

6. 19/0924/RSP– Part retrospective: Construction of front and side boundary walls to frontage at Kerry Lodge, 32 ASTONS ROAD, MOOR PARK, HA6 2LD. (DCES)

Parish: Batchworth Community Council
Expiry of Statutory Period: 15.07.2019

Ward: Moor Park and Eastbury
Case Officer: Aaron Roberts

Recommendation: That Part Retrospective Planning Permission be Granted.

Reason for consideration by the Committee: Called in to Committee by Batchworth Community Council.

1 Relevant Planning and Enforcement History

- 1.1 99/01576/FUL - New brick wall and entrance gates to front - Refused 13.08.99 for the following reason:

The proposed erection of the brick wall, railings and entrance gates by reason of their size and siting, would have detrimental impact on the character and appearance of the Moor Park Conservation Area most of which is characterised by open frontages or boundary hedging. As such the proposal would be contrary to the design guidelines contained in Appendix 4 and Policy AP.38 of the Three Rivers District Plan Review 1991, and the Supplementary Planning Guidance on the Moor Park estate.

Subsequent appeal dismissed.

- 1.2 00/00223/FUL - (Retrospective) Erection of gates and boundary wall – Refused 19.04.00 for the following reason:

The proposed erection of the brick wall, railings and entrance gates by reason of their size and siting would have a detrimental impact on the character and appearance of the Moor Park Conservation Area, most of which is characterised by open frontages and boundary hedging. As such the proposal would be contrary to the design guidelines contained in Appendix 4 and Policy AP38 of the Three Rivers District Plan Review 1991, policy C1 of the Three Rivers Local Plan (Deposit Draft) 1996-2011 and the Moor Park Residential Estate Conservation Area Supplementary Planning Guidance.

- 1.3 00/00866/FUL - Replacement of existing front garden wall and gates – Refused 30.08.00 for the following reason:

The proposed erection of the brick wall, railings and entrance gates by reason of their size and siting would have a detrimental impact on the character and appearance of the Moor Park Conservation Area, most of which is characterised by open frontages and boundary hedging. As such the proposal would be contrary to the design guidelines contained in Appendix 4 and Policy AP38 of the Three Rivers District Plan Review 1991, policy C1 of the Three Rivers Local Plan (Deposit Draft) 1996-2011 and the Moor Park Residential Estate Conservation Area Supplementary Planning Guidance.

- 1.4 16/2108/FUL - Demolition of part of front facade and of rear elevation and construction of two storey front and part single storey, part two storey rear extensions and alterations to land levels to create basement including new lightwell and rear extensions, refurbishment works and alterations to fenestration - Permitted, partially implemented.

- 1.5 16/2720/FUL - Landscaping Alterations to front and rear - Permitted, not implemented in accordance with permission.

- 1.6 17/0413/DIS - Discharge of conditions 3 (materials) and 4 (fenestration detail) pursuant to planning permission 16/2108/FUL – Determined.

- 1.7 17/1166/DIS - Discharge of conditions 3 (hard standing materials) and 4 (retaining wall detail) pursuant to planning permission 16/2720/FUL – Determined.
- 1.8 17/1343/DIS - Discharge of condition 5 (Works to Trees) pursuant to planning permission 16/2720/FUL – Determined.
- 1.9 18/2145/RSP - Retrospective: Construction of front and side boundary walls to frontage – Withdrawn.
- 1.10 19/0364/RSP - Retrospective Application: Enclosure and provision of air-conditioning units – Withdrawn
- 1.11 19/0105/RSP- Part Retrospective: Construction of front and side boundary walls to frontage. Refused 21.03.19 for the following reason:
- The front boundary walls including their associated returns by reason of their height, design and scale represent an urbanising and visually prominent form of development which has a detrimental impact on the character, openness and visual amenity of the streetscene and wider Moor Park Conservation Area. No public benefits have been put forward to outweigh the harm and therefore the development would be contrary to Policies CP1 and CP12 of the Core Strategy (adopted October 2011), Policies DM1, DM3 and Appendix 2 of the Development Management Policies document (adopted July 2013), the Moor Park Conservation Area Appraisal (adopted 2006) and the revised NPPF (2019).*
- 1.12 18/0137/COMP - Erection of front and side boundary walls and installation of air conditioning units - Pending consideration.

