

19 MARCH 2019 PLANNING COMMITTEE

6n 18/1034 Reg'd: 15.01.19 Expires: 12.03.18 Ward: C
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LOCATION: Oaklands, 521 Woodham Lane, Woking, Surrey, GU21 5SR

PROPOSAL: Single storey rear extension and raised rear patio (Retrospective).

TYPE: Full Planning Application

APPLICANT: Mr & Mrs Gambold

OFFICER: William
Flaherty

REASON FOR REFERRAL TO COMMITTEE:

The decision on whether to take enforcement action falls outside the scope of delegated powers.

SUMMARY OF PROPOSED DEVELOPMENT

The proposal is for a single storey rear extension and raised patio. The single storey rear extension aspect of this planning application is retrospective.

PLANNING STATUS

- Urban Area
- Area Adjacent to Conservation Area (Basingstoke Canal)
- Surface Water Flooding
- 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 is situated on the south side of Woodham Lane in the Canalside area of the Borough. The area immediately surrounding the site is characterised by residential development comprising of two-storey detached dwellings and bungalows. Properties in the area have relatively large plot sizes in relation to built form. To the north of the application site is Horsell Common (Designated Green Belt).

The application site abuts the Basingstoke Canal Conservation Area to the rear, although the site does not fall within the Conservation Area boundary. There are no trees subject to Tree Preservation Orders (TPOs) on site, although there is a protected Conifer to the front of the site along Woodham Lane. The application site is not situated within Fluvial Flood Zones 2 or 3, however, parts of the application site are identified as being at medium (1 in 1000 year) risk of surface water flooding. The Basingstoke Canal immediately to the rear of the application

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site is identified as an area of very high (1 in 30 year), high (1 in 100 year) and medium (1 in 1000 year) risk of surface water flooding.

BACKGROUND

Notice was given on 21 January 2015 under the provisions set out under condition A.4 of Schedule 2 Part 1 Class A of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) that prior approval was not required for a single storey rear extension to extend a maximum of 4.615m, a maximum height of 3m and a maximum eaves height of 2.77m.

An alleged breach of planning control was brought to the Council's attention on 7 September 2015. Planning Enforcement Officers visited the site on 09.09.2015 and confirmed that the development was not being built in accordance with the submitted plans. Following this site visit the applicant confirmed that alterations to the submitted plans were carried out for the following reasons:

- The roof thickness is greater than planned as a warm roof was needed due to the use of downlighters and to minimise safety issues;
- Different joists were needed;
- The builder advised that the change from a faux to a parapet roof would save a considerable amount of money;

Following this, the applicant was advised that they must build in accordance with the submitted plans or submit a planning application to regularise what has been built. Following an extended period of 2 years where no response was received from the applicant, Planning Enforcement Officers wrote to the applicant on 13 July 2018 advising that the Local Planning Authority would seek authorisation to take the appropriate enforcement action if an application to regularise the works was not received by 10 August 2018.

The current planning application was submitted on 10 September 2018 seeking to regularise the unauthorised works, however, this application was invalidated as there were a number of issues with the submitted drawings. The applicant was notified of the reasons why the application could not be validated by letter dated 26 September 2018, requesting that the required information be submitted by 24 October 2018.

Having received no further contact from the applicant in response to the letter dated 26 September 2018, Planning Enforcement wrote to the applicant on 18 December 2018 advising that the required information needs to be submitted by 3 January 2019, otherwise the Local Planning Authority would have to submit a report to the Planning Committee seeking authorisation to take the appropriate enforcement action.

The Local Planning Authority has sought to work with the applicant to resolve the breach of planning and has taken into account the applicant's personal circumstances in the continued extensions of time for the submission of a planning application to regularise the unauthorised works: it has been a period of almost 4 years from when the Planning Enforcement Officer advised the applicant that they would need to build the extension in accordance with the submitted plans or seek to regularise the unauthorised development through the submission of a planning application. The current planning application was made valid on 15.01.2019 and the Local Planning Authority are now in a position to assess the planning application.

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PLANNING HISTORY

- PLAN/2014/1034 – Prior notification for a single storey rear extension to extend a maximum of 4.615m, a maximum height of 3m and a maximum eaves height of 2.77m
– Prior Approval Not Required – 21.01.2015

CONSULTATIONS

Flood Risk & Drainage Officer: Object: a scheme for disposing of surface water by means of a sustainable drainage system is required in order to prevent an increase in surface water flood risk on-site and to neighbouring properties.

