

Item No. 1

Application Reference Number P/18/1723/2

Application Type: Full **Date Valid:** 29/01/2019
Applicant: Mrs T Gill
Proposal: Erection of detached dwelling with double garage (Revised scheme - P/17/0526/2 refers).
Location: Land at Former 28
Curzon Avenue
Birstall
Leicestershire
Parish: Birstall
Ward: Birstall Watermead
Case Officer: Steven Holmes **Tel No:** 01509 634770

This item is being brought to Plans Committee as the application has been subject to a 'call in' from Cllr Bentley on the grounds that it is over-dominant to the neighbouring property.

Description of the Application

The application site is a two-storey detached property currently under construction on the Eastern side of Curzon Avenue in Birstall. The site is on a residential street and is located between No's 26 and 32 Curzon Avenue. No.216 Birstall Road is also located to the rear.

While the application is for the erection of a dwelling, the principle of a dwelling has already been approved under application P/17/0526/2. The application is therefore for minor changes to those details previously approved and the regularisation of various unauthorised works.

The changes to the previous application consist of the following:

- Amendments to hipped roof pitch and wall position of the roof dormer extension to the rear elevation
- Erection of parapet walls to the roof of the Kitchen/Dining/Family room to the rear of the building
- Changes to the orangery roof from a mono-pitch to flat roof design.
- Erection of two screens to the raised patio area to restrict views of neighbours' amenity space
- Erection of two balustrades to the front elevation at first floor level
- Removal of one roof-light within north facing garage roof
- Insertion of roof-light to south facing garage roof
- Insertion of roof-light to north facing roof pitch to the front gable of the property
- Application of mock Tudor design to the front gable of the property

- Change in design of central lantern in the roof of the host dwelling
- Erection of an outbuilding to the rear of the property

The above works that have already been erected and are currently unauthorised are:

- Parapet walls to the roof of the Kitchen/Dining/Family room
- Changing the orangery roof from a mono-pitch to flat design.
- Erection of an outbuilding to the rear

The application seeks to regularise these works as part of the wider proposals.

Development Plan Policies

Charnwood Local Plan Core Strategy (adopted 9 November 2015)

The following policies are relevant to this application:

Policy CS2 – High Quality Design – requires developments to make a positive contribution to Charnwood, reinforcing a sense of place. Development should respect and enhance the character of the area, having regard to scale, massing, height, landscape, layout, materials and access, and protect the amenity of people who live or work nearby.

Borough of Charnwood Local Plan (adopted 12 January 2004) (saved policies)

The policies relevant to this proposal include:

Policy EV/1 – Design – seeks to ensure a high standard of design that respects the character of the area and is compatible in mass, scale and layout.

Policy H/17 – Extensions to Dwellings – should not be detrimental to visual amenity or to the amenities of occupiers of nearby properties.

Policy TR/18 - Parking Provision in New Development notes that planning permission will not be granted for development, unless off-street parking for vehicles, including cycles, and servicing arrangements are included, to secure highway safety and minimise harm to visual and local amenities.

Other material considerations

National Planning Policy Framework (NPPF)

The NPPF states that the purpose of the planning system is to contribute to the achievement of sustainable development (para.6), fulfilling an economic, a social and an environmental role (para.8). Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise (para.12). The NPPF states that the government attaches great importance to the design of the built environment and that good design is a key aspect of sustainable development (para.124).

Supplementary Planning Guidance (SPG) on House Extensions

This SPG provides advice about the way planning applications for house extensions will be assessed. This includes guidance on the design and appearance of extensions and their impact on the enjoyment of neighbouring properties.

Supplementary Planning Document Leading In Design

This document seeks to encourage, promote and inspire higher design standards in new development.

Relevant Planning History

P/11/2836/2 – Erection of detached dwelling with double garage after demolition of existing bungalow (Revised scheme to P/11/1267/2) – Granted conditionally.