2 Description of Application Site

- 2.1 The application site consists of a two storey detached dwelling located on the western side of Astons Road, in close proximity to the junctions with Anson Walk and then Batchworth Lane beyond this to the south. The dwellings on this side of the road are set at an elevated position relative to the adjacent highway.
- 2.2 The site is located within the Moor Park Conservation Area which is characterised by two storey detached dwellings of varied style located on large plots with generous spacing between dwellings. Other special features which characterise the Conservation Area include open frontages separating gardens from the estate road verges. The Moor Park Conservation Area Appraisal does acknowledge that the part of Astons Road nearest to Batchworth Lane is of a different character to elsewhere in the Conservation Area due to a number of large replacement dwellings. Located to either side of No.32 are two detached dwellings which include front boundary walls.
- 2.3 The host dwelling has been extensively extended including the construction of two storey front and part single storey, part two storey rear extensions and alterations to land levels to create basement including new lightwell and rear extensions. To the front new front boundary walls have been erected (subject to this application).

3 Description of Proposed Development

- 3.1 The applicant is seeking part retrospective planning permission for the construction of front and side boundary walls to the frontage.
- 3.2 The proposal seeks to reduce the existing boundary treatment including the height of the brick wall to the front and side boundary as well as reducing the height and width of the piers serving both entrances into the site.
- 3.3 As it stands the existing front central section of the boundary wall which measures 29m in width has a height of 1m to 1.5m with the associated piers (7 in total) measuring between

1.3m to 1.8m in height due to the slope in land level across the frontage. The larger brick piers to the southern entrance measure approximately 2.4m to 2.6m in height and have a width of 0.8m and depth of 0.7m. The boundary wall also has side returns projecting into the frontage and along the south boundary for a distance of 10.8m with the road facing wall measuring 1.7m in height. The larger brick piers to the northern entrance currently measure 2m in height with a similar depth and width to those piers at the southern entrance.

- 3.4 The proposal seeks to make alterations to the boundary treatment described above following previous unsuccessful attempts at formalising the walls under planning application 18/2145/RSP and 19/0105/RSP.
- 3.5 The front central section which consists of the brick walls and associated piers (9 in total) will be reduced in height by a minimum of 300mm with the wall not exceeding a height of 1.1m from adjacent ground level at any point. The amended associated piers will range in height from 0.9m to 1.2m.
- 3.6 The brick piers either side of the southern entrance will be reduced in height by 1m with the piers adjacent to Astons Road measuring 1.3m and 1.6m in height (due to the slope in the land level). They will also be reduced in width. Further reductions in height will occur on the side boundary wall which projects into the frontage.
- 3.7 The brick piers either side of the northern entrance will be reduced in height by 0.3 and 0.4m to their respected heights of approximately 1.5m. They will also be reduced in width by 0.2m.
- 3.8 The front boundary wall is finished in 'Royston Mixed Red' brickwork to match the finish of the main house. The side boundary wall is proposed to be finished with a 'pre-grown green wall'.

4 Consultation

4.1 Statutory Consultation

4.1.1 Batchworth Community Council: [Objection]

"Batchworth Community Council resolved at its meeting on 10-Jun-19 to Call In TRDC Planning Application 19/0924/RSP for 32 Astons Road for the reasons detailed in the attached submission from Moor Park 1958 dated 07-Jun-19 which are complex and not easy to summarise. Please would you confirm that BCC's Call In request has been actioned by TRDC Planning."

4.1.2 National Grid: [Informative suggested]:

"Should you be minded to approve this application please can the following notes be included an informative note for the Applicant:

Please note – the below information is related to Low and Medium Pressure Assets. You may be contacted separately by our engineers regarding **High/Intermediate Pressure Pipelines**.*

Considerations in relation to gas pipeline/s identified on site:

Cadent have identified operational gas apparatus within the application site boundary. This may include a legal interest (easements or wayleaves) in the land which restricts activity in proximity to Cadent assets in private land. The Applicant must ensure that proposed works do not infringe on Cadent's legal rights and any details of such restrictions should be obtained from the landowner in the first instance.

