

4 JUNE 2019 PLANNING COMMITTEE

6e	18/1265	Reg'd:	15.01.19	Expires:	12.03.19	Ward:	HV
Nei. Con. Exp:	05.02.19	BVPI Target	21 (Household)	Number of Weeks on Cttee' Day:	>8 wks	On Target?	No

LOCATION: 5 Henage Lane, Old Woking, Woking, GU22 8JX

PROPOSAL: Rear conservatory (retrospective).

TYPE: Householder Application

APPLICANT: Mrs Hayley Hewett

OFFICER: Benjamin
Bailey

REASON FOR REFERRAL TO COMMITTEE

The application has been referred to Planning Committee by Councillor Morales due to concerns regarding the resultant private amenity space and the impact upon the privacy of adjacent No.4 Henage Lane.

SUMMARY OF PROPOSED DEVELOPMENT

This is a householder planning application for the retention of a rear conservatory (retrospective).

PLANNING STATUS

- Urban Area
- Thames Basin Heaths Special Protection Area (TBH SPA) Zone B (400m-5km)

RECOMMENDATION

Grant planning permission subject to recommended conditions.

SITE DESCRIPTION

The application site comprises a semi-detached dwelling and its associated residential curtilage. The dwelling is externally finished in brick below a tiled roof. The private rear garden area is laid to a combination of lawn, planting and patio hardstanding, predominately enclosed by close-boarded fencing. To the rear is a terraced block of garages.

RELEVANT PLANNING HISTORY

PLAN/2006/0985 - Variation of Condition 4 of planning permission PLAN/2005/0081 for proposed residential development of 154 units comprising houses and flats with associated open space, access roads, car parking and landscaping to allow the substitution of houses types for Plots 94-99 (inc), 107-110 (inc), 122-125 (inc and 126-133 (inc) (22 units in total). Permitted subject to conditions (04.12.2006)

PLAN/2005/0081 - Proposed residential development of 154 units comprising of houses and flats with associated open space, access roads, car parking and landscaping. Permitted subject to conditions (28.04.2005)

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(Officer Note: Planning permission is required in this instance because condition 07 attached to both planning permission references PLAN/2006/0985 and PLAN/2005/0081 states:

Notwithstanding the provisions of Article 3 and Schedule 2 Part 1 and Classes A to E of The Town and Country Planning (General Permitted Development) Order 1995 (or any order amending or re-enacting that Order with or without modification), no further extensions or additions to the dwelling, or the provision of any additional building within its curtilage, shall be constructed without the prior written permission of the Local Planning Authority.

Reason: To ensure a satisfactory form of development takes place and to protect the amenities of occupiers of adjoining properties.)

CONSULTATIONS

None undertaken

REPRESENTATIONS

x1 letter of objection has been received raising the following main points:

- The conservatory was built without the necessary planning permission – required due to condition 7 of the original planning permission (Ref: PLAN/2005/0081) that removed permitted development rights when the housing development was originally granted planning permission
- The construction of the conservatory without planning permission is a breach of planning control
- There is a significant loss of privacy to No.4 Henage Lane
- The windows on the western side elevation are capable of being opened. If the windows are open a person can stand inside of No.5 and look directly into living room of No.5 at a distance of just a few metres
- These windows need to be replaced with obscure-glazing that is incapable of being opened. Agreement to keep the windows closed will not be acceptable to guarantee my privacy in the future
- Regard the construction of the conservatory as contrary to Policy CS21 of the Woking Core Strategy (2012) with regard to loss of privacy
- The applicants have never consulted with us in any way about their aspirations to construct this conservatory – had they done so this matter could have been discussed at the outset and outside of this formal route
- I invite you to visit No.4 Henage Lane so that you can understand the impact of the loss of privacy

(Officer Note: During consideration of the application the case officer has visited adjacent No.4 Henage Lane)

RELEVANT PLANNING POLICIES

National Planning Policy Framework (NPPF) (February 2019)

Section 2 - Achieving sustainable development

Section 4 - Decision-making

Section 12 - Achieving well-designed places

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

Woking Core Strategy (2012)

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CS9 - Flooding and water management
CS21 - Design

