

PLANNING COMMITTEE – 17 NOVEMBER 2022

PART I - DELEGATED

7. 22/1246/FUL - Demolition of existing dwelling and erection of two storey detached dwelling with basement, erection of detached garage, and alterations to landscaping at WILLOW COTTAGE, CHALFONT LANE, CHORLEYWOOD, HERTFORDSHIRE, WD3 5PP

Parish: Chorleywood Parish Council Ward: Chorleywood South & Maple Cross
Expiry of Statutory Period: 27.09.2022 Case Officer: Tom Norris
(Extension of time agreed to 24.11.2022)

Recommendation: That Planning Permission be granted

Reason for consideration by the Committee: Called to Committee by Chorleywood Parish Council unless Officers are minded to refuse for the reasons set out at 4.1.1 below.

1 Relevant Planning History

- 1.1 13/1508/CLPD - Certificate of Lawfulness Proposed Development: Replacement bay window extension to rear elevation new external store to side of the house - 07.10.2013 – Permitted
- 1.2 97/1003 - Two storey and first floor side extension first floor front extension new pitched roof over garage and alterations - 19.01.1998
- 1.3 1471/83 – Bedroom - 14.10.1983
- 1.4 867/64 - Existing garage to living accommodation. New garage, playroom - 02.07.1964
- 1.5 181/54 - House and Garage - 23.03.1954
- 1.6 1230/53 - House and Garage - 24.11.1953

2 Description of Application Site

- 2.1 The application site contains a large detached dwelling within a substantial plot located on Chalfont Lane, Chorleywood. The dwelling has dark tiled hipped roof forms and a dark facing brick exterior. Forward of the dwelling is a front garden and large paved driveway. The frontage of the site is lined by mature trees. To the rear of the dwelling is an amenity garden of some 3000sqm in area.
- 2.2 The neighbouring dwellings are detached dwellings of similar scale to the application dwelling and are positioned on similar building lines. This side of Chalfont Lane is characterised by large dwellings on spacious plots, set back a relatively substantial distance from the highway, approximately 30m. There is no particular or overwhelming design or style of dwelling within the area and the area is characterised by its sense of spaciousness.

3 Description of Proposed Development

- 3.1 It is proposed that the existing dwelling is demolished and a replacement dwelling constructed in its place.
- 3.2 The proposed dwelling would be of contemporary design with flat roof forms, some of which would be 'green roofs'. The proposed dwelling would be part single-storey, part two-storey and would contain basement accommodation. The proposed dwelling would largely assume the same position as the current dwelling, set back approximately 30m from the highway.

- 3.3 The proposed dwelling would contain a centrally positioned two-storey element which would have a width of 17.0m, depth of 12.0m, and height of 6.6m. There would be a ground floor element adjoining the south-eastern flank which would have a width of 5.2m, height of 3.3m and depth of 26.5m, extending 14.5m beyond the principal rear elevation. There would be a ground floor element, which includes a garage and covered link, adjoining the north-western flank which would have a width of 13.4m, height of 3.3m and would extend 12.5m forward of the principal front elevation.
- 3.4 The two-storey portion of the dwelling would be spaced 6.0m from the north-western flank boundary and 15.5m from the south-eastern flank boundary. The single-storey portions of the dwelling would be spaced 2.0m from the south-eastern flank boundary and 1.5m from the north-western flank boundary.
- 3.5 The proposed dwelling would contain a basement which would sit directly below and occupy the majority of the extent of the ground floor footprint of the proposed dwelling. The basement would have a width of 25.0m and a depth (front to rear projection) of 11.3m.
- 3.6 The proposed dwelling would contain glazing at ground and first floor level within each of its elevations. The dwelling would be finished in facing brick and would have metal detailing and window frames. The dwelling would contain solar panels to its flat roof forms and green roofs to the single-storey elements.
- 3.7 It is proposed that hard and soft landscaping alterations are made to the front and rear of the dwelling. To the front of the dwelling an extended parking area would be formed with the current hardstanding extended by some 50sqm in area. The driveway would be entirely laid in resin bound gravel.
- 3.8 A rear patio area would be constructed which would have a depth of 14.0m from the principal rear elevation and a width of 25.6m. There would be light-wells to serve the basement which are shown on the plans to be flush with the ground level and there would be a sunken courtyard area which leads up to the rear patio. There would be an area some 40.0m down the garden measuring 25.0m in width and 8.0m in depth which would be laid as gravel and containing planters.

