

PLANNING COMMITTEE – 22 SEPTEMBER 2022

PART I - DELEGATED

5. **22/1135/RSP: Part Retrospective: Substantial demolition of existing dwelling and erection of two-storey rear extension, part single, part two storey side extensions, new roof, accommodation within the roof served by rear dormers, alterations to existing entrance and alterations to fenestration at 30 SOUTH APPROACH, MOOR PARK, HERTS, HA6 2ET**

Parish: Batchworth Community Council
Expiry of Statutory Period: 09.08.2022

Ward: Moor Park and Eastbury
Case Officer: Claire Wilson

Recommendation: That Part Retrospective Planning Permission be Granted.

Reason for consideration by the Committee: This planning application has been called in by three members of the Planning Committee to 'discuss the impact on the Conservation Area'.

Officer Update: This application was originally discussed at the August Planning Committee with members deferring the application. The deferral was to enable officers to provide further information in relation to the enforcement case and its interaction with the current planning application. It is also considered useful to advise members as to why direct prosecution has not been pursued by the Council.

During the enforcement investigation, the view (having also discussed the matter with the legal department) was taken that, regrettably, the extent of demolition could be reasonably asserted to fall within the scope of planning permission 21/0249/FUL, albeit for a small number of internal walls which would have remained in situ. Nevertheless, the retention of these walls would, from a planning perspective not have been of significance to the heritage asset given the extent of authorised demolition elsewhere and the fact that the majority of the walls to be retained would have been isolated standalone walls detached from the original fabric of the dwelling. Consequently, given the relatively limited difference between what was authorised to be demolished and what was not authorised, the view was taken that prosecution was not justified.

It should also be noted that following receipt of the alleged breach of planning control, efforts were undertaken to enhance the structural support to the front elevation which was required to be retained in accordance with the planning permission. This elevation is considered to be a key aspect of the dwelling, given it is the principal facing wall which is visible to the public realm. This elevation was further supported and has remained in situ ever since as per the planning permission 21/0249/FUL. It is officers' view that had the front elevation also been removed, then it would have been highly likely that the Council would have engaged the legal department to commence prosecution proceedings.

During the investigation, the applicant was advised that construction should continue to occur in accordance with the planning permission 21/0249/FUL to ensure that the footprint, design, appearance and the scale of the extensions would be identical to that previously granted, albeit with the exception of the removal of the internal walls which were shown to be retained. Due to the deviations from the planning permission 21/0249/FUL, the owner was advised that a new planning application was required rather than a Section 73 application due to the material change in the description to include 'substantial demolition'. At this time, officers also advised the applicant that if construction deviated further from the approved plans via 21/0249/FUL, an enforcement notice would have followed. This has not occurred.

It is emphasised that the completed dwelling would mirror the planning permission which was deemed acceptable under application 21/0249/FUL. It would not be desirable to require the works to cease and leave the site as a construction site which would have an unacceptable impact on the Conservation Area, as well as resulting in harm to the visual amenities of the adjacent neighbours. It is also emphasised that the Conservation Officer has not objected to the development, given that the works under this application would mirror that granted in 2021. By granting planning permission, important conditions, such as restricting permitted development rights for any other extensions can be imposed and take effect. If no planning permission was to exist for the re-built dwelling, the Council would have no controls.

It should also be noted that granting planning permission would not set a precedent nor should it enable others within the Conservation Area to undertake similar extensions which trigger extensive demolition. The starting point is always that pre-1958 houses should be safeguarded, unless they have been significantly extended/alterd to such an extent that they no longer contribute to the Moor Park Conservation Area. This is evidenced by a number of applications for large extensions which have been refused within the vicinity in recent years.

In terms of possible enforcement action in the event that this application is refused, it would only be open to Officers to serve an enforcement notice to build in accordance with the plans approved via 21/0249/FUL, a scheme already considered acceptable. This is no different to what is currently proposed. The only option available was to prosecute based on unauthorised demolition, however, as highlighted above, this was not considered an option given extensive demolition had actually been authorised. Additionally, in the hypothetical situation whereby the whole house was demolished, clearly it would be in the best interests of the conservation area that a new house was built in addition to any prosecution case relating to unauthorised demolition.