REPRESENTATIONS

1 letter of objection has been received raising the following comments:

- The wall is over a metre higher than authorised and the plan to mirror the existing roof pitch to the top of the wall has been ignored;
- The extension is an eyesore and out of character with properties in this area;
- The side window overlooks the neighbouring property directly;
- The flat roof could be accessed in the future;

RELEVANT PLANNING POLICIES

National Planning Policy Framework (NPPF) 2019:

Section 2 - Achieving sustainable development

Section 12 - Achieving well-designed places

Section 14 - Meeting the challenge of climate change, flooding and coastal change

Section 15 - Conserving and enhancing the natural 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)

Woking Borough Council Strategic Flood Risk Assessment (November 2015)

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Community Infrastructure Levy (CIL) Charging Schedule (2015)

PLANNING ISSUES

1. The main 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 amenityhaving regard to the relevant policies of the Development Plan, other relevant material planning considerations and national planning policy and guidance.

Principle of development

2. The application site is within the Urban Area where the principle of householder development is acceptable subject to the planning considerations of the impact upon the character and appearance of the surrounding area, 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

3. 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*”.
4. The submitted plans show a single storey rear extension of approximately 4.85m in depth and a maximum projection beyond the rear of approximately 5.2m (the rear elevation is stepped). The extension is indicated as being approximately 3.75m in height on the rear elevation to the parapet, however, this drawing does not take into account the sloping ground level on site from the rear of the dwelling towards the Basingstoke Canal which effectively adds approximately 1m to what has been shown on the submitted drawings. The actual height of the extension would appear to be approximately 4.75m when measured on the rear elevation. The flat roof element of the roof is indicated as being approximately 3.2m in height. The extension spans the width of the dwelling being approximately 11.3m.
5. The applicant was notified that prior approval was not required for a single storey extension by notice dated 21.01.2015. However, it is clearly stated on this notice that:

*“This written notice indicates that the proposed development would comply with condition A.4 of Schedule 2 Part 1 Class A of the Town and Country Planning (General Permitted Development) Order 1995 (as amended by SI 2008 No. 2362 and SI 2013 No. 1101). **It is important to note that this written notice doesn’t indicate whether or not the proposed development would comply with any of the other limitations or conditions of Schedule 2 Part 1 Class A.** If you want confirmation that the proposed development would be lawful (e.g. on the basis that it would comply with all of the limitations and conditions of Schedule 2 Part 1 Class A), then you should submit an (optional) application to the local planning authority for a Lawful Development Certificate (LDC).*”

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It is a requirement of the above condition A.4 that the development shall be carried out in accordance with the details approved by the local planning authority, unless the local planning authority and the developer agree otherwise in writing.” (Emphasis added)

6. In addition to the above, the applicant was notified by the Planning Enforcement Officer that what was being constructed was not in accordance with the prior approval notice and would not be permitted development. Accordingly, there is no permitted development fall-back position in this case.
7. The existing dwelling is relatively modest in size with a hipped roof form. The area is sylvan in character with Horsell Common to the north, the Basingstoke Canal to the south and properties along Woodham Lane typically having large well treed gardens.
8. The single storey rear extension has increased the footprint of the bungalow by approximately 55% and the parapet roof form does not relate well to the roof of the existing dwelling. Overall, it is considered that the proposed extension is excessive in its overall footprint and height and is a discordant and visually intrusive feature within the wider area. The large parapet wall above the extension has necessitated significant alterations to the main roof such that the parapet wall is approximately 0.8m higher than the eaves of the original roof.
9. The extension is not a proportionate or subordinate addition and causes harm to the character and appearance of the existing dwelling and the surrounding area. While the proposal would be harmful to the character and appearance of the wider area, it is considered that the set back from the Basingstoke Canal Conservation Area is sufficient in ensuring no substantial, or less than substantial, harm to the Conservation Area.
10. In addition to the retrospective planning permission for the single storey rear extension being sought, the applicant seeks planning permission for a raised patio area of 1.1m in height above ground level, approximately 16.4m in width and a maximum depth of approximately 5m beyond the rear elevation of the dwelling. A wheelchair lift is also proposed as part of the raised patio works.
11. The proposed patio would be relatively large when compared to the existing dwelling, however, in character and design terms it would not be overly prominent or visible from the public highway or neighbouring properties. The patio would be used to help facilitate disabled access to the lower garden level. While the loss of garden amenity space would cause some harm to the character and appearance of the wider area, the patio space would also serve as amenity space and help facilitate leisure and recreation for disabled occupants of the dwelling. On balance, it is considered that the proposed patio would be acceptable in character and design terms.
12. Overall, by reason of its excessive scale, form, height and proximity to neighbouring boundaries, the extension 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. The development is therefore contrary to Policies CS21 and CS24 of the Core Strategy (2012), Policy DM4 (Development in the Vicinity of the Basingstoke Canal) of the Development Management Policies Development Plan Document (DMP DPD) (2016), Section 12 of the National Planning Policy Framework (2019) and Supplementary Planning Document Woking Design (2015).