4 Consultation

4.1 Statutory Consultation

4.1.1 Chorleywood Parish Council: Objection

“The Committee had Objections to this application on the following grounds and wish to CALL IN, unless the Officer are minded to refuse planning permission.

Should the plans or supporting information be amended by the Applicant, please advise the Parish Council so the comments can be updated to reflect the amended

- *The proposed development owing to its layout, scale and design. In particular its box like nature is out of keeping with the street scene and it fails to responds to the character and context of Chalfont Lane which is one of the main roads through Chorleywood*
- *The proposal is contrary to policies NNDP 2.3 CP12*
- *Strong objections to the demolition of a perfectly good house - if we are to meet net zero emissions by 2050, developments need to cut down on waste. Refurbishing existing buildings is the most efficient way of reducing waste and reducing carbon emissions. Substantial demolition of a house should not be allowed without full justification which this application fails to provide. It is contrary to Paragraphs 154 and 157 of the NPPF.”*

Officer comment: In response to the Parish's comments in respect of demolition of the house, it should be noted that the quoted parts of the NPPF do not prevent houses from being demolished. There are no development plan policies which prevent houses from being demolished. The energy credentials of the proposed development are set out within the analysis section of this report.

4.1.2 Hertfordshire Ecology: No objection subject to conditions

4.1.2.1 **Comments of 9 August 2022**

“Summary

The necessary survey data for great crested newts and badgers is missing. Both species are protected in law and until the necessary surveys are carried out and accepted by the Council, consent cannot be granted. In the case of the former, this will result in a delay until the spring/early summer of 2023.

The majority of ecological matters have been assessed adequately and where there was some doubt, suggestions have been made below. All the necessary measures could be delivered by condition (but only when the protected species matters above have been dealt with).

Full response

Thank you for your letter of 3 August 2022 which refers, and for consulting Herts Ecology.

The Hertfordshire Environmental Records Centre holds no records of notable ecological significance for this site or the area that will be adversely affected by this development proposal. This opinion is largely supported by the accompanying Ecological Appraisal (EA) by Cherryfield Ecology (4 March 2022) which accompanies this application with two important exceptions.

Ultimately, the report identified that the proposed development site only supported a restricted range of features of relatively modest ecological importance although the possible presence of great crested newts, badgers and breeding birds in close proximity to the property are worthy of note and at risk of harm. The EA makes clear that further surveys of both are required to provide the necessary certainty and to allow suitable mitigation and/or compensation measures to be developed

However, more fundamental limitations apply to these proposals regarding great crested newts and badgers, as follows.

Great crested newts

Great crested newts are a 'European protected species' and afforded protection under the Habitats Regulation 2017 (as amended), not the Habitats Regulations 2019 as indicated; the latter only makes provision for the UK's exit from the EU and does not address the protection of species.

As demolition and substantial new property is proposed, there is the clear potential for newts to be harmed during the terrestrial phase of their life cycle. Great crested newts are protected by law (the Conservation of Habitats and Species Regulations 2017 as amended (or Habitats Regulations) and the Wildlife and Countryside Act 1981 as amended) and in broad terms it is a criminal offence to:

- *Damage or destroy a roost or place of shelter;*
- *Deliberately disturb, injure, or kill an individual; or*

- *Be in possession of an individual.*

It is well established that that Natural England is the principal regulator for the protection of great crested newts rather than local authorities. Consequently, where an offence is considered likely, a licence from Natural England is normally granted only after the developer has first received full planning permission from a local authority. Accordingly, when considering an application, the local authority should only grant planning permission where it concludes that a great crested newt licence is unlikely to be refused by Natural England.

Without reliable evidence of the presence or absence of great crested newts the Council could not be certain that an offence would not be committed and cannot be certain that Natural England would issue the necessary licence. Therefore, it would be unable to determine an application.

The presence of great crested newts is therefore a clear material consideration in any planning application where harm might arise.

The EA makes clear that the presence of great crested nets in a nearby pond is suspected but unknown. Therefore, the Council cannot be certain if by granting consent now that an offence may occur.

The EA makes clear that the necessary certainty can only be achieved via an e-DNA survey and that these can only be carried out during the period between mid-March and June. I have no reasons why I should disagree with this advice. To grant consent now would mean reliance on evidence that fails to meet the standards of evidence required by best practice and so would not allow an informed assessment to be made.