1 Relevant Planning and Enforcement History

- 1.1 W/657/63: Garage and sun lounge.
- 1.2 20/2463/FUL: Two-storey rear extension, part single-storey part first-floor side extensions, front porch, rear dormer windows and alterations to fenestration. Application withdrawn.
- 1.3 21/0249/FUL: Two storey rear extension, part single storey, part first floor side extensions, front porch, rear dormer windows and alterations to fenestration. Application approved and commenced.
- 1.4 22/0025/COMP: Works not in accordance with planning permission 21/0249/FUL: Extent of demolition beyond levels approved. Pending consideration.

2 Description of Application Site

The application site originally contained a two storey detached dwelling located on South Approach, Moor Park and is located within the Moor Park Conservation Area. The streetscene of South Approach and the wider Conservation Area is characterised by detached dwellings located on large plots with spacing between dwellings.

- 2.1 The original dwelling which occupied the site was a relatively unaltered dwelling within the Conservation Area. It retained details and features of architectural merit including an attractive four pointed archway entrance, original fenestration pattern to the front elevation and materials typical of the 1920's/30s development within the area. Located adjacent to the boundary with no.32 was previously a detached garage with pitched roof form and adjacent to the boundary with no.28 was an attached flat roofed garage. To the front of the dwelling were two separate areas of hardstanding with soft landscaping centrally. The dwelling was set an elevated location adjacent to the highway. To the rear was an existing

two storey gabled projection which contained a dormer window in the flank roofslope. Adjacent to this was a hipped roofed projection. Beyond the rear elevation was an existing patio area located at the same level as the dwelling with the remaining garden laid to lawn. With regard to the neighbouring dwellings; it is noted that no.28 appears to be set at a lower land level but is set back on its plot relative to the original dwelling. The other adjacent neighbour, no.32 is set away from the boundary with a garage located adjacent to the boundary with the host dwelling.

- 2.2 Planning permission was granted in 2021 for extensions and alterations to the main dwelling. However, in implementing the permission, the level of demolition works exceeded that which was indicated on the approved plans. The site is therefore the subject of an open enforcement case (22/0025/COMP). At the time of the site visit for the current application, construction works were taking place, with the dwelling being re-constructed, and it was observed that the external walls and roof form were largely in situ.

3 Description of Proposed Development

- 3.1 Planning permission 21/0249/FUL was granted on 26 April 2021, for a two-storey rear extension, part single-storey part first-floor side extensions, front porch, rear dormer windows and alterations to fenestration. This was granted subject to a number of conditions including:

2. The development hereby permitted shall be carried out in accordance with the following approved plans: TS14-40G 1, TS14-410G 2, TS14-410G 3, TS14-410G 4, TS14-410G 5, 2595-SI 001 E, 2595 EL 001 E, 2505 PL 001 E.

Reason: For the avoidance of doubt, in the proper interests of planning and the character and appearance of the Conservation Area in accordance with Policies CP1, CP9, CP10 and CP12 of the Core Strategy (adopted October 2011), 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).

And

No development or other operation shall commence on site until a Construction Method Statement has been submitted to and approved in writing by the Local Planning Authority. This Construction Method Statement shall include details of how the development, , can take place whilst retaining existing walls shown on approved plans The development shall only be implemented in accordance with the approved Construction Method Statement.

Reason: To ensure that the original pre-1958 dwelling is retained in accordance with the Policies CP1 and CP12 of the Core Strategy (adopted October 2011), Policy DM3 of the Development Management Policies LDD (adopted July 2013) and the Moor Park Conservation Area Appraisal (adopted 2006)

- 3.2 Details submitted pursuant to Condition 4 were subsequently approved under application reference number 21/2221/DIS. As set out above, in implementing the approved permission, the level of demolition on site exceeded what was approved, with a number of walls which were indicated to be retained, actually demolished. It is noted that the front façade was maintained and was appropriately supported. However, as a result, the works were not in accordance with the approved drawings, resulting in the previous permission being no longer valid.
- 3.3 This application therefore seeks to formalise the works and to ensure that the resultant dwelling is as per previously approved in respect of its layout, design, materiality and scale. This application, therefore seeks part retrospective planning permission for the substantial demolition of the existing dwelling and erection of two storey rear extension, part single storey, part first floor side extensions, front porch, rear dormer windows and alterations to

fenestration detail. It is emphasised that overall width, depth and height of the dwelling and the distances to the boundaries would be as previously approved. The difference between the previously approved application and that now applied for is the extent of demolition which is now indicated fully on the proposed drawings. The description of the development with regard to the development is therefore as follows:

