**16. 17/2585/FUL – Removal of chimney stack at THREE ELMS, COMMON GATE ROAD, CHORLEYWOOD, WD3 5NZ for Mr & Mrs Wright**

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| Parish: Chorleywood Parish Council | Ward: Chorleywood North and Sarratt |
| Expiry Statutory Period: 08.02.2018 | Officer: Tom Norris |
| Recommendation: That Planning Permission be Granted | |
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| Reason for consideration by the Committee: The application has been brought before the Planning Committee as the applicant is a Parish Councillor. | |

1 **Relevant Planning History**

* 1. 8/597/90 - Single storey front and rear extension front and rear dormer windows - 19.09.1990 - Permitted
  2. 8/317/90 - Single storey front extension and two storey side extension - 29.06.1990 - Permitted
  3. 8/151/90 - Single storey front and rear extension and two storey side extension - 24.04.1990 - Refused

2. **Detailed Description of Application Site**

2.1 The application site comprises a detached dwelling with accommodation in the roofspace on the southern side of Common Gate Road, Chorleywood. The dwelling has a pitched roof with dark wooden clad gable features. The exterior of the dwelling is white painted and has two chimney stacks on the ridge of the main roof. There is a detached garage adjacent to the western boundary which is finished in the same materials as that of the dwelling.

2.2 To the front of the dwelling is a softly landscaped front garden and a gravel driveway. The boundary treatment consists of hedging and wooden gates where the application site abuts the grassed public amenity area to the front.

2.3 The neighbour to the west is positioned on a higher land level to that of the application dwelling. This dwelling is of similar architectural style and finish to the application dwelling. The neighbour to the east is positioned at a lower land level and is of contrasting architectural style to the application dwelling.

2.4 The street scene along this part of Common Gate Road is characterised by detached dwellings on spacious plots of varying style that front on to Chorleywood Common.

2.5 The application dwelling falls within the Chorleywood Common Conservation Area.

3. **Detailed Description of Proposed Development**

3.1 Full planning permission is sought for the removal of one of the two chimneys from the dwelling. It is proposed that the easternmost chimney is removed including the stack and breast to allow internal alterations.

4. **Consultation**

4.1 **Statutory Consultation**

4.2 Chorleywood Parish Council: No objection

4.2.1 *“The Committee had Objections to the application and wish to CALL IN.*

*This application has been called in as the applicant is a Parish Councillor - The Committee was not adverse to the removal of the chimney stack.”*

4.3 Conservation Officer: Concerns regarding loss

4.3.1 *“The Planning (Listed Building & Conservation Areas) Act 1990 requires special attention to the desirability of preserving or enhancing the character or appearance of a conservation area.*

*National Planning Policy Framework sets out objectives for protecting and enhancing the historic built environment. Paragraph 132 of the National Planning Policy Framework states that when considering the impact of a proposed development on a designated heritage asset, such as a Conservation Area, great weight should be given to the asset’s conservation.*

*NPPF point 128 states: In determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the asset’s importance and no more that is sufficient to understand the potential impact of the proposal on their significance. As a minimum the relevant historic environment record should have been consulted and the heritage assets assessed using appropriate expertise where necessary. Where a site on which development is proposed includes or has the potential to include heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation.*

*The applicant has failed to fully recognise the importance of the heritage feature/asset and instead the DAS focuses on the ‘merits’ of removing historic fabric and has no detailed description of the chimney.*

*Para 133: Where the proposed development will lead to substantial harm or total loss of significance of a designated heritage asset, local planning authority should refuse consent, unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of the following apply:*

* *The nature of the heritage asset prevents all reasonable uses of the site;*
* *No viable use of the heritage asset can be found in the medium term through appropriate marketing that will enable its conservation; and*
* *Conservation by grant-funding or some form of charitable or public ownership is demonstrably not possible; and*
* *The harm or loss is outweighed by the benefit of bringing the site back into use.*

*Substantial public benefits that outweigh the loss have not been demonstrated.*

*Policy DM3 of the Development Management Policies LDD (2013) sets out the criteria against which proposals within Conservation Areas will be permitted.*

*Within Conservation Areas development will only be permitted if the proposal:*

*“iv. Retains … traditional features….*

*The application site is situated within the Chorleywood Common Conservation Area, set back from the main road. The house is fairly large and located within a large plot, which is typical of the Conservation Area.*

*The existing house is a fine 1930s metroland style house and is considered to make a material contribution to the character or appearance of the Conservation Area.*

*On close inspection, this chimney uses the same bricks as the house and the adjacent chimney and has the same stepped detailing. Therefore, I consider that these chimneys are the same age.*

*Three Elms is in Character Zone C of the Chorleywood Common Conservation Area. The Conservation Area Appraisal has a contemporary photograph of this building on page 15 and makes the important point that views from the Common in this part of the Conservation Area are highly characteristic and therefore any removal of historic features in the area is very regrettable.”*