If buildings or structures are proposed directly above the gas apparatus then development should only take place following a diversion of this apparatus. The Applicant should contact Cadent's Plant Protection Team at the earliest opportunity to discuss proposed diversions of apparatus to avoid any unnecessary delays.

If any construction traffic is likely to cross a Cadent pipeline then the Applicant must contact Cadent's Plant Protection Team to see if any protection measures are required.

All developers are required to contact Cadent's Plant Protection Team for approval before carrying out any works on site and ensuring requirements are adhered to."

4.1.3 Landscape Officer: [No objection]

"This is a retrospective application, so any damage to the remaining trees has already occurred. The two trees at the front have already been removed. I have no objections to make at this stage of the application."

4.1.4 Conservation Officer (initial comment): [Objection]

"This application is part retrospective, for construction of front and side boundary walls to frontage. Kerry Lodge, 32 Astons Road, is located within the Moor Park Conservation Area and a typical example of the properties within the area.

A previous application was submitted for this site, regarding the construction of a brick boundary wall at the front of the site (ref: 19/0105/RSP). Following the refusal of this application, the applicant has amended the plans, reducing the height of the wall and the brick piers. I would like to reiterate my points from the initial application:

The building of any boundary walls on Aston Road will negatively impact upon the conservation area, which is characterised by open spaces along each road and large grass verges. Although neighbouring properties have installed boundary walls, this should not be used as a precedent for development as it will further undermine the character of the area, as identified by the appraisal document.

Incongruous with the rest of the conservation area, the wall goes against advice stipulated within the conservation area appraisal document which states: 'Walls, metal gates and railings will not be considered to be sympathetic as these are likely to alter the area's appearance' (page 12).

*Should the applicant wish to have a boundary between their property and the road, the use of low lying hedgerow to create a soft boundary would be more appropriate in this setting. A reduction of the height of the wall does lessen the harm it has upon the conservation area, however the wall is still harmful, which is contrary to paragraph 196 of the NPPF. This is because the wall creates a hard boundary to the property and will affect views down Aston Road, breaking up the planned 'boulevard' appearance of the street, which **is tree lined, green and open.**"*

4.1.5 Conservation Officer (subsequent comment following receipt of amended plans): No objection:

"I think the reduction of the bricks piers and boundary wall is positive, minimising the appearance of the wall overall. There will still be some negative impact to the Moor Park Conservation Area, a key characteristic of which is its open, green appearance. As stated on page 12 of the Conservation Area Appraisal document, 'Walls, metal gates and railings will not be considered to be sympathetic as these are likely to alter the area's appearance.' On balance, this harm is minor, however a precedent should not be set which allows for the introduction of further hard boundaries.

I would recommend that a condition is imposed which introduces planting or hedgerow along the line of the wall. This will further reduce the harm to the Conservation Area, making the wall more in keeping with the character of the wider area."

4.1.6 Moor Park 1958 Limited [Objection]:

*'The Directors of Moor Park (1958) Limited would wish to raise the following **very strong objections and related comments** on the retrospective application proposals as follows:-*

1. The current application follows the previous recent refusal by the Council under ref 19/0105/RSP where a sound and well-founded material planning ground (containing several elements of opposition) was cited as the reason for refusal as follows:-

"The front boundary walls including their associated returns by reason of their height, design and scale represent an urbanising and visually prominent form of development which has a detrimental impact on the character, openness and visual amenity of the streetscene and wider Moor Park Conservation Area. No public benefits have been put forward to outweigh the harm and therefore the development would be contrary to Policies CP1 and CP12 of the Core Strategy (adopted October 2011), Policies DM1, DM3 and Appendix 2 of the Development Management Policies document (adopted July 2013), the Moor Park Conservation Area Appraisal (adopted 2006) and the revised NPPF (2019)".