- 3.4 The existing detached garage adjacent to no.32 has been demolished, and a part single, part first floor side extension has been erected in its place. The ground floor element has a width of approximately 0.9m from the position of the original flank wall of the dwelling and has a depth of 5.6m. It is noted that the original flank wall at ground floor level has been demolished. The first floor element would have a width of 2.2m from the original flank wall of the dwelling and a depth of 4.8m. The first floor front wall is set back from the front wall of the existing dwelling by 0.8m. It is noted that the original first floor flank wall has been demolished. The extension would have a hipped roof form which would be set down from the ridge of the original dwelling. The extension is set in from the boundary with no.32 by approximately 4.2m.
- 3.5 To the other side of the dwelling, the existing flat roofed garage has been removed. The ground floor extension has a width of 2.2m from the position of the original flank wall of the dwelling and a depth of 6.3m. At first floor level, the extension has a width of 2.2m from the position of the original flank wall and a depth of 4.8m. The original flank wall of the dwelling at ground and first floor levels have been demolished. The extension has a hipped roof form which is set down from the ridge of the original dwelling.
- 3.6 To the rear, a two storey extension is being erected. Due to the stepped building line at present, the extension has maximum depth of 4m from the position of the original rear wall of the dwelling. The extension would extend for a width of 12.8m across the dwelling. In terms of design, the extension consists of two hipped roofed projections with flat roofed dormer windows at second floor level. The dormer windows have a width of 1.4m, a height of 1.4m and a depth of 1.4m. In the main roof slope a further dormer window is under construction. This has a width of 2.2m and a height of 1.4m. Two flank roof lights are located in the inward facing flank roof slopes of the extensions
- 3.7 To the front, a porch is proposed which would part infill the existing arched entrance, resulting in the doorway being located 0.5m back from the front wall rather than 1.7m as exists currently. The brick arched detail is being retained.

4 Consultation

4.1 Statutory Consultation

4.1.1 Batchworth Community Council: [No objection]

BCC have full knowledge and understanding of the background of this retrospective application and the circumstances upon which it arose. In principle we have no objection to this part retrospective application. However, we would like to work with TRDC to agree upon stronger wording to be included in future consents for conservation areas whereby as soon as any minor change arises to the consented application the TRDC officers are informed so an inspection can take place.

This should protect original walls not due for demolition to be protected and if damage occurs an inspection can take place before any further action is taken and a wall might be demolished entirely. We feel it is important that the integrity of the existing building is maintained once a consent has been granted and no advantages sought with unapproved removal of historical aspects.

4.1.2 Moor Park 1958: [Objection]

This is yet another example of an original property being destroyed by demolition of all but one brick wall, which has now also disappeared. Despite this gross breach of planning being reported several months ago in February 2022, works continued at a pace and the new house has been practically built. Our comments and objections as submitted in February still stand.

This application is just paying lip service to the planning system, which they have made a mockery of.

4.1.3 Conservation Officer: [No objection]

This application is part retrospective for the substantial demolition of existing dwelling and erection of two-storey rear extension, part single, part two storey side extensions, new roof, accommodation within the roof served by rear dormers, alterations to existing entrance and alterations to fenestration.

The property is located in the Moor Park Conservation Area. Substantial demolition and extensions were permitted under application 21/0249/FUL. It is understood that demolition works have taken place in addition to that permitted 21/0249/FUL. The loss of additional fabric is a shame and there are concerns regarding the cumulative impact of such works. However, taking into consideration the extent of the permitted scheme (ref: 21/0249/FUL), I would raise no objection to the proposal.

4.1.4 Landscape Officer: [No objection]

I would suggest a compliance condition requiring them to follow the submitted tree report and tree protection method statement.

4.2 Public/Neighbour Consultation

4.2.1 Number consulted: 5 No of responses received: 1 objection.

4.2.2 Site Notice: Expiry 04.08.2022 Press notice: Expiry 15.07.2022

4.2.3 Summary of Responses:

- Little difference between this and previously approved other than retention of the existing walls;
- Concerns regarding the addition of a front porch. A porch has been added to the front of the house that extends forward of the existing building line. The porch does not possess any architectural merit, is not in keeping with the style of the house and hides the pretty, tudor-style arch over the front recessed porch which is one of the best features of the existing 1930's frontage. The porch does not appear on any approved plan (21-0249) nor on any plan attached to this application, and contradicts the statement in section 5.5 of the Heritage statement "The building will not extend forward of the existing build line..."
- I am concerned that the wording of the planning application description "...erection of two-storey rear extension, part single storey, part first floor side extensions, front porch..." implies that if the application is approved, the porch will also be approved.
- The absence of tree protection and potential impact on neighbouring trees. The approved application contained a detailed tree protection plan and the condition that no works would commence until tree protection was in place. Not only has there been no installation of tree protection for the trees in the garden of no 28, but the ground has been considerably lowered to within 1m of the boundary and consequently less than 2m from the base of those trees.