4.4 Hertfordshire Ecology: No objection

4.4.1 *“Thank you for consulting Hertfordshire Ecology on this application. The Hertfordshire Environmental Records Centre does not have any habitat or species data for the application site, which is a detached two storey dwelling. The property is adjacent to part of Chorleywood Common (which includes the verges in front of the house), which is Commonland and an extensive Local Nature Reserve and Local Wildlife Site covering about 73 ha in total. There are plenty of suitable foraging, commuting and roosting opportunities for bats in the area.*

*I do not anticipate any adverse effects from these proposals on the adjacent grassland areas of Chorleywood Common, however I advise the following Informative is added to any permission granted:*

*“All works, including vehicle movements, materials and waste, are kept strictly within the curtilage of the proposed development site and hardstanding access roads and under no circumstances should there be any detrimental physical impact to Chorleywood Common Local Nature Reserve / Local Wildlife Site.”*

*The property has large areas of roof tiles and weatherboarding, which may have potential to support roosting bats. However, due to the nature and scale of the proposals, in this instance I do not consider any ecological surveys are necessary. Notwithstanding, I recommend a precautionary approach to the works is taken and advise the following Informative is added to any permission granted:*

*“If bats, or evidence for them, are discovered during the course of works, work must stop immediately and advice sought on how to proceed lawfully from an appropriately qualified and experienced Ecologist or Natural England: 0300 060 3900.”*

4.5 National Grid

4.5.1 No comments received.

5. **Neighbour Consultation**

* 1. Site Notice: Site notice posted 20 December 2017 and expired 10 January 2018

Press Notice: Published 15 December 2017 and expired 12 January 2018

5.1.2 Neighbours consulted: 3

5.1.3 Number of responses: 0

5.1.4 Summary of Responses: Not applicable.

6. **Reason for Delay**

6.1 None.

7. **Relevant Local Planning Policies:**

7.1 National Planning Policy Framework (NPPF)

7.1.1 On 27 March 2012, the framework of government guidance in the form of Planning Policy Statements and Planning Policy Guidance Notes was replaced by the National Planning Policy Framework (NPPF). The adopted policies of Three Rivers District Council reflect the content of the NPPF.

7.2 The Three Rivers Local Plan Core Strategy

7.2.1 The Core Strategy was adopted by the Council on 17 October 2011. Relevant Policies include: CP1, CP9, CP10 and CP12.

7.3 Development Management Policies LDD

7.3.1 The Development Management Policies LDD was adopted on 26 July 2013 having been through a full public participation process and Examination in Public. Relevant policies include: DM1, DM3, DM6 and DM13 and Appendices 2 and 5.

7.4 Chorleywood Common Conservation Area Appraisal (February 2010)

7.4.1 The Chorleywood Common Conservation Area Appraisal was adopted on 1 February 2010 as a material planning consideration in the determination of planning applications and as a basis for developing initiatives to preserve and/or enhance the Chorleywood Common Conservation Area. The Appraisal describes the special characteristics of Chorleywood Common Conservation Area as ‘the overwhelming character of the Chorleywood Common Conservation Area is rural, centring around an open common’.

7.5 Other

7.5.1 The following Acts and legislation are also relevant: The Wildlife and Countryside Act 1981 (as amended), the Conservation of Habitats and Species Regulations 2010, the Natural Environment and Rural Communities Act 2006 Habitat Regulations 1994, the Localism Act 2011 and the Growth and Infrastructure Act 2013.

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

8. **Analysis**

8.1 Character Design & Impact on Street Scene & Conservation Area

8.1.1 Policy CP1 of the Core Strategy (adopted October 2011) seeks to promote buildings of a high enduring design quality that respect local distinctiveness. Policy CP12 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' and 'conserve and enhance natural and heritage assets'. Policy DM1 and Appendix 2 of the Development Management Policies LDD (adopted July 2013) seek to ensure that development does not lead to a gradual deterioration in the quality of the built environment.

8.1.2 The application site is located within Chorleywood Common Conservation Area. In relation to development proposals in Conservation Areas Policy DM3 of the DMP LDD stipulates that development will only be permitted if it preserves or enhances the character or appearance of the area and retains historically significant boundaries, important open spaces and other elements of the area’s established pattern of development, character and historic value, including gardens.

8.1.3 The Conservation Area Appraisal describes the special characteristics of Chorleywood Common Conservation Area as ‘the overwhelming character of the Chorleywood Common Conservation Area is rural, centring around an open common’.

8.1.4 The comments of the Council’s Conservation Officer are noted. It is appreciated that the two chimneys are constructed of similar materials to one another, suggesting that they could both be original features. It is however noted that they are of differing scale and style, with the stack proposed to be removed being set slightly further down the roofslope and having a lesser width than the one to be retained. Therefore whilst one chimney stack is to be removed, the dwelling would still retain a chimney which would contribute to retaining the overall character and appearance of the dwelling and the Conservation Area.