*Consequently, and as a matter of planning principle, we are strongly of the view that the Council needs to be completely satisfied that all aspects of the previous planning ground for refusal have been **fully** addressed and entirely overcome in regard to the adverse impact on the character and appearance of the Conservation Area before considering whether there are sufficient merits in this latest application to grant planning permission.*

We would strongly contend that they have NOT, especially in the context of, not only the actual reason for refusal under ref 19/0105/RSP, but the uncompromising content, tone and systematic criticism of the development that was encapsulated by the Council's fulsome and comprehensive report and that focussed on the undeniable harm to the character and appearance of the Conservation Area arising from this unauthorised development

Added to this the Council needs also to be directly mindful of:-

- (i) the earlier planning history of the application site that reveals*
- ref 99/01576/FUL New brick wall and entrance gates to front - REFUSED BY THE COUNCIL AND APPEAL DISMISSED*
 - ref 00/00223/FUL Erection of gates and boundary wall (retrospective) - REFUSED BY THE COUNCIL*
 - ref 00/00866/FUL Replacement of existing front garden wall and gates - REFUSED BY THE COUNCIL*

Note – this 'site history' clearly represents a material planning consideration and, as a result, the Council will need to demonstrate that this latest RSP application has comprehensively overcome all aspects of the previous reasons for refusal and the findings and conclusions of the Appeal Inspector.

We consider that the latest set of amendments, especially across the full width of frontage viz "wall dropped by minimum of 300m", are nothing more than a cosmetic "tinkering" at the edges of the unauthorised development that is clearly unacceptable.

*In our opinion the planning principle, and material starting point, to consider these latest amendments, **must be** on the basis both of the Council's recent refusal and the clearly stated provisions for front boundary treatments established by paragraph 3.12 of the approved Moor Park Conservation Area Appraisal (MPCAA) that states:-*

"The open character of the frontages in the conservation area is one of its most pleasant features.....Walls, metal gates and railings will not be considered to be sympathetic as these are likely to alter the area's appearance".

*In contrast, the "starting point" should **not be** on the basis of how much of the unacceptable boundary development can be "shaved off" in order to make it just about permissible. To do so would be a betrayal of the established open character of the Moor Park Conservation Area and would patently be the incorrect application of national and local Conservation Area legislation.*

*It would also fly in the face of the substantial list of similar examples of front boundary enclosure developments that have been refused by the Council and/or dismissed on appeal within the Moor Park Conservation Area, including at the application site itself. **Such a clear indication of how the open character of the frontages of properties have been (and should be) protected over a sustained period must not be lightly set aside.***

*Looking at the latest scheme in detail, we would comment, **and base our very strong objections**, on the facts that:-*

- (i) the boundary wall across the full width of the frontage is still well in excess of 1m in height*
- (ii) many of the brick piers are excessively and unacceptably bulky and massive in scale and dimensions*
- (iii) aspects of the curved driveway entrance features are excessively high and out of character with the openness of frontages nearby.*

Consequently, we remain strongly of the view and concur with the Council's previous decision that, despite the amendments, the boundary walls, including their associated returns by reason of their height, design and scale represent an urbanising and visually prominent form of development which has a detrimental impact on the character, openness and visual amenity of the streetscene and wider Moor Park Conservation Area.

*We consider this to be **entirely unacceptable** and contend that this latest application is merely a calculated attempt to circumvent the current predicament without meaningful change.*

To support our arguments further, the Council is also reminded of:-

- (i) its own decision to **refuse** planning permission for a scheme comprising two brick piers and metal gates at 23 Bedford Road (ref 18/1494/FUL) and,*
- (ii) the proposal for front boundary wall and gates that was **refused and dismissed on appeal** at 47 Russell Road, that raised very similar and comparable planning issues in terms of the significant and adverse impact of such development in the Moor Park Conservation Area.*

In closing, and in light of the planning history of the application site where boundary works have been refused and dismissed on appeal, and then again recently refused, we would ask the Council to:-

- (a) maintain its very strong stance on this application site,*
- (b) afford the protection of the amenities of the designated Conservation Area far greater weight than the "shaving off" of the worst extremities of the unauthorised development presented by the applicant and thereby*
- (c) to again refuse the scheme and thereafter this time to expeditiously pursue enforcement action.*

Finally, we would ask the Council to be aware that we will again be approaching elected Members on this application seeking for them to “call in” the application for decision by the Council’s Planning Committee, if officers are minded to grant approval.

We trust the above response, based on what we regard as relevant and material planning considerations, primarily within the approved MPCA, is of assistance to you’.