Officer Comment: A site visit has been made, and a porch has not been erected forward of the front elevation. The porch will be recessed back as shown on the elevations/floor plans. The tree protection measures have also now been erected.

5 Reason for Delay

5.1 Deferred.

6 Relevant Planning Policy, Guidance and Legislation

6.1 National Planning Policy Framework and National Planning Practice Guidance

On 24 July 2021 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 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.

The Moor Park Conservation Area Appraisal (2006)

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.

7 Planning Analysis

7.1 Principle of Demolition.

7.1.1 Policy DM3 of the Development Management Policies LDD relates to Heritage Assets including development in Conservation Areas and advises the following in respect of demolition:

Within Conservation Areas permission for development involving demolition or substantial demolition will only be granted if it can be demonstrated that:

- i) The structure to be demolished makes no material contribution to the special character or appearance of the area; or,
- ii) It can be demonstrated that the structure is wholly beyond repair or incapable of beneficial use; or
- iii) It can be demonstrated that the removal of the structure and its subsequent replacement with a new building and/or open space would lead to the enhancement of the Conservation Area.

7.1.2 The Moor Park Conservation Area also provides guidance on demolition and sets out that the 'Council will give high priority to retaining buildings which make a positive contribution to the character or appearance of a Conservation Area. As a guide, the Council will seek the retention of buildings on the estate erected up to 1958 when the original estate company was wound up'.

7.1.3 As set out at the time of previous application, the pre-existing host dwelling was considered to be a relatively unaltered example of an early house within the Conservation Area. It was considered to retain details and features of architectural merit including an attractive four-pointed archway entrance, original fenestration pattern (to the front elevation) and materials which are typical of the 1920's and 30's development within the area. As such, it was considered to make a positive contribution to the character and appearance of the Conservation Area.

7.1.4 Whilst the existing front façade has been retained in situ, maintained and factored into the on-going construction, the substantial removal of the rest of the house is contrary to the Appraisal and Policy DM3 of the Development Management Policies LDD.

7.1.5 A section discussing whether there are material considerations that weigh in favour of granting planning permission can be found later within the report.

7.2 Impact on Character & Street Scene

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 The host dwelling is located within the Moor Park Conservation Area and therefore Policy DM3 of the Development Management Policies LDD is relevant. This advises that development will only be permitted where it is of a design and scale that preserves or enhances the character or appearance of the area. The Moor Park Conservation Area

Appraisal is also relevant and sets out specific guidance in order to preserve the special character of the area.