P/15/0850/2 - Erection of detached dwelling with double garage (Revised scheme - P/11/2836/2/2 refers). – Granted Conditionally

P/17/0526/2 - Erection of detached dwelling with double garage (Revised scheme - P/15/0850/2 refers). - Granted Conditionally

Responses of Statutory Consultees

Birstall Parish Council has concerns with respect to:

- The principle of a rear facing dormer window
- Impact upon the sewerage system as a result of increased facilities within the dwelling
- Lack of Parking
- Over bearing within the street scene
- Building without permission undermining the planning process

Councillor Bentley – Called in the application on the grounds of over-dominance.

Other Comments Received

Neighbours

The occupant of no.26 Curzon Avenue has raised objections based upon the following:

- Over-dominance
- Privacy
- Impact upon the street scene
- Accuracy of plans specifically in relation to site levels and the topographical survey.

The respondent claims his views are shared by others on the street.

Consideration of the Planning Issues

The principle of a new dwelling at this this location has already been assessed under application P/11/2836/2 and subsequent amendments have been approved under application P/15/0850/2 and application P/17/0526/2. Application P/17/0526/2 remains extant.

What can be constructed under extant permissions is a material consideration, therefore this application will assess the additional and cumulative impact that further changes may impose. The main issues to be considered in the determination of this application are:

- i.) The impact on the character and appearance of the street scene;
- ii.) The impact on the amenity of occupants of neighbouring properties;
- iii.) The impact on the highway
- iv.) Accuracy of plans

Impact on the character and appearance of the street scene

The only works in addition to what has been approved in application P/17/0526/2 visible from within the street scene are the proposed mock Tudor design (finish) to the front gable, the two balustrades at first floor level and the revised design of the glazed lantern on the roof of the dwelling.

There are multiple examples of a mock Tudor design within Curzon Avenue therefore the introduction of a similar appearance on the dwelling at No. 28 would not be considered an incongruous feature within the street scene.

The provision of balustrades does not create any issues of potential overlooking and they have a high degree of visual permeability and therefore would not be considered a significant addition to the frontage of No.28.

It is also considered the removal of the existing asymmetrical roof/sky-light and its replacement with a symmetrical lantern is an improvement to the current visual appearance of the building in the street scene.

The remaining elements of the application, namely the changes in the design of the orangery with the addition of parapet walls, a raised patio and the construction of an outbuilding in the rear garden are located to the rear of the dwelling and therefore hidden from public view.

Taking into account the considerations above the proposed works visible in the street scene are considered acceptable and entirely appropriate for a residential setting in terms of scale, size and design. It is therefore considered that the proposal complies with policies CS/2, EV/1 & H/17 by not detracting from the character and appearance of the street scene.

Impact on the amenity of neighbouring residential properties

The works that deviate from the original plans have already been carried out and therefore these elements of the application are retrospective. In accordance with the NPPF and the council's enforcement policy, these unauthorised elements have been investigated and discussions have taken place with neighbours, the local ward councillor and the applicant. As a result of negotiations with the applicant some of the elements are shown to be amended on the latest plans and therefore differ from what has been constructed on site at the present time.

Residents have raised concerns regarding the height of the development as constructed; however, during the process of the current application the applicant submitted a plan that shows the outlines of the previous planning permissions against the development as built. The plan clearly shows the development as constructed is actually lower than that proposed in the original application. (Plan No. 147/06ARev A) It is therefore a material consideration to be taken into account in any assessment in respect of the issue of over dominance and the applications that have been granted in the past.

The concerns of the neighbouring resident, in respect of the current constructed height of the parapet walls to the rear of the property have been taken into account and negotiations have resulted in a reduction in their height on the submitted plans. Therefore, if planning permission is granted the parapet walls are to be reduced in height from those currently constructed.

The applicant has revised the design for the roof dormer, from that originally submitted, following concerns raised by neighbours about over dominance and overlooking. It should be noted however a significantly larger and flat roofed dormer extension can be erected under permitted development up to a cubic capacity of 50m³ once the dwelling is occupied (the proposed roof dormer extension has a cubic capacity of circa 13m³).

Screening has been proposed to the patio areas following discussions with the applicant in order to reduce any opportunity for overlooking.

These elements are assessed in more detail in relation to each of the neighbouring properties below.