4.2 Public/Neighbour Consultation

4.2.1 Number consulted: 9

4.2.2 No of responses received: None

4.2.3 Site Notice: Conservation Area (expired 26.06.2019)

4.2.4 Press notice: Watford Observer, Conservation Area (expired 21.06.2019)

4.2.5 Summary of Responses: None received.

5 Reason for Delay

5.1 Committee cycle.

6 Relevant Planning Policy, Guidance and Legislation

6.1 National Planning Policy Framework and National Planning Practice Guidance

In 2019 the new National Planning Policy Framework was published. This is read alongside the National Planning Practice Guidance (NPPG). The determination of planning applications is made mindful of Central Government advice and the Local Plan for the area. It is recognised that Local Planning Authorities must determine applications in accordance with the statutory Development Plan, unless material considerations indicate otherwise, and that the planning system does not exist to protect the private interests of one person against another. The NPPF is clear that “existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework”.

The NPPF states that ‘good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities’. The NPPF retains a presumption in favour of sustainable development. This applies unless any adverse impacts of a development would ‘significantly and demonstrably’ outweigh the benefits.

6.2 The Three Rivers Local Development Plan

The application has been considered against the policies of the Local Plan, including the Core Strategy (adopted October 2011), the Development Management Policies Local Development Document (adopted July 2013) and the Site Allocations Local Development Document (adopted November 2014) as well as government guidance. The policies of Three Rivers District Council reflect the content of the NPPF.

The Core Strategy was adopted on 17 October 2011 having been through a full public participation process and Examination in Public. Relevant policies include Policies CP1, CP9, CP10 and CP12.

The Development Management Policies Local Development Document (DMLDD) was adopted on 26 July 2013 after the Inspector concluded that it was sound following

Examination in Public which took place in March 2013. Relevant policies include DM1, DM3, DM6, DM13 and Appendices 2 and 5.

6.3 Other

The Community Infrastructure Levy (CIL) Charging Schedule (adopted February 2015).

The Localism Act received Royal Assent on 15 November 2011. The growth and Infrastructure Act achieved Royal Assent on 25 April 2013.

The Wildlife and Countryside Act 1981 (as amended), the Conservation of Habitats and Species Regulations 2010, the Natural Environment and Rural Communities Act 2006 and the Habitat Regulations 1994 may also be relevant.

Moor Park Conservation Area Appraisal (2006).

7 Planning Analysis

7.1 Overview

7.1.1 On 10 July 2018, an enforcement enquiry was received in regards to the construction of a side and front boundary wall at 32 Astons Road.

7.1.2 Following site visits it was ascertained that the front and side boundary walls were not built in accordance with planning permission 16/2720/FUL and Discharge of Condition application 17/1166/DIS. As such the applicant was advised that the boundary treatments were in breach of planning control. In response, application 18/2145/RSP was submitted on 25 October 2018 which sought to formalise the works which had taken place (i.e. what is currently in situ) and was later withdrawn as the scheme was deemed unacceptable. Following informal discussions a new planning application was submitted under 19/0105/RSP. This application was refused on 21 March 2019 for the reason as set out at paragraph 1.11 above. The current submission is therefore the third planning application which seeks to formalise the boundary treatments at the host property.

7.2 Impact on Character, Street Scene and Conservation Area

7.2.1 Policy CP1 of the Core Strategy (adopted October 2011) seeks to promote buildings of a high enduring design quality that respect local distinctiveness and Policy CP12 of the Core Strategy (adopted October 2011) relates to design and states that in seeking a high standard of design the Council will expect development proposals to 'have regard to the local context and conserve or enhance the character, amenities and quality of an area'. Development should make efficient use of land but should also respect the 'distinctiveness of the surrounding area in terms of density, character, layout and spacing, amenity, scale, height, massing and use of materials'; 'have regard to the local context and conserve or enhance the character, amenities and quality of an area' and 'incorporate visually attractive frontages to adjoining streets and public spaces'.