*As we have passed this period, the necessary great crested newt e-DNA survey cannot take place until the spring or early summer of 2023 and accordingly **the Council should not grant consent at this moment in time.** These surveys cannot be conditioned.*

Badgers

Similar circumstances arise in terms of badgers. Again, the presence of a sett within 30m of the building works is suspected but not known. The EA makes clear that a further survey is required and I have no reasons why I should disagree with this advice.

*Whilst the timing restrictions are less than for the great crested newts above, the necessary survey has not yet been completed and again, **until such time as the badger survey has been undertaken and accepted by the Council, it should not grant permission.** These surveys cannot be conditioned.*

Other ecological matters

Regarding other ecological matters, whilst the reports acknowledged that some features benefitted from protection in policy and law, it concluded that other impacts on could be mitigated and/or compensated.

However, this positive outcome was dependent on the adoption of a series of avoidance, mitigation and enhancement measures described in the following:

- *In section 4.3 under 'bats';*
- *In section 4.3 under 'breeding birds';*
- *In Table 14 under 'lighting' - the measures suggested are appropriate but lack clarity. A simple lighting plan should clarify this that should be designed to ensure that any bat*

activity surrounding the new dwelling and the newly installed bat boxes is not compromised. It need not be overly complex; and

- Table 15 under 'bat, bird and insect box enhancement, and hedgehog connectivity'.

All should be secured by condition or similar in any future consent.

*In addition, a landscaping masterplan has been provided. This should ensure that a biodiversity net gain is provided but as only a single dwelling is proposed, recommend that the need to quantify this via biodiversity metric and to secure the management for a thirty-year period can both be waived. However, to ensure implementation of the masterplan, I recommend the need to produce 'Landscaping and **Ecological Management Plan is also secured by condition**. This too need not be overly complex.*

For clarity, any condition relating to landscaping should refer to the submitted Landscape Masterplan 'Willow Cottage Masterplan No. 2967-11-01 Bowles & Wyr 07.06.22 Rear garden updated'."

4.1.2.2 Comments of 23 September 2022

"Summary

Great crested newts are likely to be absent and do not need to be considered further.

As a badger sett is to be destroyed, a licence from Natural England is required.

Inadequate information is provided for the Council to be sure that a licence will be issued and so consent cannot be granted at this time; shortcomings and solutions are described.

Seasonal constraints demand urgent action if the application is not to be delayed.

Full response

Thank you for your email of 23 August and for providing the great crested newt ('fera', 29 April 2022) and badger reports (Cherryfield Ecology, dated 10 May 2021 but obviously carried out during 2022 - the report should be dated accurately).

*The great crested newt e-DNA confirms the likely absence of this species from the application site. Therefore, **great crested newts need not be considered further**.*

In contrast, the badger report confirms the presence of a sett on site in such close proximity that harmful effects from development cannot be ruled out

As described in our previous letter of 9 August 2022, badgers are afforded protection in law. Given the anticipated harm that will result, a licence from Natural England will be required after planning permission has been granted. Therefore, for the latter to occur you must be confident that a licence will be issued.

The badger report acknowledges this and, in Table 4.4, puts forward a range of mitigation measures. Overall, though, only modest evidence, little interpretation and, similarly, little consideration of the limitations is presented.

Instead, the approach to mitigation appears to rely on badgers from the sett to the front of the property which is to be 'lost' or 'destroyed' being accommodated within the sett to the rear. This is a fundamental assumption which is not proven by the evidence provided.

Importantly, there is no evidence that characterisation of the two setts has been undertaken. Photographic evidence shows that both are used but no investigation appears to have been carried out to determine if either are main setts or outliers or, indeed, if they are inhabited

by members of the same family group or two different ones. If the latter, the sett to the rear cannot be assumed to accommodate those from the one to be destroyed. If two family groups are present the loss of the sett to the front could have an adverse impact on the welfare of that group.

Such evidence is normally gained by bait-marking and the inspection of latrines and/or close inspection of tracks/paths; the former may be challenging in an urban setting but no evidence of this appears to have been captured. I recommend that this is carried out though this will introduce a delay; bait-marking is best carried out between February and April otherwise limitations will apply to any results. The effort required to carry out this survey can also be intensive.

The relative proximity of the setts may suggest one family group but this cannot be assumed. The photographic evidence shows that both were in regular use, including the smaller one to the front, as evidenced by the collection of bedding. This could suggest the presence of two family groups.

