

08 SEPTEMBER 2020 PLANNING COMMITTEE

6f PLAN/2020/0324

WARD: Canalside

LOCATION: Woodhambury House, 491 Woodham Lane, Woking, GU21 5SR

PROPOSAL: Erection of raised decking, spa and fence to side of existing dwelling (retrospective).

APPLICANT: Mr Wayne Acquah

OFFICER: James Kidger

REASON FOR REFERRAL TO COMMITTEE

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

PROPOSED DEVELOPMENT

Planning permission is sought for the erection of raised decking, a spa comprising a small swimming pool and Jacuzzi, and a boundary fence, all to the west side of the existing dwelling. The development has already been carried out and the application is retrospective.

PLANNING STATUS

- Adjacent Listed Building
- Tree Preservation Order

RECOMMENDATION

Refuse planning permission and authorise enforcement proceedings.

SITE DESCRIPTION

The property is a two storey detached dwelling on the southerly side of Woodham Lane. The neighbouring property to the west, no. 493, is Grade II listed, and the whole of the site and surrounding area is covered by a tree preservation order (TPO).

PLANNING HISTORY

- PLAN/2007/0655 – gates and piers – approved 9th August 2007.
- PLAN/2007/1372 – two storey extensions – approved 13th February 2008.
- PLAN/2008/0337 – detached garage – approved 22nd May 2008.

CONSULTATIONS

Arboriculture: Full arboricultural information required.

Heritage Consultant: No objection.

REPRESENTATIONS

08 SEPTEMBER 2020 PLANNING COMMITTEE

One (1) representation has been received objecting to the proposed development for the following reasons:

- The submitted drawings do not represent what has been built on site;
- Detrimental impact to the setting of the listed building and garden;
- Overlooking of neighbouring garden and ground floor habitable rooms;
- Compromises the security of the neighbouring property;
- An undesirable precedent would be set for similar development elsewhere;
- Health and Safety concerns;
- Noise and light pollution to the neighbouring garden and dwelling;
- Chemically treated water within the spa may be a hazard; and
- Draining the spa for maintenance may cause flooding.

RELEVANT PLANNING POLICY

National Planning Policy Framework (NPPF) (2019):

Section 2 – Achieving sustainable development

Section 12 – Achieving well-designed places

Section 15 – Conserving and enhancing the natural environment

Section 16 – Conserving and enhancing the historic environment

Development Management Policies DPD (2016):

DM2 – Trees and Landscaping

DM7 – Noise and Light Pollution

DM20 – Heritage Assets and their Settings

Woking Core Strategy (2012):

CS20 – Heritage and conservation

CS21 – Design

CS24 – Woking's landscape and townscape

CS25 – Presumption in favour of sustainable development

Supplementary Planning Documents (SPDs):

Woking Design (2015)

Outlook, Amenity, Privacy and Daylight (2008)

PLANNING ISSUES

1. The main planning considerations material to this application are the design and appearance of the proposed development and the impact on the adjacent listed building, the impact on the amenity of neighbouring properties and the impact on protected trees.

Design and appearance

2. The decking and spa abut the boundary fence, which in turn abuts the original fence on the westerly boundary. Collectively the development is bound by the existing detached garage to the north, existing dwelling to the east and residential garden to the south.
3. The ground level gently slopes down from north to south. The proposed fence at the northerly end is around the same height as the original fence, but unlike the original (which slopes down with the ground level) it maintains its height – AOD – over the whole of its length. This results in a modest increase in height over the original which

08 SEPTEMBER 2020 PLANNING COMMITTEE

is more marked toward the southerly end. The maximum height of 2.25m is not considered excessive in its context and there would be no harm to the setting of the adjacent listed building.

4. The proposed decking is close to ground level at the northerly end, and due to the change in levels is around 400mm high at the southerly end. The structure includes railings and steps for access and does not appear out of place in its suburban setting.
5. The proposed spa is surrounded by the decking and has the appearance of a squat grey box when covered. When uncovered the white finished interior is visible. Though large, it would not exceed the height of the proposed fence and would not be readily visible from the grounds of the neighbouring listed building, the setting of which is not considered to be harmed.

Neighbouring amenity

6. As noted above the proposed spa would not exceed the height of the boundary fence, while the additional height of the fence itself is not considered excessively overbearing toward the neighbouring garden.
7. The main issue in amenity terms, and indeed with the proposal as a whole, is that of overlooking. In order to access the pool and Jacuzzi within the spa, one must climb over the raised sides, which are around 1.4m above the level of the decking. Irrespective of the method used – a pair of step-ladders were observed on the Officer's site visit – an adult of average height would inevitably obtain clear, uninterrupted views of the neighbouring garden, encompassing the raised terrace immediately behind the listed building to the southerly end some 25m distant.
8. Such overlooking – facilitated on every occasion the spa is accessed or vacated – would largely remove the privacy previously enjoyed by the occupiers of the neighbouring property and is considered significantly harmful to their amenity.
9. The proposed decking, at its southerly end where its height would be greatest, would facilitate an additional element of overlooking toward the rear of the neighbouring garden, at an oblique angle between the end of the proposed fence and the tree beyond.
10. The proximity of the proposed spa to the neighbouring garden would likely give rise to situations where noise would carry across, particularly if groups of people were to use the Jacuzzi simultaneously. However, this would be no more detrimental than, say, a group of children in a paddling pool, which would not amount to development at all. The potential impact in terms of noise, whilst acknowledged, is not therefore considered to be over and above that ordinarily tolerated within residential gardens.
11. Overall, the proposed development would facilitate the overlooking of the neighbouring garden to a point significantly harmful to the amenity of the occupiers. This is contrary to policy CS21 of the Woking Core Strategy, which calls for developments which 'Achieve a satisfactory relationship to adjoining properties avoiding significant harmful impact in terms of loss of privacy', and is considered to warrant the refusal of planning permission.