7.2.2 Policy DM1 of the Development Management Policies LDD (adopted July 2013) advises that development should not appear excessively prominent. Policy DM3 relates to Heritage Assets and sets out that development should be sympathetic to the wider features of the Conservation Area. It states that development will only be permitted if the proposal:

i) Is of a design and scale that preserves or enhances the character or appearance of the area

ii) Uses building materials, finishes including those for features such as walls, railings, gates and hardstanding that are appropriate to the local context

- 7.2.3 The Moor Park Conservation Area Appraisal (2006) is also relevant, this states the following with regard to the special character of the area:
- “The existing development has a special visual quality created by large houses situated on individual plots along wide streets with high quality landscaping. The layout is characterised in some areas by open frontages, low walls or hedges separating gardens from the estate road verges, which was a feature of the original design.”*
- 7.2.4 At section 2.3 of the adopted Appraisal there is a list of features which contribute to its special architectural and historic interest, and thus justify its designation as a Conservation Area. One such feature is listed as, ‘open frontages separating gardens from estate road verges’. The Appraisal goes on to state that; “Walls, metal gates and railings will not be considered sympathetic as these are likely to alter the area’s appearance.”
- 7.2.5 Prior to the construction of the boundary treatments which currently exist, the property was served by retaining walls and piers which ranged in height but they potentially did not exceed approximately 1.2m (as viewed via Google Street View) with soft landscaping immediately behind. Both neighbouring properties also have well established brick walls and piers. It is also acknowledged that without express planning permission a means of enclosure can be erected to a height of 1m adjacent to a highway. From the planning history, front boundary treatments have also previously been refused in 1999 and 2000. These applications were also retrospective but included walls and railings well in excess of 1.5m.
- 7.2.6 It is evident by previous decisions taken that by the Local Planning Authority that the existing boundary treatments are unacceptable and introduce an urbanising and visually prominent form of development conflicting with the guidance set out within the Conservation Area Appraisal. As a result significant alterations are now proposed to the existing wall which seek to reduce its height across the frontage, including elements of the side returns. It is accepted that the presence of walls and piers acting as front boundary treatments are at odds with the general character of the Moor Park estate as a whole; however, the western side of Astons Road towards Batchworth Lane does portray a slightly more urbanising feel due to the presence of walls and larger more modern replacement dwellings. Consequently, it is considered that the amended height of the brick walls and piers would appear more in keeping with adjoining boundary treatments and be similar to what could potentially be achieved under permitted development. The amended low brick wall would predominately maintain a height close to 1m with the associated pillars increasing to 1.2m (excludes both sets of entrance piers) and as such would collectively appear relatively low; however the visual impact of the walls is still recognised and the Conservation Officer has stated that minor harm would still arise. However, recognising that the boundary treatment is sited at a higher land level than the adjacent highway and to erode the minor harm identified above, it is considered appropriate to soften the treatments by ensuring that additional soft landscaping is proposed behind the middle section of the wall and piers. A condition has therefore been recommended.
- 7.2.7 In respect of the larger brick piers sited either side of the entrances and the side boundary treatments, it is considered that the reductions in their overall bulk and height (no more than 1.6m) would, having regard to previous boundary treatments and adjacent developments, preserve the character and appearance of this part of Astons Road.
- 7.2.8 The objections raised during the application process are noted; however, given that the amended walls and piers would not be read as standalone treatments (positioned adjacent to already well established hard boundary treatments of similar scale at both neighbouring properties) and the ability to provide enhanced planting, it is considered that the amended scheme would, preserve the character and appearance of the Moor Park Conservation Area. The proposal, subject to conditions, would therefore be acceptable in accordance with Policies CP1 and CP12 of the Core Strategy, Policies DM1 and DM3 and Appendix 2 of the Development Management Policies LDD and the Moor Park Conservation Area Appraisal (2006).

7.3 Impact on amenity of neighbours

- 7.3.1 Policy CP12 of the Core Strategy states that development should 'protect residential amenities by taking into account the need for adequate levels and disposition of privacy, prospect, amenity and garden space'. Policy DM1 and Appendix 2 of the Development Management Policies document set out that residential development should not result in loss of light to the windows of neighbouring properties nor allow overlooking, and should not be excessively prominent in relation to adjacent properties.
- 7.3.2 Given the nature of the application, the walls do not result in any significant harm to the residential amenities of neighbouring properties.
- 7.3.3 Due to its scale, it is not considered that the flank boundary wall adjacent to the boundary with No.34 Astons results in demonstrable harm to the amenity of the occupiers of No.34 Astons Road.