Impact on no.26 Curzon Avenue

The dwelling is located adjacent to the northern boundary of the application site. The additional works to that approved under application P/17/0526/2 would be the 300mm parapet wall above the Kitchen/Dining/Family room, the change to the orangery roof from a mono-pitch design to flat and the visibility screen to the raised patio.

The works to the parapet would reach a total height of 3.4 metres but would predominantly run parallel with the side elevation to the dwelling at No.26 and be offset from the shared boundary by approximately 1.5 metres and a total of 2.5 metres from the dwelling at no.26. The location of the parapet to the side of the dwelling and the degree of separation allows the proposal to avoid over-dominance or a significant loss of light to the secondary lounge windows present upon the Southern elevation to No.26. This can be considered particularly true when taking into account that a flat roofed extension built to a height of 3 metres can be erected upon the boundary line of the dwelling under permitted development rights, thus presenting a more intrusive scenario than the building under consideration.

The change in roof design to the orangery would be most apparent from a main habitable room at No.26, however, it is considered to alter the appearance to an insignificant degree given that the mono-pitch of the design approved under application P/17/0526/2 is of a very shallow gradient. The current roof design has been raised by 250mm from the lowest point of the mono-pitch roof previously approved and is not considered to cause a significant degree of over-dominance or loss of light as a result.

The proposed screening, to prevent any possibility of overlooking from the raised patio, would be made of an opaque glass therefore allowing light to pass through while protecting the privacy for the occupants to No.26 by preventing users of the raised patio looking back on the neighbouring dwelling. The height of the screening will be 1.7 metres high. It is not considered that this element of the works would be over-bearing given its scale and distance from the boundary line and the suggested materials used for construction.

Concerns have been raised in relation to the effect upon privacy resulting from the rear dormer window, however an inspection has confirmed the view from here demonstrates very little difference from what can be observed from any of the first-floor windows. Furthermore, as mentioned above, a significantly larger and flat roofed dormer extension can be erected under permitted development up to a cubic capacity of 50m³ once a dwelling is occupied (the proposed dormer extension has cubic capacity of circa 13m³).

There are no windows proposed to the side elevations of the dormer therefore the amenity space immediately to the rear of the dwelling (which is considered the most important area of amenity space) is protected from overlooking. The overall privacy of adjacent properties is subsequently not considered to be significantly affected by the proposal.

Further concerns have been raised in relation to the over bearing nature of the dormer window on No. 26 however the design features a hipped roof and does not exceed the ridge height approved within the previous application. As such no additional impact can be considered to befall the occupants of this dwelling.

Impact on No.32 Curzon Ave

This dwelling is located to the South of the application site, with the proposed works most apparent to the occupants here being the outbuilding, the parapet wall and the visibility screen.

The parapet wall adjacent to the occupants of no.32 is two tiered with the higher tier measuring some 3.65 metres and the lower some 3.45 metres. The higher tier will run almost entirely parallel with a single storey extension to the rear of No.32. The lower tier will extend beyond the extension by some 2.75 metres.

Given that the higher element of the parapet wall would be significantly obscured by the existing structure at No.32 and the lower will be just 350mm above the works approved under application P/17/0526/2, it can be considered that there will be little significant detriment caused to the occupants of No.32 as a result of the parapet wall.

The visibility screen would be constructed of timber and run the entire length of the raised patio above an already constructed brick wall. The total height (including the wall) would be 1.85 metres. The height is lower than a 2-metre-high fence allowed under permitted development therefore this would not be considered to cause a detrimental impact with regard to loss of light and over-dominance, while privacy will be improved for the occupants of no.32.

The outbuilding is located adjacent to the shared boundary line of the application site and No.32. It measures 5.1 metres in length by 2.12 metres wide with a mono-pitch roof design.

The outbuilding measures 2.15 metres where closest to the boundary and 2.4 metres at its highest point.

The outbuilding is some 16.5 metres from the dwelling at No.32. Due to the scale and distance from no.32, it is not considered to cause any significant loss of light, over-dominance or imposition upon privacy. Consideration must also be given to the fact that in relation to the outbuilding, had the owner of the host dwelling moved into the property, the outbuilding could have been constructed using permitted development rights without the requirement for an application.