Furthermore, evidence has only been collected over a short space of time. Breeding occurs over winter and in the spring observations of recently born cubs could suggest a different picture. In turn, no consideration appears to have been made of when demolition and construction will take place; restrictions are greater if breeding/raising of cubs is taking place.

Furthermore, I could find no measures to ensure that construction, over a prolonged period, would not lead to the disturbance of the sett to the rear. Although 50m distant from the dwelling (and beyond the 30m threshold where impacts are generally ruled out), I consider such measures essential given its pivotal role in the mitigation 'strategy'.

For instance, the 30m threshold applies only to more 'normal' activities. The method of demolition or construction is not described. Each could result in considerable disturbance above and below ground not least by piling. Both methods should be described and assessed.

In addition, I note the removal of at least one tree (and possibly more – the shading of the diagrams makes it difficult to assess) in proximity to the sett in the back garden. Although exact locations are difficult to establish, I could find no assessment of this activity. If, for instance, trees are to be grubbed up, the sett itself could be damaged. Otherwise, disturbance from felling could be a factor. A solution could be to retain more trees in situ or to rearrange the layout of the back garden.

Furthermore, the measures to close the sett in the front garden were only briefly described. This is exemplified by, but not limited to, the approach to monitoring. A period of 21 days was identified but no objectives were described. What would monitoring be designed to do? What remedial measures are proposed if badgers continue to try (and succeed) to re-occupy the sett? Is a 21-day period sufficient in these circumstances?

I also note the apparent absence of simple measures such as covering trenches when not in use and/or providing ramps to prevent badgers and other animals becoming trapped. Similarly, no mention was made of securing existing paths between both setts if, indeed, they are used by the same family. All should be addressed along with other construction site matters.

In its current state, I do not believe Natural England would issue the necessary licence and, therefore, **I cannot recommend that you grant permission.**

The situation is not irretrievable but considerably more evidence and interpretation is required. Evidence can only be gathered and setts can only be blocked at certain times of the year and so there are real time constraints to consider.

Whilst this may lead to delay, it would be greater were a licence application to be submitted now and, as I anticipate, be refused; Natural England requires 30 days to issue a licence, or not and probably require collection of the same evidence as described above.

Note that the need for conditions for other ecological matters described in our letter of 9 August remains.”

4.1.2.3 Comments of 4 November 2022

“Summary

Further information has now been provided regarding badgers

I believe this is now adequate to allow Natural England to issue the necessary licence

Therefore, I can now recommend that planning permission can now be granted

Conditions are required

Full response

In my previous letter of 23 September 2022, I expressed doubt that adequate information had been provided that would allow Natural England to issue the necessary licence for the destruction of the sett in the front garden; consequently, I could not recommend that the Council awarded planning consent. The sett to the front is proposed to be lost to the development whilst the one to the rear is to be retained.

I have since been provided with new evidence in the form of a ‘Full Badger Report’ (Cherryfield, 17 October 2022).

This includes evidence of the movement of badgers between the sett to the front and the one to the rear. This evidence comprises footprints along the side of the house and the lack of any latrines; the former indicates badgers use both setts and the latter that there is no obvious territorial boundary between the two. Together, this suggests that badgers from one social group only use both setts. Cherryfield suggests that the sett to the front is an outlier of the main sett to the rear (which is suspected to extend into neighbouring properties).

The most recent surveys, allied with those undertaken previously, have been carried out an appropriate time of year and have followed established methods for the particular circumstances. In saying this, I note no bait marking was carried out and that access was not gained to other entrances to the main sett on adjacent land. However, given this particular setting, I believe the evidence is adequate.

Therefore, I have no reason to disagree with these findings.

I now note that trees will be felled around the main sett as part of the proposed development. However, if carried out according to best practice (ie by hand as indicated) this should not be a material factor. I note that if the stumps need to be removed this will form part of the licence application. Whilst this introduces some uncertainty, the measures to achieve this safely are well established and do not affect the outcome of this letter.

In addition, Cherryfield provides greater detail in the form of improved mitigation and monitoring (Table 4.4) of the latest badger report. I consider these to provide adequate certainty that harmful effects on the badger clan will be avoided.

The measures in Table 4.4 should be secured by condition.

In addition, a condition should be added to ensure that any exposed trenches should be covered and/or ramps placed within them to prevent badgers becoming trapped or to allow a means of escape. This appears to be lacking in any of the documents submitted.