Development Management Policies Development Plan Document (DMP DPD) (2016)
No relevant policies

Supplementary Planning Documents (SPD's)
Design (2015)
Outlook, Amenity, Privacy and Daylight (2008)

Other Material Considerations
Planning Practice Guidance (PPG)
Woking Borough Council Strategic Flood Risk Assessment (November 2015)
Community Infrastructure Levy (CIL) Charging Schedule (2015)

PLANNING ISSUES

01. The main planning issues to consider in determining this application are:
- Principle of development
 - Design and impact upon the character and appearance of the area
 - Impact upon neighbouring amenity
 - Impact upon amenity space provision
 - Flooding and water management
- 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 located within the Urban Area where there is no in-principle objection to the extension of the host dwelling, subject to the other material planning considerations set out within this report.

Design and impact upon the character and appearance of the area

03. The NPPF sets out that one of the fundamental functions of the planning and development process is to achieve the creation of high quality buildings and places and that good design is a key aspect of sustainable development. Policy CS21 of the Woking Core Strategy (2012) states that development should respect and make a positive contribution to the street scene and the character of the area paying due regard to the scale, height, proportions, building lines, layout, materials and other characteristics of adjoining buildings and land. The residential extensions section of SPD Design (2015) states that "*single storey rear extensions will usually be granted planning permission as they are unlikely to affect the public view of the building or the amenity of a neighbour*".
04. The application property forms part of a large, relatively recent, development consisting of 154 residential units. The layout of the development is based on a 'village green' adjacent to the sole vehicular access from Old Woking Road into the development. The housing is set out so as to provide a traditional frontage onto the roads and open space within the development, particularly in the vicinity of the 'village green' and the northern periphery of the development. Parking is generally within parking courts outside of, and screened from, the public realm. The development design is based on a contemporary version of the Arts and Crafts/Aesthetic movements and the buildings are a variety of 2, 2.5 and some 3 storeys.

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05. The conservatory measures 2.5m in depth and spans to 5.5m in width, largely encompassing the width of the rear elevation. It utilises a hipped roof form, terminating in eaves of approximately 2.3m and reaching a maximum height of approximately 3.5m. The roof and rear elevation are heavily glazed, and there are high-level (ie. 1.7m above FFL) obscure-glazed panels within both side elevations, which are externally faced in brick below these panels. The conservatory adopts a form, scale and appearance typical of such extensions and appears as a clearly subordinate element in comparison to the host dwelling. Whilst the conservatory is visible from neighbouring properties it is not overly dominant.
06. Public views of the conservatory are heavily limited, although the conservatory can be appreciated in small 'arcs' of visibility from the east and west, albeit in these views is only apparent in views across the rear gardens of adjacent and nearby properties, and above the level of means of enclosure within rear garden areas, which generally reach circa 1.8m above ground level. Directly from the rear (south) the conservatory is well screened by the terraced garage block and is entirely screened by the mass of the host dwelling in views from the front (north). Moreover, it is not atypical for such extensions to be apparent within residential areas such as this and there are examples throughout the development in which similar extensions can be viewed in similar contexts.
07. The overall scale, form and architectural approach of the conservatory is considered to respect the character of the area in which it is situated in accordance with Policy CS21 of the Woking Core Strategy (2012), SPD Design (2015) and the provisions of the NPPF.

Impact upon neighbouring amenity

08. Policy CS21 of the Woking Core Strategy (2012) states 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. More detailed guidance is provided within SPD Outlook, Amenity, Privacy and Daylight (2008), which states, with regard to daylight, that "*significant loss of daylight will occur if the centre of the affected window (or a point 2m in height above the ground for floor to ceiling windows) lies within a zone measured at 45° in both plan and elevation*".