7.4 Trees and Landscaping

- 7.4.1 Policy DM6 of the DMP LDD sets out that development proposals should seek to retain trees and other landscape and nature conservation features, and that proposals should demonstrate that trees will be safeguarded and managed during and after development in accordance with the relevant British Standards.
- 7.4.2 Due to the location of the application site all trees are protected by the conservation status of the area and there is a mature tree within the vicinity of the development to the south. It is possible that the construction works have caused a degree of damage to the root system although the level of harm is unknown. However, Officers are mindful that previous walls were located much closer to this tree and any excavations associated with the new development would be relatively minor and are unlikely to result in significant harm to its future health.
- 7.4.3 It is also noted that a number of trees have been maintained within the frontage and further planting is to be secured by condition.

7.5 Highways, Access and Parking

- 7.5.1 Policy CP10 of the Core Strategy requires development to demonstrate that it will provide a safe and adequate means of access. Policy DM13 and Appendix 5 of the Development Management Policies LDD advises on off street car parking requirements.
- 7.5.2 The development does not result in a loss of off street car parking provision nor increase the requirements for additional off street car parking.
- 7.5.3 Due to the siting of the boundary treatments there would also be no impact on highway safety.

7.6 Amenity Space

- 7.6.1 Policy CP12 of the Core Strategy states that development should take into account the need for adequate levels and disposition of amenity and garden space. Section 3 (Amenity Space) of Appendix 2 of the Development Management Policies document provides indicative levels of amenity/garden space provision.
- 7.6.2 The development would not impact upon the level of amenity space within the site. There is sufficient amenity space provision to accommodate the proposed development and serve the dwelling in accordance with the standards as set out within the Design Criteria of the DMP LDD.

7.7 Wildlife and Biodiversity

- 7.7.1 Section 40 of the Natural Environment and Rural Communities Act 2006 requires Local Planning Authorities to have regard to the purpose of conserving biodiversity. This is further emphasised by regulation 3(4) of the Habitat Regulations 1994 which state that Councils must have regard to the strict protection for certain species required by the EC Habitats Directive.
- 7.7.2 The protection of biodiversity and protected species is a material planning consideration in the assessment of applications in accordance with Policy CP9 of the Core Strategy (adopted October 2011) and Policy DM6 of the DMLDD. National Planning Policy requires Local Authorities to ensure that a protected species survey is undertaken for applications that may be affected prior to determination of a planning application.
- 7.7.3 The application has been submitted with a Biodiversity Checklist with the application and states that no protected species or biodiversity interests will be affected as a result of the application. The site is not in or located adjacent to a designated wildlife site. The Local Planning Authority is not aware of any records of protected species within the immediate area that would necessitate further surveying work being undertaken.

8 Recommendation

- 8.1 That PART RETROSPECTIVE PLANNING PERMISSION BE GRANTED subject to the following conditions:

C1 Within THREE MONTHS of the date of this decision, all walls and brick piers within the frontage shall be altered so that the development hereby permitted shall be fully completed in accordance with the following approved plans: 025/EX/200; 067/PL/201 Rev B, 067/GA/225 Rev F; 067/GA/257 Rev F & 067/GA/255 Rev M.

Reason: For the avoidance of doubt and in the proper interests of planning and to preserve the character and appearance of the Moor Park Conservation Area in accordance with Policies CP1, CP9, CP10 and CP12 of the Core Strategy (adopted October 2011) and Policies DM1, DM3, DM6, DM13 and Appendices 2 and 5 of the Development Management Policies LDD (adopted July 2013) and the Moor Park Conservation Area Appraisal (2006).

C2 Within TWO MONTHS from the date of this decision, a soft landscaping plan shall be submitted to the Local Planning Authority for approval, detailing additional planting directly behind the front boundary treatment between both entrances into the property.

All agreed soft landscaping works required by the approved scheme shall be carried out before the end of the first planting and seeding season following the grant of planning permission. If any of the agreed planted soft landscaping, are removed, die, become severely damaged or diseased within five years of the completion of development they shall be replaced with trees or shrubs of appropriate size and species in the next planting season (i.e. November to March inclusive).

Reason: This condition is required to ensure that the boundary treatments as amended are soften to safeguard the visual amenity of the street scene and to preserve the character and appearance of the Moor Park Conservation Area in accordance with Policies CP1 and CP12 of the Core Strategy (adopted October 2011) and Policies DM1, DM6 and Appendix 2 of the Development Management Policies LDD (adopted July 2013) and the Moor Park Conservation Area Appraisal (2006).