Trees

12. The site is covered by an area TPO made in 2007. The southerly end of the proposed decking is sited within 0.5m of a protected tree and is therefore well within the root

08 SEPTEMBER 2020 PLANNING COMMITTEE

protection area (RPA). Had the application been prospective rather than retrospective, arboricultural information would have been required in order to establish the potential impact to the tree, and how – if at all – this could be mitigated.

13. As it is, any damage to the tree as a result of the building operations proposed will now have already been done. However, given the close proximity of the decking to the tree, and the absence of any information to the contrary, there remains the possibility of ongoing impact to the roots as a result of the incursion into the RPA, and the potential for soil compaction due to the weight of the structure.
14. This potential harm to the RPA, and in turn to the health and longevity of the protected tree, would be contrary to policy DM2 of the Development Management Policies DPD, which amongst other provisions requires 'adequate space to be provided between any trees to be retained and the proposed development'. Further, this loss would be detrimental to the visual amenity of the surrounding area and including the setting of the neighbouring listed building.

CONCLUSION

15. Significantly harmful overlooking of the neighbouring garden would be facilitated by the use of the proposed spa, while the incursion into the RPA of the nearby protected tree is considered, in the absence of any information to the contrary, harmful to its health and longevity. The development is therefore contrary to policy CS21 of the Woking Core Strategy, policy DM2 of the Development Management Policies DPD, and the provisions of the NPPF. The absence of harm to the character of the area or to the setting of the adjacent listed building does not overcome these considerations, and it is recommended that planning permission be refused.

Expediency of enforcement action

16. The decking, spa and fence currently in situ constitute operational development for the purposes of Section 55 of the Town and Country Planning Act 1990, and require planning permission. For the reasons given above it is recommended such permission be refused.
17. Officers have been in discussion with the applicants and their agents during the course of the application, and advice was given to the effect that the development was considered to be unacceptable in its current form. Suggestions that the spa be either moved or lowered into the ground were declined by the applicants for reasons of both cost and practicality.
18. It is acknowledged that the applicants were not aware of the need for planning permission when the development commenced, and that subsequent to completion have lowered the height of the decking substantially. However, the application must be considered on its merits, and these factors do not outweigh the planning considerations discussed above. Enforcement action requiring the complete removal of the spa and decking from the site is therefore recommended.

BACKGROUND PAPERS

Site Photographs dated 22nd May 2020 and 6th July 2020.

RECOMMENDATION

It is recommended that planning permission be REFUSED for the following reasons:

08 SEPTEMBER 2020 PLANNING COMMITTEE

1. The proposed spa and decking would facilitate the overlooking of the neighbouring garden at no. 493 Woodham Lane to a point significantly harmful to the amenity of the occupiers of that property. This is contrary to policy CS21 of the Woking Core Strategy (2012) and to the provisions of the NPPF.
2. It has not been demonstrated that the extent of the incursion of the proposed decking into the root protection area (RPA) of the nearby protected tree would not be harmful to its health and longevity. This is contrary to policy CS21 of the Woking Core Strategy (2012), policy DM2 of the Development Management Policies DPD (2016), and to the provisions of the NPPF.

It is further recommended that:

1. The Head of Legal Services be instructed to issue an 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 Act, or appropriate power, and/or take direct action under Section 178 in the event of non-compliance with the Notice.
2. Enforcement action be authorised to issue an Enforcement Notice in respect of the above land requiring:
 - i. Removal of the spa comprising a swimming pool and Jacuzzi;
 - ii. Removal of the wooden raised decking in its entirety; and
 - iii. Removal from the land of all materials brought onto the land in connection with the unauthorised decking and spa, and all rubble and debris arising from compliance with the Notice, all within six months of the Notice taking effect.

Informatives:

1. 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 National Planning Policy Framework 2019. An opportunity was given for an amended scheme to be submitted, but this was not taken up by the applicant.
2. The plans relating to the development hereby refused are:

HA/2113/1 Rev 1 - Proposed Plans and Elevations - received 8th April 2020
HA/2113/2 Rev 1 - Existing Plans and Elevations - received 8th April 2020
HA/2113/3 Rev 1 - Existing and Proposed Site Plans - received 8th April 2020