No.4 Henage Lane:

09. No.4 Henage Lane is situated to the east, demonstrating floor-to-ceiling glazing within its rear (south) elevation, and a private rear garden area. There is close-board fencing (circa 1.7m in height) situated between the conservatory and the private rear garden area of No.4, with an access path laid to hard surfacing also intervening. No.4 benefits from pedestrian access to its private rear garden area, which is accessed from the front (north) between No.4 and No.5. A similar arrangement appears to have previously existed at the application property although the side (west) elevation of the conservatory now occupies the position of the former close-board fencing, restricting access to the rear garden of the host dwelling to that gained from the rear (beside the garage block). These factors are relevant because the conservatory consequently does not immediately abut the private rear garden area of No.4.
10. Taking into account the factor previously set out, combined with the approximate 2.3 eaves height, and that the roof of the conservatory pitches away from the common boundary, reaching its maximum height (of approximately 3.5m) approximately 2.8m away from the common boundary, it is not considered that a significantly harmful

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overbearing effect, due to bulk, proximity or loss of outlook, occurs to No.4, including to its rear garden area.

11. The rear conservatory complies with the 45° angle test for potential loss of daylight set out by SPD Outlook, Amenity, Privacy and Daylight (2008), such that no significant loss of daylight arises. In terms of sunlight the conservatory is located to the east of No.4; this orientation, combined with the relatively modest scale and hipped roof form of the conservatory, is such that any additional overshadowing would be limited in duration, and extent, such that it would not be significantly harmful to No.4.
12. In terms of potential overlooking to No.4 the conservatory benefits from obscure-glazed high-level windows within its side (west) elevation. Whilst the windows within this elevation are fanlight-opening (ie. top-hung) the sill of these windows is situated in excess of 1.7m above ground level, and level with (if not above) the height of the intervening close-board fencing. Whilst it is acknowledged that the presence of persons within the conservatory is likely to be evident to occupiers of No.4, including when sitting within the living room at the rear, when these windows are opened, the fact that the sill of these windows is located in excess of 1.7m above ground level precludes any significantly harmful overlooking to No.4.
13. Overall the proposal achieves a satisfactory relationship with adjoining No.4 Henage Lane, avoiding significantly harmful impact.

No.6 Henage Lane:

14. No.6 Henage Lane is situated to the west, demonstrating floor-to-ceiling glazing within its rear (south) elevation, and a private rear garden area. There is close-board fencing (circa 1.7m in height) situated between the conservatory and the private rear garden area of No.6.
15. Taking into account the combined factors of the approximate 2.3 eaves height, and that the roof of the conservatory pitches away from the common boundary, reaching its maximum height (of approximately 3.5m) approximately 2.8m away from the common boundary, it is not considered that a significantly harmful overbearing effect, due to bulk, proximity or loss of outlook, occurs to No.6, including to its rear garden area.
16. The rear conservatory complies with the 45° angle test for potential loss of daylight set out by SPD Outlook, Amenity, Privacy and Daylight (2008), such that no significant loss of daylight arises. In terms of sunlight the conservatory is located to the west of No.6; this orientation, combined with the relatively modest scale and hipped roof form of the conservatory, is such that any additional overshadowing would be limited in duration, and extent, such that it would not be significantly harmful to No.6.
17. In terms of potential overlooking to No.6 the conservatory benefits from obscure-glazed high-level windows within its side (east) elevation which are non-opening. The sill of these windows are situated in excess of 1.7m above ground level, and level with (if not above) the height of the intervening close-board fencing. Whilst it is acknowledged that the presence of persons within the conservatory is likely to be evident to occupiers of No.6, the fact that the sill of these windows is located in excess of 1.7m above ground level precludes any significantly harmful overlooking to No.6.
18. Overall the proposal achieves a satisfactory relationship with adjoining No.6 Henage Lane, avoiding significantly harmful impact.

Other properties

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19. Having regard to the scale and form of the conservatory, combined with the retained separation distances to properties other than those assessed previously, it is not considered that the conservatory gives rise to neighbouring amenity implications to properties other than those assessed.