C3 Immediately following the grant of this permission, notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any other revoking and re-enacting that order with or without modification) no development within the following Classes of Schedule 2 of the Order shall take place.

Class A - erection, construction, maintenance or alteration of a gate, fence, wall or other means of enclosure

No development of any of the above classes shall be constructed or placed on any part of the land subject of this permission.

Reason: To ensure adequate planning control over further development in the interests of the character, appearance and visual amenities of the site, street scene and Moor Park Conservation Area, in accordance with Policies CP1 and CP12 of the Core Strategy (adopted October 2011) and Policies DM1, DM3 and Appendix 2 of the Development Management Policies LDD (adopted July 2013).

8.2 **Informatives:**

- 11 With regard to implementing this permission, the applicant is advised as follows:

All relevant planning conditions must be discharged prior to the commencement of work. Requests to discharge conditions must be made by formal application. Fees are £116 per request (or £34 where the related permission is for extending or altering a dwellinghouse or other development in the curtilage of a dwellinghouse). Please note that requests made without the appropriate fee will be returned unanswered.

There may be a requirement for the approved development to comply with the Building Regulations. Please contact Hertfordshire Building Control (HBC) on 0208 207 7456 or at buildingcontrol@hertfordshirebc.co.uk who will be happy to advise you on building control matters and will protect your interests throughout your build project by leading the compliance process. Further information is available at www.hertfordshirebc.co.uk.

Community Infrastructure Levy (CIL) - Your development may be liable for CIL payments and you are advised to contact the CIL Officer for clarification with regard to this. It is a requirement under Regulation 67 (1), Regulation 42B(6) (in the case of residential annexes or extensions), and Regulation 54B(6) (for self-build housing) of The Community Infrastructure Levy Regulations 2010 (As Amended) that a Commencement Notice (Form 6) is submitted to Three Rivers District Council as the Collecting Authority no later than the day before the day on which the chargeable development is to be commenced. DO NOT start your development until the Council has acknowledged receipt of the Commencement Notice. Failure to do so will mean you will lose the right to payment by instalments (where applicable), lose any exemptions already granted, and a surcharge will be imposed.

Care should be taken during the building works hereby approved to ensure no damage occurs to the verge or footpaths during construction. Vehicles delivering materials to this development shall not override or cause damage to the public footway. Any damage will require to be made good to the satisfaction of the Council and at the applicant's expense.

Where possible, energy saving and water harvesting measures should be incorporated. Any external changes to the building which may be subsequently required should be discussed with the Council's Development Management Section prior to the commencement of work.

- 12 The Local Planning Authority has been positive and proactive in its consideration of this planning application, in line with the requirements of the National Planning Policy Framework and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015. The Local Planning Authority suggested modifications to the development during the course of the application and

the applicant submitted amendments which result in a form of development that maintains/improves the economic, social and environmental conditions of the District.

- 13 The applicant is reminded that the Control of Pollution Act 1974 allows local authorities to restrict construction activity (where work is audible at the site boundary). In Three Rivers such work audible at the site boundary, including deliveries to the site and running of equipment such as generators, should be restricted to 0800 to 1800 Monday to Friday, 0900 to 1300 on Saturdays and not at all on Sundays and Bank Holidays.
- 14 Cadent have identified operational gas apparatus within the application site boundary. This may include a legal interest (easements or wayleaves) in the land which restricts activity in proximity to Cadent assets in private land. The Applicant must ensure that proposed works do not infringe on Cadent's legal rights and any details of such restrictions should be obtained from the landowner in the first instance.

If buildings or structures are proposed directly above the gas apparatus then development should only take place following a diversion of this apparatus. The Applicant should contact Cadent's Plant Protection Team at the earliest opportunity to discuss proposed diversions of apparatus to avoid any unnecessary delays.

If any construction traffic is likely to cross a Cadent pipeline then the Applicant must contact Cadent's Plant Protection Team to see if any protection measures are required.

All developers are required to contact Cadent's Plant Protection Team for approval before carrying out any works on site and ensuring requirements are adhered to.