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Impact on Residential Amenity

13. 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 No. 523 Woodham Lane to the west and No. 519 Woodham Lane to the east.
14. With reference to No. 523, the extension is set away from the boundary by approximately 0.7m. Due to the staggered rear building line, the extension extends approximately 6m beyond the original rear elevation of No. 523. The extension has a ground floor level window which is indicated to be obscure glazed, however, it is noted that this window has not yet been installed.
15. In terms of the extension itself, it is considered that its lack of set back from the site boundary and its excessive height and depth results in a significant adverse impact to the amenities of the occupiers of No. 523 in terms of visual intrusion, overbearing impact and creating an undue sense of enclosure.
16. The ground floor window on the side elevation has been indicated as being obscure glazed, however, the existing boundary treatment between the properties is approximately 1.8m in height and does not mitigate views from this window. It is considered that this window on the side elevation is unneighbourly and creates a sense of perceived overlooking. The proposed patio could also result in an unreasonable loss of privacy to neighbouring No. 523.
17. It is noted that the roof area of the extension could be used as a sitting out/terracing area. Were the application otherwise acceptable, a restrictive planning condition could have been attached to any planning permission to ensure that this roof area could not be used as a sitting out/terrace area. However, as the extension is unacceptable and there are currently no planning conditions in place to restrict such a use, it is considered that the flat roof of the extension could result in an unacceptable adverse impact in terms of overlooking and loss of privacy to neighbouring properties.
18. Regarding No. 519, the extension is set away from the site boundary by approximately 5.4m which is considered to be sufficient in ensuring no significant adverse impact in terms of loss of daylight/sunlight or overbearing impact. However, as stated above, the existing roof could be used as a sitting/out balcony area which would result in a significant loss of privacy and overlooking to No. 519.
19. The proposed patio would require much of the boundary planting between the properties to be removed and would raise the existing ground level by approximately 1.1m which would result in an unacceptable loss of privacy to the rear garden of No. 519. The proposed patio could require the pruning of the roots of Conifer Leylandii trees located along the No. 523 side of the boundary. Pruning of these roots could cause harm to these trees which could ultimately result in their failure which would provide direct views from the raised patio into neighbouring No. 523. Were Officers minded to grant planning permission, a pre-commencement planning condition could have been used to require details of tree protection measures.
20. Overall, by reason of its excessive height and depth in close proximity to the site boundary with No. 523 it is considered that the extension has an unacceptable and

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significant adverse impact on the residential amenities of the owner/occupiers of No. 523 in terms of overbearing impact, visual intrusion and creating an undue sense of enclosure. Additionally, the extension results in an unacceptable perceived overlooking by virtue of the window on the side elevation while the roof of the extension could result in a loss of privacy to both Nos. 519 and 523 if it were to be used as a sitting out/terrace area.

21. The proposed raised patio area would be approximately 1.1m above ground level and, should existing boundary treatment be removed, would result in an unacceptable loss of privacy to neighbouring gardens, which could not be mitigated by boundary treatment through permitted development, when the verdant character of the area is considered. The extension is therefore 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) (2019).