On balance, the works can be considered acceptable with respect to its impact upon this dwelling

Other properties

There are no other properties that are considered to be affected on account of the distance from the dwelling and the application site.

Impact on the highway

These works will not increase the number of bedrooms or alter the previously approved parking arrangements. As such, no additional parking requirements are considered necessary. The proposal can therefore be considered to comply with policy TR/18

There will be no change in the level of traffic both vehicular and pedestrian as a direct result of this planning application therefore it can be considered that no significant undue impact will befall the highway in line with policy TR/18.

Accuracy of plans

The accuracy of previous plans and levels and the latest submitted plans has been brought in to question by a neighbour with particular attention drawn to the topographical survey submitted and the levels portrayed within it. As a result of the concerns raised regarding the survey and the levels of the construction so far, the local planning authority commissioned an independent surveyor to check the accuracy of the levels. The result of that independent assessment demonstrates the plans are accurate and the application can be determined based upon the information provided

Conclusions

The original design of the dwelling was approved by Plans Committee in April 2012. However due to the constraints and issues on the site the development took some time to come to fruition. During the build several changes from the original plans have been made and a number of new proposals have been put before the local planning authority to consider. There are elements of the build that have been constructed, as mentioned in the report, that are considered unacceptable and negotiations have sought to ensure the proposals in this application take these matters into account. The proposal before members is considered to take into account the concerns of the neighbouring property owners. It is recognised the build has been carried out over a longer period than usual but there is no time limit on an implemented permission.

Whilst the number of incremental changes made along the way may have exasperated neighbours and required intervention of the Enforcement Team, it is considered the proposal is in an acceptable form that can be favourably recommended to Committee.

It is considered that the applicant has now reached a point; however, that any further development on the site will need to be considered very carefully and indeed the applicant may have reached a point where no further development could be considered acceptable due to the scale of the development as built. It is therefore proposed that in order to protect the amenities of the neighbouring properties in the future, Permitted Development Rights should be removed to prevent any further alterations or development on the property. This will ensure any future proposals will come before the planning authority for consideration prior to any works being undertaken.

It is considered that the additional impact caused by the works beyond that which can be carried out under permitted development and in excess of that already permitted within extant permission P/17/0526/2 is not significantly detrimental to the amenities of neighbouring residential properties and is not considered to cause loss of light to the habitable rooms within them or cause a significant degree of over-dominance beyond that already approved.

In summary, the proposed development as submitted in the revised planning application is considered to be acceptable in its design and appearance and impact on the street scene. There is also not considered to be any significant impact on the highway from the current circumstances. It is therefore recommended that planning permission should be granted, subject to conditions.

RECOMMENDATION:

Grant Conditionally

1. The development hereby permitted shall be carried out in accordance with the following plans:
 - Application Form - received by the Local Planning Authority on 27 September 2018.
 - Site Location Plan - DT Designs - Drawing No. 2018/08/268 - PAGE 6 of 8 - received by the Local Planning Authority on 24 August 2018.
 - Proposed Floor Plans - Perfect Planning - Drawing No. 160/03B Revision B - received by the Local Planning Authority on 07 June 2019.
 - proposed Elevations - Perfect Planning - Drawing No. 160/04D Revision D - received by the Local Planning Authority on 07 June 2019.
 - Block Plan and Outbuilding Details - Perfect Planning - Drawing No. 160/06B Revision B - received by the Local Planning Authority on 29 January 2019.
 - Sections Plan - Perfect Planning - Drawing No. 160/07B Revision B - received by the Local Planning Authority on 29 January 2019.
 - Topographical Survey - Landtech Surveys - Drawing reference. TG/LS/1892-1 - received by the Local Planning Authority on 29 January 2019.REASON: For the avoidance of doubt and to define the terms of the permission.
2. A minimum of 3 car parking spaces, not including the garage, shall remain available for the parking of vehicles within the curtilage of the dwelling. These spaces shall be of a hard-bound material and shall have a minimum width of 2.4 metres and a minimum length of 5 metres. These spaces shall always remain available for the parking of vehicles and shall not therefore be used for any other purpose, at any time.