Impact upon amenity space provision

20. Paragraph 127 of the NPPF states that planning decisions, inter alia, should ensure that developments achieve a high standard of amenity for existing and future users. Policy CS21 of the Woking Core Strategy (2012) states that proposals for new development should provide appropriate levels of private amenity space. In this regard SPD Outlook, Amenity, Privacy and Daylight (2008) sets out recommended minimum garden amenity areas, stating that for family dwelling houses with two bedrooms or more and over 65 sq.m gross floorspace (but below 150 sq.m gross floorspace), as in this instance, a suitable area of private garden amenity in scale with the building, but always greater than the building footprint, should be provided.
21. The resulting footprint of the host dwelling measures 65 sq.m and the retained area of rear garden measures 30 sq.m (the retained garden depth has been measured on site by the case officer as being 5.4m from the rear elevation of the conservatory). This represents a 46% footprint to garden ratio. Whilst this falls considerably below the level recommended by SPD Outlook, Amenity, Privacy and Daylight (2008) it is nonetheless a strong material consideration that similar footprint to garden ratios have been permitted within the wider development including a 42% ratio at No.23 Henage Lane (Ref: PLAN/2017/0686 - permitted 19.10.2017) and a 41% ratio at No.14 Palace Way (Ref: PLAN/2010/0431 - permitted 15.07.2010). In particular the area of retained rear garden at No.23 Henage Lane (Ref: PLAN/2017/0686) is smaller in both area (25 sq.m) and depth (5.0m) than that at the host property in this instance, with the retained rear garden at No.14 Palace Way (Ref: PLAN/2010/0431) also smaller in area (24 sq.m) than that at the host property in this instance.
22. Furthermore, unlike the properties stated previously, the host dwelling in this instance fronts the 'village green' and therefore benefits from additional outlook and external amenity. In this regard it is material that the Planning Committee report for the original residential redevelopment (Ref: PLAN/2005/0081) states that "*a number of dwellings have quite shallow gardens, of only 8.0-8.5 metres depth, which is below the Council's suggested minimum. However, this discrepancy is balanced by a generous and well-designed public realm throughout*".
23. Recent appeal decisions within the Borough also form a strong material consideration, and are highly indicative of the recent approach of Planning Inspectors to the issue of private garden space. An appeal decision dated 24 March 2017 at No.13 Loxley Close, Byfleet (Appeal Ref: APP/A3655/D/17/3167256) is particularly pertinent. The main issue in the appeal was the effect of the proposal on the living conditions for existing and future occupiers as regards the adequacy of the rear garden amenity space. Within this decision the Inspector stated that "*whilst I acknowledge the general validity of the relationship between family accommodation and private amenity area in quantitative terms, particularly in the Council's appraisal of new development layouts, I also consider that other factors including a qualitative element should be weighed in the balance*".
24. The Inspector stated that "*in this case, wooden decking covers the majority of the site of the proposed extension and this additionally extends along one side of the garden and part of its rear boundary. The remaining area is used for the site of a children's playhouse and laid to lawn, with this grassed area suitable for both visual amenity and*

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recreational use. The available space is well organised and in good order with the decking used for a variety of purposes, including sitting out, storage of domestic paraphernalia and the placing of potted plants”, continuing “as the appellant has already optimised the use of the available area for the household’s domestic needs, I consider it reasonable to assume that he will have carefully weighed the pros and cons for the proposal to increase interior accommodation at the expense of exterior amenity space. Bearing this in mind, together with the fact that the remaining garden area will continue to adequately serve the aforementioned variety of purposes, I do not regard adherence to the SPD guidelines to be essential in this case”.