I stress that the need for conditions for other ecological matters described in my first letter of 9 August 2022 which relate to the original Ecological Appraisal (Cherryfield 4 March 2022) remains. These are repeated below (in italics):

- *In section 4.3 under 'bats';*
- *In section 4.3 under 'breeding birds';*
- *In Table 14 under 'lighting' - the measures suggested are appropriate but lack clarity. A simple lighting plan should clarify this that should be designed to ensure that any bat activity surrounding the new dwelling and the newly installed bat boxes is not compromised. It need not be overly complex; and*
- *Table 15 under 'bat, bird and insect box enhancement, and hedgehog connectivity'.*

All should be secured by condition or similar in any future consent.

I recommend the need to produce [a] 'Landscaping and Ecological Management Plan is also secured by condition

Overall, I am of the opinion that providing the measures above are secured, the evidence provided and conditions proposed meet Natural England's standing advice and that there is no likely reason why it would not issue the necessary licence. Ultimately though, this decision is for Natural England to make and it may adopt a different position.

However, is my opinion that no ecological constraints will remain and the application can be determined accordingly."

4.1.3 Landscape Officer: [No response received]

4.1.4 Herts & Middlesex Wildlife Trust: [No response received]

4.1.5 National Grid: [No response received]

4.2 Public/Neighbour Consultation

4.2.1 Neighbours consulted: 5

4.2.2 Site Notice posted: 07.08.2022, expiry date: 28.08.2022

4.2.3 Press notice posted not required.

4.2.4 Responses received: 1 (1 Objection)

4.2.5 Neighbours were consulted for the statutory 21-day period on 03.08.2022 and were then re-consulted for 7 days on amended plans on 10.10.2022.

4.2.6 Summary of responses

- No objection to the development itself however the boundary line is drawn incorrectly on the site plan and spills into neighbouring land

Officer comment: Amended plans were submitted showing the boundary line corrected

5 Reason for Delay

- 5.1 Ongoing Engagement with applicant and Ecology consultant to enable ecology objections to be addressed.

6 Relevant Planning Policy, Guidance and Legislation

6.1 Legislation

- 6.1.1 Planning applications are required to be determined in accordance with the statutory development plan unless material considerations indicate otherwise as set out within S38(6) Planning and Compulsory Purchase Act 2004 and S70 of Town and Country Planning Act 1990).
- 6.1.2 The Localism Act received Royal Assent on 15 November 2011. The Growth and Infrastructure Act achieved Royal Assent on 25 April 2013.
- 6.1.3 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.

6.2 Policy & Guidance

National Planning Policy Framework and National Planning Practice Guidance

- 6.2.1 In July 2021 the revised NPPF was published, to be read alongside the online National Planning Practice Guidance. The 2021 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”.
- 6.2.2 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 unless there is a clear reason for refusing the development (harm to a protected area).

The Three Rivers Local Development Plan

- 6.2.3 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.
- 6.2.4 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.
- 6.2.5 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.
- 6.2.6 Chorleywood Neighbourhood Development Plan (Referendum Version, August 2020). Relevant policies include Policy 2.

6.3 Other

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

7 Planning Analysis

7.1 Principle of Development

7.1.1 The application dwelling is not situated within a Conservation Area and is not a Listed or Locally Listed Building. As such, there are no overriding policy requirements to retain the existing dwelling and the principle of demolition and construction of a replacement dwelling is considered to be acceptable.

7.2 Impact on Character and Appearance

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 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.

7.2.2 Policy DM1 and Appendix 2 of the Development Management Policies LDD (DMP LDD) (adopted July 2013) set out that development should not have a significant impact on the visual amenities of the area. The Design Criteria at Appendix 2 states that the first floor element of development should be set in by a minimum of 1.2 metres to prevent a terracing effect within the street scene. Increases to ridge height will be assessed on their own merits at the time of a planning application. Where roof forms are of a uniform style/height and appearance, it is unlikely that an increase in ridge height will be supported by the Council. Crown roofs can exacerbate the bulk and massing of properties and are generally discouraged in favour of more traditional pitched roof forms.

7.2.3 Policy 2 of the Chorleywood Neighbourhood Development Plan states that All developments must demonstrate how they are in keeping with, and where possible enhance, the Special Characteristics of Chorleywood and that all development should seek to make a positive contribution to the 'street scene' by way of frontage, building line, scale and design.