Flood Risk & Drainage

22. Paragraph 155 of Section 14 (Meeting the challenge of climate change, flooding and coastal change) of the National Planning Policy Framework (NPPF) (2019) sets out that where development is necessary in areas at risk of flooding, the development should be made safe for its lifetime without increasing flood risk elsewhere. Paragraph 163 goes on to state that when determining any planning applications, Local Planning Authorities should ensure that flood risk is not increased elsewhere.
23. Policy CS9 (Flooding and Water Management) of the Core Strategy (2012) sets out that a Flood Risk Assessment will be required for development proposals within or adjacent to areas at risk of surface water flooding as identified in the Strategic Flood Risk Assessment (SFRA). To further reduce the risk of surface water flooding, all new development should work towards mimicking greenfield run-off situations.
24. Policy DM4 of the Development Management Policies DPD (2016) (Development in the Vicinity of the Basingstoke Canal) sets out that development on land adjoining the Canal should not be permitted where it would result in un-attenuated surface water or highway drainage into the Canal. Developments which can offer attenuated dry-season flows or wet-season water storage will be supported.
25. The application site is not situated within Fluvial Flood Zones 2 or 3, however, parts of the application site are identified as being at medium (1 in 1000 year) risk of surface water flooding. The Basingstoke Canal immediately to the rear of the application site is identified as an area of very high (1 in 30 year), high (1 in 100 year) and medium (1 in 1000 year) risk of surface water flooding. Approximately 35m to the rear of the extension is land identified as being within fluvial flood zone 2.
26. The extension has a footprint of approximately 52sqm and the proposed raised patio area would have a footprint of approximately 75sqm. The previous patio area is indicated on the submitted plans to have been approximately 46sqm. The extension and proposed raised patio area would result in a net increase of built form on-site of approximately 81sqm.
27. The Council's Flood Risk & Drainage Officer has reviewed the planning application and responded that the existing extension and proposed patio area would increase surface water run-off rates and flood risk on-site and onto neighbouring properties. As the ground water level is especially high in this area, the use of a soakaway and on-site infiltration of surface water from the extension and patio would not be acceptable. It would not be

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appropriate to discharge surface water into the Basingstoke Canal as it is a Site of Special Scientific Interest (SSSI) which would have an impact on protected species/habitats and increase flood risk elsewhere. On the basis of the submitted information and what has been built on-site it is considered that the increase in surface water run-off from the extension and proposed patio area could not be attenuated on site and would increase surface water flood risk on-site and to the wider area. The proposal is therefore contrary to the National Planning Policy Framework (NPPF) (2019), Policy CS9 of the Woking Core Strategy (2012) and Policy DM4 of the Development Management Policies DPD (2016)

Highways and Parking

28. The extension would provide an additional 3x large rooms for the use of the dwelling, however, it is unclear whether these rooms would be used as bedrooms. The dwelling prior to being extended was indicated as having 2x bedrooms. The Council's Parking Standards SPD (2018) sets out that a minimum of 1x on-site car parking space is required for development of this type. The dwelling has capacity in the front garden/driveway area for at least 3x cars to be parked on-site. Even if the additional rooms were to be bedrooms it is considered that there is sufficient on-site car parking capacity to meet the maximum possible minimum car parking requirement of 3x on-site car parking spaces. Accordingly, it is considered that the proposed development would be acceptable in highway safety and parking terms and would comply with Policy CS18 of the Core Strategy (2012), the Woking Parking Standards SPD (2018) and the National Planning Policy Framework (2019).

Habitats and Ecology

29. Paragraph 170 of the NPPF (2019) sets out that planning policies and decisions should contribute to and enhance the natural and local environment by protecting and enhancing sites of biodiversity or geological value and soils in a manner commensurate with their statutory status or identified quality in the development plan.
30. Paragraph 175 (b) of the NPPF (2019) sets out that development on land within or outside a Site of Special Scientific Interest, and which is likely to have an adverse effect on it (either individually or in combination with other developments), should not normally be permitted. The only exception is where the benefits of the development in the location proposed clearly outweigh both its likely impact on the features of the site that make it of special scientific interest, and any broader impacts on the national network of Sites of Special Scientific Interest;
31. Policy CS7 (Biodiversity and Nature Conservation) of the Woking Core Strategy (2012) sets out that the Council is committed to conserving and protecting existing biodiversity assets within the Borough, paying particular attention to Special Protection Areas (SPAs), Sites of Special Scientific Interest (SSSI) and Site of Nature Conservation Importance (SNCI).
32. The site is adjacent to the Basingstoke Canal which is a Site of Special Scientific Interest (SSSI). While it is considered that the extension and proposed patio would not have a direct impact on the SSSI, it is considered that the increased surface water run-off from the site could potentially enter the Basingstoke Canal SSSI which could impact water quality and harm the native aquatic higher plant species, five of which are nationally scarce, and the rare dragonfly and invertebrate species which inhabit the Canal.
33. In the absence of a suitable scheme for the disposal of surface water run-off from the development, it is considered that the applicant has failed to demonstrate that the

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existing extension and proposed patio area would not have an adverse impact on the Basingstoke Canal SSSI by virtue of surface water run-off entering and polluting the Canal. The proposal is therefore contrary to Policy CS7 of the Woking Core Strategy (2012) and the NPPF (2019).