REASON: To ensure adequate off-street car parking, in the interests of highway safety.

3. Before the development hereby permitted is brought into use, the wall fronting the site shall be reduced in height and maintained in perpetuity at a maximum of 0.6 metres above the level of the adjacent carriageway.

REASON: To make sure that drivers leaving the access have adequate visibility of pedestrians, particularly children, in the interests of road safety

4. No occupation of the dwelling shall take place until such time as the parking and turning facilities shown on the approved plan have been completed in accordance with the submitted details. Thereafter, the parking and turning facilities shall not be obstructed in any way that would prevent such use.

REASON: To make sure vehicles can enter and leave the site in a forward direction and to provide off-street parking, in the interests of road safety.

5. Within 3 months of the date of this decision a scheme, to include full details of a landscaping scheme for the front of the site, noting the species, sizes, numbers and densities of plants shall be submitted for the approval of the local planning authority.

REASON: To make sure that a satisfactory landscaping scheme for the development is agreed.

6. The landscaping scheme shall be fully completed, in accordance with the details agreed under the terms of the above condition, in the first planting and seeding seasons following the first occupation of any part of the development or in accordance with a programme previously agreed in writing by the local planning authority. Any trees or plants removed, dying, being severely damaged or becoming seriously diseased, within 5 years of planting shall be replaced in the following planting season by trees or plants of a size and species similar to those originally required to be planted.

REASON: To make sure that the appearance of the completed development is satisfactory and to help assimilate the development into its surroundings.

7. All proposed windows on the southern and northern elevations shall be glazed with obscure glass to a Pilkington level 5 specification which shall always thereafter be retained. In addition, the stair windows shall be fixed, and the other windows subject of this condition shall be top hung opening only at least 1.5m above internal floor level of those rooms. No changes shall be made to these windows nor shall any additional windows be inserted in this elevation thereafter.

REASON: To minimise the effect of the development on the privacy and amenities of nearby residents.

8. Any fencing of the wooded part of the garden should include a permanent space measuring at least 25cm in width and 20cm in height from ground level to allow badger movement through the site. The same restriction shall apply to any new fencing or gate between the boundary of the site and the new dwelling on its north side.

REASON: In the interests of the biodiversity of the site and surrounding area.

9. Notwithstanding the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015, (or any order revoking and re-enacting that Order, with or without modifications), no building, enclosure or other structure shall be erected within the curtilage of the dwelling(s).

REASON: The carrying out of development of this type may create difficulties in terms of the overall appearance and be detrimental to the residential amenity of neighbouring properties.

10. Notwithstanding the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015, (or any order revoking and re-enacting that Order, with or without modifications), no enlargement, improvement or other alteration of the dwelling shall be carried out.

REASON: The carrying out of development of this type may create difficulties in terms of the overall appearance and be detrimental to the residential amenity of neighbouring properties

The following advice notes will be attached to a decision

1. The decision has been reached taking into account paragraph 38 of the National Planning Policy Framework and in accordance with The Town and Country Planning (Development Management Procedure) (England) Order 2015.
2. DEVELOPMENT PLAN POLICIES RELEVANT TO THIS DEVELOPMENT - Saved Policies EV/1, H/17 and TR/18 and Core Strategy Policies CS2 and CS13 have been taken into account in the determination of this application. The proposed development complies with the requirements of these policies and there are no other material considerations which are of significant weight in reaching a decision on this application.
3. Planning permission has been granted for this development because the Council has determined that, although representations have been received against the proposal, it is generally in accord with the terms of the above-mentioned policy/ies and, otherwise, no harm would arise such as to warrant the refusal of planning permission.
4. Care should be taken during site works to make sure that hours of operation, methods of work, dust and disposal of waste do not unduly disturb nearby residents.
5. All works within the limits of the highway with regard to access shall be carried out to the satisfaction of the County Council's Highway Manager on 0116 305 0001.