25. In terms of future occupiers the Inspector stated *“as regards any future occupiers, they will be able to form their own judgement as to whether the balance between internal living space and external amenity area is appropriate for their own needs before making a decision whether to live in the house”, concluding that “on balance, I therefore consider that any conflict with Policy CS21 of the Woking Core Strategy 2012, the Council’s SPD and the core planning principles and Section 7: ‘Requiring Good Design’ of the National Planning Policy Framework 2012 would not be such as to unacceptably harm the living conditions for existing and future occupiers as regards the adequacy of the rear garden amenity space. I shall therefore allow the appeal.”*
26. An appeal decision dated 28 June 2018 at No.48 Cavell Way, Knaphill (Appeal Ref: APP/A3655/W/17/3190257) is also pertinent, relating to the erection of a single-storey outbuilding at the rear. With regard to SPD Outlook, Amenity, Privacy and Daylight (2008) the Inspector stated that *“much of the guidance provided relates to the size and shape of the overall garden provided with a dwelling, and not the way that the occupiers decide to divide or use that space. It notes for example that the space might be useful for sitting out, children’s play, drying clothes and plant cultivation. However, while the initial space will need to be such to be capable of meeting those needs, it does not prevent the occupier from using the space in ways that might preclude some of those things. For example, an occupier might plant the whole space which would prevent child’s play, but that use of the space would be acceptable”.* The Inspector went on to state that *“I acknowledge that the open garden area is reduced, but there is still reasonable space to enjoy the outside... I also note the proportion of the open amenity area that remains in relation to the ground floor of the house, but this proportion is not a major factor as the overall size of the remaining garden is set in relation to the house, and the shed is just a consideration of how the outside space is used”.*
27. In the case of the application property some garden furniture is evident on patio hard surfacing towards the eastern edge, with some planting beds towards the rear edge and wrapping along the western edge. The remaining area is laid to lawn, with this grassed area suitable for both visual amenity and recreational use. The available space is well organised and in good order with the patio hard surfacing, and garden furniture used for sitting out and capable of being used for the storage of domestic paraphernalia and the placing of potted plants. The applicant has already optimised the use of the available private garden area for the household’s domestic needs, and it is considered reasonable to assume that they will have carefully weighed the pros and cons for the proposal to increase interior accommodation, through construction of the rear conservatory, at the expense of exterior amenity space. Bearing this in mind, together with the fact that the remaining garden area will continue to adequately serve the aforementioned variety of purposes, it is not considered that adherence to the SPD guidelines is essential in this case.
28. Overall therefore, having regard to the combined factors set out, it is considered that any conflict with Policy CS21 of the Woking Core Strategy (2012), SPD Outlook, Amenity, Privacy and Daylight (2008) and the provisions of the NPPF would not be such

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as to unacceptably harm the living conditions for existing and future occupiers as regards the adequacy of the rear garden amenity space.

Flooding and water management

29. Policy CS9 of the Woking Core Strategy (2012) relates to flooding and water management. The application site is located within Flood Zone 1 (low probability of flooding), as identified on the Flood map for planning, and therefore no fluvial flood issues are raised. The Council's Strategic Flood Risk Assessment (November 2015) identifies no areas within, or adjacent to, the application site as being at risk of surface water flooding. Moreover, the footprint of the conservatory measures a modest 13.7 sq.m, such that surface water drainage is not considered to represent a planning constraint, being addressed under other regulatory measures, if relevant.

LOCAL FINANCE CONSIDERATIONS

30. The gross floorspace does not exceed 100 sq.m. and consequently the development is not Community Infrastructure Levy (CIL) liable.

CONCLUSION

31. Overall, the principle of development is considered to be acceptable, and the proposal is considered to be acceptable with regard to design and impact upon the character and appearance of the area, neighbouring amenity and flooding and water management. It is considered that any conflict with Policy CS21 of the Woking Core Strategy (2012), SPD Outlook, Amenity, Privacy and Daylight (2008) and the provisions of the NPPF in terms of amenity space provision would not be such as to unacceptably harm the living conditions for existing and future occupiers as regards the adequacy of the rear garden amenity space.
32. In the round the proposal is therefore considered to accord with Sections 2, 4, 12 and 14 of the NPPF, Policies CS9 and CS21 of the Woking Core Strategy (2012), SPDs Design (2015) and Outlook, Amenity, Privacy and Daylight (2008) and the Planning Practice Guidance (PPG) and is recommended for approval.

BACKGROUND PAPERS

Site visit photographs
x1 Letter of representation

RECOMMENDATION

Grant planning permission subject to the following conditions:

01. The development hereby permitted shall be retained in accordance with the following approved plans numbered/titled:

Site Location Plan, undated and received by the Local Planning Authority on 27.12.2018.

Site Plan, undated and received by the Local Planning Authority on 27.12.2018.

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Existing Floor Plans & Elevations, dated 20.12.18 and received by the Local Planning Authority on 14.01.2019.

Proposed Floor Plans & Elevations, dated 20.12.18 and received by the Local Planning Authority on 14.01.2019.

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

Informatives

01. 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. The application was considered to be acceptable as initially submitted.
02. The applicant is advised that Council officers may undertake inspections without prior warning to check compliance with approved plans and to establish that all planning conditions are being complied with in full. Inspections may be undertaken both during and after construction.