LOCAL FINANCE CONSIDERATIONS

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

CONCLUSION

35. Overall, by reason of its excessive scale, form, height and proximity to neighbouring boundaries, the extension 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. The extension would result in an unacceptable loss of outlook, overbearing impact and an undue sense of enclosure to neighbouring No. 523 and would result in perceived overlooking to neighbouring properties. The roof of the extension could be used as a sitting out area/balcony and the proposed patio area would result in an unacceptable loss of privacy to neighbouring gardens. The applicant has failed to demonstrate that the extension and proposed patio would not increase risk of surface water flooding on-site or to the wider area and in the absence of a suitable drainage scheme the applicant has failed to demonstrate that the proposal would not have an adverse impact on the Basingstoke Canal (SSSI). This is contrary to Policies CS7, CS9, CS21, CS24 of the Woking Core Strategy (2012), Policy DM4 of the Development Management Policies DPD (2016) and the National Planning Policy Framework (2019).

BACKGROUND PAPERS

1. Site Visit Photographs – 20.02.2019
2. Prior Approval Notice dated: 21.01.2015
3. Planning Enforcement Correspondence dating between 09.09.2015 and 18.12.2018

RECOMMENDATION

Refuse planning permission for the follow reasons:

1. The single storey rear extension is incongruous and out of context with its surroundings by virtue of its excessive scale, form, height and proximity to neighbouring boundaries and therefore fails to respect and make a positive contribution to the character of the area in which it is situated. The development is therefore contrary to Policies CS21 and CS24 of the Core Strategy (2012), Policy DM4 (Development in the Vicinity of the Basingstoke Canal) of the Development Management Policies Development Plan Document (DMP DPD) (2016), Section 12 of the National Planning Policy Framework (2019) and Supplementary Planning Document Woking Design (2015).
2. The extension results in an unacceptable loss of outlook, overbearing impact and an undue sense of enclosure and perceived overlooking to Neighbouring No. 523 as a result of its excessive height, depth and the habitable room window on the side elevation. The proposed raised patio area would result in an unacceptable loss of privacy to neighbouring properties and the flat roof element of the extension could be used as a balcony area/terrace which would further reduce levels of privacy to neighbouring

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properties. The extension and proposed patio are therefore 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) (2019).

3. The applicant has failed to demonstrate that surface water run-off from the extension and proposed patio area could be attenuated on site and would not increase surface water flood risk on-site and to the wider area. In the absence of a suitable scheme for the disposal of surface water run-off from the extension and proposed patio, it is considered that the applicant has failed to demonstrate that the existing extension and proposed patio area would not have an adverse impact on the Basingstoke Canal SSSI by virtue of surface water run-off entering and polluting the Canal. The proposal is therefore contrary to the National Planning Policy Framework (NPPF) (2019), Policies CS7 and CS9 of the Woking Core Strategy (2012 and Policy DM4 of the Development Management Policies DPD (2016).

It is further recommended:

- a) The Head of Legal Services be instructed to issue a Planning Enforcement Notice under section 172 of the Town and Country Planning Act 1990 (as amended) and officers be authorised in the event of non-compliance to prosecute under section 179 of the Town and Country Planning Act 1990 (as amended) or appropriate power and/or take direct action under section 178 of the Town and Country Planning Act 1990 (as amended) in the event of non-compliance with the Notice in respect of the above land requiring the remedy of the breach of planning control to be achieved through the removal of the single storey rear extension and the restoration of the dwelling to its original condition shown on 'Plan of Original Property, received 14.01.2019' within (9) months of the Enforcement Notice taking effect.

Informatives

1. The plans relating to the retrospective planning application hereby refused are number/titled:

H.M. Land Registry General Map, received 14.01.2019
Plan and Section of the new Patio and Steps, received 14.01.2019
Plot and Tree Plan, received 14.01.2019
Plan of Original Property, received 14.01.2019
Rear Elevation of Extended Property, received 14.01.2019
Left Hand Side Elevation of Original Property, received 14.01.2019
Plan of Extended Property excluding the Patio, received 14.01.2019
Front Elevation of Original, received 14.01.2019
Rear Elevation of Original Property, received 14.01.2019
Right Hand Side Elevation of Original Property, received 14.01.2019

2. 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 the NPPF (2019). The Local Planning Authority has been in discussions with the applicant since the breach of planning control was brought to the Council's attention in September 2015. The applicant has been unresponsive to the advice of Planning Enforcement Officers, continuing building works, and only submitted a valid planning application to

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seek planning permission for the unauthorised development on 15.01.2019.

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.