect.

Informatives

01. The plans relating to the retrospective planning application hereby refused are numbered/titled:

A101 (Sections and Plan Views), dated 29.01.18 and received by the Local Planning Authority on 02.02.2018

A102 (Elevations and Sections), dated 29.01.18 and received by the Local Planning Authority on 02.02.2018

A103 (Location and Site Plan), dated 29.01.18 and received by the Local Planning Authority on 02.02.2018

02. The Council confirms that in assessing this planning application it has worked with the applicant in a positive and proactive way, in line with the requirements of paragraph 186-187 of the National Planning Policy Framework (NPPF) (2012). The application is retrospective in nature, seeking to remedy a breach of planning control which is considered to constitute unacceptable development. It is not considered that the development, which is externally substantially complete, can be amended to result in an acceptable form of development.