8.1.5 Although one chimney is to be removed it is considered that the proposed development would not result in significant harm to the visual amenities of the street scene or character and appearance of the Conservation Area to justify the refusal of planning permission. The proposal 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 Chorleywood Common Conservation Area Appraisal.

8.2 Impact on Residential Amenity

8.2.1 Policy CP12 of the Core Strategy stipulates that development proposals should protect residential amenities by taking into account the need for adequate levels and disposition of privacy, prospect, amenity and garden space.

8.2.2 Given the nature of the proposal, no overlooking or overshadowing would result from the proposed development and therefore it would not impact upon the residential amenity of any neighbouring property. As such, it is considered that the proposed development would be in accordance with Policy CP12 of the Core Strategy and Policy DM1 and Appendix 2 of the DMP LDD.

8.3 Parking/Access/Highways

8.3.1 Core Strategy Policy CP10 requires development to provide a safe and adequate means of access and to make adequate provision for all users, including car parking. Policy DM13 and Appendix 5 of the Development Management Policies document sets out parking standards for developments within the District.

8.3.2 The proposed development would not increase the number of bedrooms and would not encroach upon the existing parking provision serving the site.

8.4 Amenity Space

8.4.1 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.

8.4.2 The proposed development would not affect the provision of amenity space.

8.5 Wildlife & Biodiversity

8.5.1 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. The Habitats Directive places a legal duty on all public bodies to have regard to the habitats directive when carrying out their functions.

8.5.2 The protection of biodiversity and protected species is a material planning consideration in the assessment of this application in accordance with Policy CP9 of the Core Strategy and Policy DM6 of the Development Management Policies document. National Planning Policy requires Local Authorities to ensure that a protected species survey is undertaken for applications where biodiversity may be affected prior to the determination of a planning application. A Biodiversity Checklist was submitted with the application and states that no protected species or biodiversity interests will be affected as a result of the application.

8.5.3 Hertfordshire Ecology were consulted as part of the application and confirmed that although the property has large areas of roof tiles and weatherboarding which may have potential to support roosting bats, the nature and scale of the proposals mean that ecological surveys are not necessary. A precautionary approach to the works however is recommended and a bat informative has been added to the planning permission.

8.6 Trees

8.6.1 Policy DM6 of the Development Management Policies LDD (adopted July 2013) states that development proposals on sites which contain existing trees and hedgerows will be expected to retain as many trees and hedgerows as possible, particularly those of local amenity or nature conservation value. Policy DM6 further states that development proposals should demonstrate that existing trees, hedgerows and woodlands will be safeguarded and managed during and after development.

8.6.2 The application site is located within the Chorleywood Common Conservation Area and as such all trees are afforded a degree of protection by virtue of the Conservation Area status. The proposed development however would not result in the loss or harm to any trees.

9. **Recommendation**

9.1 That PLANNING PERMISSION BE GRANTEDsubject to the following conditions: -

C1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: In pursuance of Section 91(1) of the Town and Country Planning Act 1990 and as amended by the Planning and Compulsory Purchase Act 2004.

C2 The development hereby permitted shall be carried out in accordance with the following approved plans: 01, 02, 03, 04, 05, BP01, SP01

Reason: For the avoidance of doubt and in the proper interests of planning and to safeguard the character and appearance of the Chorleywood Common Conservation Area and the residential amenity of neighbouring occupiers, 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 Chorleywood Common Conservation Area Appraisal (2010).

C3 Unless specified on the approved plans, all new works or making good to the retained fabric shall be finished to match in size, colour, texture and profile those of the existing building.

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 and DM3 and Appendix 2 of the Development Management Policies LDD (adopted July 2013).

9.1.2 **Informatives:**

I1 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) - If your development is liable for CIL payments, it is a requirement under Regulation 67 (1) 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.

I2 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.

I3 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.

I4 Bats are protected under domestic and European legislation where, in summary, it is an offence to deliberately capture, injure or kill a bat, intentionally or recklessly disturb a bat in a roost or deliberately disturb a bat in a way that would impair its ability to survive, breed or rear young, hibernate or migrate, or significantly affect its local distribution or abundance; damage or destroy a bat roost; possess or advertise/sell/exchange a bat; and intentionally or recklessly obstruct access to a bat roost.

If bats are found all works must stop immediately and advice sought as to how to proceed from either of the following organisations:

The UK Bat Helpline: 0845 1300 228

Natural England: 0300 060 3900

Herts & Middlesex Bat Group: www.hmbg.org.uk

or an appropriately qualified and experienced ecologist.

(As an alternative to proceeding with caution, the applicant may wish to commission an ecological consultant before works start to determine whether or not bats are present. A list of bat consultants can be obtained from Hertfordshire Ecology on 01992 555220).

I5 All works, including vehicle movements, materials and waste, are kept strictly within the curtilage of the proposed development site and hardstanding access roads and under no circumstances should there be any detrimental physical impact to Chorleywood Common Local Nature Reserve / Local Wildlife Site.