- 7.2.3 As already set out, the development being constructed is as approved with the exception of the extent of demolition, which has been discussed above. The front façade has been retained which is considered to be key given the contribution this makes to South Approach and the Conservation Area. At the time of the previous application, it was noted that the existing storm porch would be partially infilled, however, as commented, it would retain the attractive brick archway, with the entrance remaining set back relative to this detailing. In acknowledgement of the importance of the storm porch and brick archway condition removing permitted development rights in respect of porches will be added to any consent. It is noted that a neighbour has raised concern regarding the erection of a porch in front of the building line of the dwelling that is not shown on plan. Having visited the site, there is no evidence of a porch beyond the front wall of the dwelling.
- 7.2.4 The form of the fenestration to the front elevation was also considered to be a key feature of the original dwelling. The current plans indicate that the cill levels of the first floor fenestration detail would remain unaltered which is considered to be positive. At the time of the previous application, the Conservation Officer they raise no objection to the realignment of the windows on the right hand side of the front elevation.
- 7.2.5 The applicant has also constructed part single storey and part first floor side extension to both sides of the existing dwelling. The Moor Park Conservation Area Appraisal advises the following in relation to such developments: A minimum of 20% of the site frontage at existing building lines must be kept clear of all development along the entire flank elevations, subject to a distance of not less than 1.5m being kept clear between flank walls and plot boundaries'. 7.2.8 In this case, the development results in an increase in spacing to the boundaries as the result of the demolition of two existing structures which currently sit in close proximity to both boundaries. A distance of 1.5m would be retained to the boundary with no.32 and a distance of 4.2m would be retained to the boundary with no.28. This would equate to a plot width coverage of 73.6% which would be in accordance with the guidance within the Moor Park Conservation Area Appraisal. As such, it is still considered that the development represents an enhancement to the Conservation Area in terms of siting given that openness between built form and plot boundaries is a key attribute to the special character of the area.
- 7.2.6 The Moor Park Conservation Area Appraisal also provides further guidance relating to plot coverage to ensure that the spacious character of the area is retained. Paragraph 3.6 of the Appraisal document states the following: Buildings, including all outbuildings (garages, car ports etc.), should not cover more than 15% of the plot area. The building cover includes any areas at first floor level which overhang the ground floor or any built areas at basement level where these extend beyond the ground floor. The comments made at the time of the previous application are still considered applicable:
- In this case, Moor Park 1958 calculate the plot coverage to be 17% whilst officers have calculated that the proposed development would result in a plot coverage of approximately 14.7% (including the footprint of the small outbuilding indicated on the block plan) ; therefore in accordance with the guidance set out in the Appraisal. The purposes of this guidance is to ensure that spaciousness within the Conservation Area is maintained. In this case, it is considered that given the siting of the extensions, that there would be no impact on this key attribute and that the development would in fact open up space round the dwelling which would represent an enhancement. In order to retain the spaciousness of the area, it is considered necessary to add a condition removing permitted development rights in respect of Classes A and E. This will allow the LPA to consider the impact of further development on the plot in the future*
- 7.2.7 A two storey rear extension and loft conversion including dormer windows have also been constructed. The two storey rear extension consists of two separate hipped projections. As

noted at the time of the previous application, the works have resulted in the removal of the flank dormer window which was not considered to enhance the appearance of the original dwelling and as such, this represents a further enhancement to the dwelling.

- 7.2.8 With regard to the proposed rear dormer windows, Appendix 2 of the Development Management Policies LDD advises that dormer windows should be subordinate to the roof form; they should be set down from the ridge, in from both sides and back from the planes of the existing roof slope. The dormer windows are considered to be subordinate additions which do not create significant bulk or massing. The rooflights are sited on the inner flank roofslopes of the rear extensions and are thus not visible from the wider Conservation Area.
- 7.2.9 With regard to external finishes, the applicant has previously submitted a schedule of external materials under application reference 21/1793/DIS. This included details of the external door which would be black timber, in addition to details of the brick, render and fenestration details. These details have been deemed acceptable by the Conservation Officer and a condition shall be added requiring the development to be undertaken in accordance with the agreed details.
- 7.2.10 In summary, the proposed extensions are considered acceptable and would ensure that a similar form of development as per 21/0249/FUL is built. Whilst it is acknowledged that the previous extent of extensions facilitated the large scale removal of the dwelling, this has been noted above as contrary to the Appraisal and Policy DM2.

7.3 Impact on amenity of neighbours

- 7.3.1 Policy CP12 of the Core Strategy (adopted October 2011) relates to design and states that Council will expect development proposals to have regard to the local context and conserve or enhance the character, amenities and quality of an area. Policy DM1 and Appendix 2 of the Development Management Policies LDD advises that development should not be unduly prominent. As already set out, the width, depth and height of the development remains as previously approved with the main differences relating to the demolition of the original walls of the dwelling.
- 7.3.2 Part two storey/single storey side extensions have been constructed adjacent to the boundary with no.28. The extensions are set in from the boundary by approximately 4.2m which is ample to prevent harm to this neighbouring dwelling, particularly as the height of the extension remains subordinate to the main ridge with a hipped roof form which minimises the overall bulk and massing of the extensions. Likewise, a two storey/single storey side extension is located adjacent to the boundary with no.32 which would be set in from the boundary by approximately 1.5m. Whilst it is acknowledged that the neighbouring dwelling is located at a lower land level relative to the host dwelling, given the separation between the dwellings and that no.32's rear wall is set back relative to this element, it is not considered that this is unduly overbearing.
- 7.3.3 To the rear, a two storey extension has been constructed. Appendix 2 of the Development Management Policies LDD states the following with regard to the assessment of such extensions:
- Rear extensions should not intrude into a 45 degree splay line drawn across the garden from a point on the joint boundary, level with the rear wall of the adjacent property. This principle is dependent on the spacing and relative positions of the dwellings and consideration will also be given to the juxtaposition of properties, land levels and the position of windows and extensions on neighbouring properties*
- 7.3.4 The submitted block plan indicates that the extensions result in no intrusion of the 45 degree line when taken from the boundary with no.32 as the extension. As such, it is not considered that the development results in a loss of light and does not appear overbearing. The development must also be assessed with regard to no.28. It is noted that the full extent of

this dwelling has not been indicated on the submitted block plan. However, given that this dwelling is set away from the boundary with a garage structure located immediately adjacent to the boundary with the host dwelling, it is not considered that the development results in any harm. . Furthermore, the design of the extensions with hipped roof form further minimises the additional bulk and massing.

- 7.3.5 Windows are proposed in the flank wall of the dwelling at ground floor level facing towards both neighbours and were previously considered acceptable. Whilst it is acknowledged that no.32 is set at a lower land level, the windows would be at ground floor level and set in from the boundary, with no.32 also set off the boundary. Given the separation distance and the ground floor nature of the fenestration, it is not considered that significant harm occurs. It is noted that the pre-existing garage formed the boundary between the properties and as such details of boundary treatment have been requested which would also minimise any adverse harm in terms of overlooking. The flank windows facing no.28 are set in from the boundary and given the separation between the properties, no objection is raised.
- 7.3.6 With regard to the dormer windows, it is acknowledged that these have outlook over the rear gardens of both neighbouring dwellings, however, given their size and siting, it is not considered that they result in more harm than the pre-existing first floor windows. In addition, the dormer windows are set in from both boundaries which further minimises any harm.
- 7.3.7 There has been no harm to neighbours to the rear given a back to back distance of approximately 54m has been achieved between dwellings, thereby would exceeding the recommended distance of 28m as set out in Appendix 2 of the Development Management Policies LDD. There are no residential neighbours opposite the site that are affected by the development.
- 7.3.8 In summary, subject to conditions preventing the addition of any additional windows at first floor level, the development is viewed to be acceptable and in accordance with Policies CP1 and CP12 of the Core Strategy and Policy DM1 and Appendix 2 of the Development Management Policies LDD.

7.4 Wildlife and Biodiversity

- 7.4.1 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.
- 7.4.2 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.
- 7.4.3 The previous application was accompanied by a Preliminary Roost Assessment which found no bats or evidence of bats. This concluded that the original dwelling had negligible potential to support roosting bats and no further surveys were requested. It is also noted that Herts Ecology raised no objections. Given the works which have taken place to date, it is considered that there has not been any impact to any protected species. However, as per the previous application, an informative shall be added reminding the applicant of the bird nesting season (March- August inclusive) in order to protect birds, their nests and eggs.

7.5 Trees and Landscaping

- 7.5.1 Policy DM6 of the Development Management Policies LDD advises that 'development proposals should demonstrate that existing trees, hedgerows and woodlands will be

safeguarded and managed during and after development in accordance with the relevant British Standard.

- 7.5.2 At the time of the previous application, the Landscape Officer raised no objection to the development, however, noted that pre-commencement conditions including a tree protection plan and Arboricultural Method Statement were necessary. These conditions were discharged. At the time of the site visit, it was noted as per the neighbour's comments that the tree protection measures were not in situ and this issue was raised with the applicant and subsequently rectified. A condition requires the development to be constructed in accordance with the Arboricultural Method Statement and Tree Protection Plan shall be added to the consent.
- 7.5.3 The neighbour has also raised concern that the ground levels have been lowered which could have resulted in damage to their own trees. It is noted that some works to levels have been undertaken to facilitate the development due to the slope of the existing garden, however, the approved plans indicated the enlargement of the patio at the same height as the dwelling. The Landscape Officer has advised that the existing trees do not appear to be of significant quality and are not subject to individual TPOs. The Landscape Officer has advised that damage to roots of neighbouring trees is ultimately a civil matter between neighbours and is not a reason to withhold planning permission.

7.6 Highways, Access and Parking

- 7.6.1 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. Appendix 5 of the Development Management Policies LDD requires a dwelling with four or more bedrooms to have three off street car parking spaces.
- 7.6.2 The comments made at the time of the previous application with regards to off street car parking provision are still considered applicable as follows:

The two existing areas of hardstanding to the frontage would be retained and therefore there would be provision for two off street car parking spaces to the front. The existing four bedroom dwelling already has an existing shortfall of one space, as it would be difficult to fit a modern vehicle into the existing garages. As such, there would be no increase in the overall shortfall on site and thus no objection is raised in this regard.

7.7 Are there any other material considerations?

- 7.7.1 As highlighted above, the extent of demolition is harmful to the Moor Park Conservation Area. However, it should be noted that planning permission 21/0249/FUL regrettably allowed for a large amount of demolition works in order to facilitate the extensions. During the course of the enforcement investigation, the view was also taken that the extent of demolition could reasonably be asserted to fall within the scope of the original permission, albeit for a small number of internal standalone walls which should have remained in situ. Furthermore, the retention of these walls from a planning perspective would not have been of significance to the heritage asset given the extent of authorised demolition elsewhere and the fact that the majority of walls to be retained would have been isolated, standalone walls detached from the original fabric of the dwelling. As a result, the grant of planning permission 21/0249/FUL is a significant material consideration which weighs heavily in favour of granting this part retrospective planning application.
- 7.7.2 In addition, the current scheme (as per 21/0249/FUL) has also enhanced openness across the site following the removal of the existing two garages, either side of the pre-existing dwelling. The enhancement of openness is of weight and is considered an important characteristic feature of the conservation area. Furthermore, the scheme also removed an unsympathetic dormer window which is also of benefit to the scheme.

- 7.7.3 As a result when considering the permission granted under 21/0249/FUL in conjunction with the enhancements the scheme provides, it is considered that these material considerations are of sufficient weight to outweigh the harm caused to the Moor Park Conservation Area through the substantial demolition of the dwelling. Accordingly, for these reasons, the development is acceptable and complies with Policy DM3 of the Development Management Policies LDD.

8 Recommendation

That PART RETROSPECTIVE PLANNING PERMISSION BE GRANTED and has effect from the date on which the development is carried out and is subject to the following conditions:

- C1 The development hereby permitted shall be carried out in accordance with the following approved plans:

5295-EL001 REV F, 5295-PL001 REV F 5295-SI001 REV F,
5295/DEM/001 REV A

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

- C2 The development shall only be implemented in accordance with the approved method statement reference JPL/210324/R3.

The protective measures, including fencing, shall be undertaken in full accordance with the approved scheme JPL/210324/R3 - 30 SOUTH APPROACH, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed within any area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made. No fires shall be lit or liquids disposed of within 10.0m of an area designated as being fenced off or otherwise protected in the approved scheme.

Reason: To ensure that no development takes place until appropriate measures are taken to prevent damage being caused to trees during construction, to protect the visual amenities of the trees, area and to meet the requirements of Policies CP1 and CP12 of the Core Strategy (adopted October 2011) and Policy DM6 of the Development Management Policies LDD (adopted July 2013).

- C3 The building(s) shall not be erected other than in the materials as have been approved in writing by the Local Planning Authority as shown on Materials Schedule Rev C; and no external materials shall be used other than those approved.

Reason: To ensure that the external appearance of the building is satisfactory 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).

- C4 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.

Part 1

Class A - enlargement, improvement or other alteration to the dwelling

Class D - erection of a porch

Class E - provision of any building or enclosure

Reason: To ensure adequate planning control over further development having regard to the limitations of the site and neighbouring properties and in the interests of the visual amenities of the site and the area in general, 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)

8.1 **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. If your development is CIL liable, even if you have been granted exemption from the levy, please be advised that before commencement of any works it is a requirement under Regulation 67 of The Community Infrastructure Levy Regulations 2010 (As Amended) that CIL form 6 (Commencement Notice) must be completed, returned and acknowledged by Three Rivers District Council before building works start. Failure to do so will mean you lose the right to payment by instalments (where applicable), and a surcharge will be imposed. However, please note that a Commencement Notice is not required for residential extensions IF relief has been granted.

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 development 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 The applicant is hereby advised to remove all site notices on or near the site that were displayed pursuant to the application.
- 15 The applicant is reminded that the removal or severe pruning of trees and shrubs should be avoided during the bird breeding season (March to August inclusive [Natural England]) to protect breeding birds, their nests, eggs and young. If this is not practicable, a search of the area should be made no more than 3 days in advance of vegetation clearance and if active nests are found, the location should be cordoned off (minimum 5m buffer) until the end of the nesting season and/or works should stop until the birds have fledged