7.2.4 The NPPF outlines that innovative design should not be stifled where there is no clear deviation from guidance set out in planning policy. The proposed dwelling would comply with the guidelines of Policy DM1 and Appendix 2 in respect of its form, bulk and spacing and the proposed contemporary design is considered to be appropriate in this location.

7.2.5 Paragraph 134 of the NPPF outlines that significant weight should be given to

- a) Development which reflects local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes; and/or
- b) Outstanding or innovative designs which promote high levels of sustainability, or help raise the standard of design more generally in an area, so long as they fit in with the overall form and layout of their surroundings.

7.2.6 Paragraph 135 adds that Local planning authorities should seek to ensure that the quality of approved development is not materially diminished between permission and completion, as a result of changes being made to the permitted scheme (for example through changes to approved details such as the materials used).

7.2.7 The character of Chalfont Lane is mixed with differing architectural style and materials. The proposed new dwelling would be a contemporary design contrasting with the traditional form and appearance of the existing dwelling. The proposed dwelling would meet the policy requirement for flank spacing and would have a lower overall height than each of its direct adjoining neighbours thus would not appear excessively prominent or cramped within the street scene. The proposed dwelling would contain a linked detached garage which would be sited forward of the front building line of the dwelling and adjoining neighbours. Whilst this is noted, the garage would be single-storey and relatively low profile and while it would

extend further forward, it would not appear prominent in the context of the dwelling or street scene. The proposed dwelling would contain a basement however this would be hidden from any public viewpoints and is not considered to result in harm to the character and appearance of the area.

- 7.2.8 The proposed dwelling would appear different to the existing dwelling however this would not automatically amount to harm in planning terms. The proposed new dwelling would respect the size and scale of the plot and would fit comfortably with its surrounding in accordance with paragraph 134 of the NPPF and Policy CP12 of the Core Strategy. The dwelling would also be set back a significant distance from the road and well screened from the public highway. The Design & Access Statement specifies material details which are considered to ensure that the quality of the design is not diminished as required by paragraph 135 of the NPPF. A condition will be imposed for full material details to be submitted prior to any works above ground level.
- 7.2.9 It is not considered that the proposed front and rear hard and soft landscaping alterations would result in any harm to the character and appearance of the site or area.
- 7.2.10 Whilst the relative scale and appearance of the dwelling is considered to be acceptable, as set out above, it is considered reasonable to restrict future permitted development rights to further enlarge the dwelling or amend the approved fenestration without adequate planning control.
- 7.2.11 In summary it is not considered that the proposed development would result in an adverse impact on the character or appearance of the host dwelling, street scene or area and the proposal would be acceptable in accordance with Policies CP1 and CP12 of the Core Strategy, Policy DM1 and Appendix 2 of the Development Management Policies document and Policy 2 of the Chorleywood Neighbourhood Development Plan (Referendum Version) (2020).

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 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. Two-storey development should not intrude the 45 degree splay line measured from a point on the shared boundary level with the rear wall of the dwelling.
- 7.3.2 The proposed block plan indicates that the proposed development would adhere to the 45 degree splay line and would not intrude at first floor level from a point taken on the shared boundary with each adjoining neighbour. It is not therefore considered that the two-storey element of the proposed dwelling would result in harm to adjoining neighbours in terms of a loss of light or overbearing impact.
- 7.3.3 The ground floor element of the proposal would extend some 14.5m in depth and 3.3m in height beyond the rear elevation of the adjoining neighbour to the east at Broadfields. Whilst this is a significant depth, this element of the proposal would be set away some 2.5m from the shared boundary and would not be overbearing in height. Furthermore it is noted that the dwelling at Broadfields is set approximately 7.0m from their boundary within the site and possesses a significantly wide rear outlook. It is therefore not considered that the proposed development would result in an overbearing impact or a loss of light to the rear outlook of this neighbour. The ground floor element of the proposal, which includes the garage and link, would also extend some 12.5m in depth beyond the front elevation of the adjoining neighbour to the west at Woodfield House. Whilst this is a significant depth, this element of the proposal would be set away some 2.5m from the shared boundary. It is not considered

that the proposed development would result in an overbearing impact or a loss of light to the front outlook of this neighbour.

- 7.3.4 The proposed replacement dwelling would contain ground and first floor level glazing within its front, rear and flank elevations.. It is not considered that the proposed ground floor fenestration would cause overlooking harm to any adjoining neighbour. It is acknowledged that the two-storey element of the proposed development includes front and rear facing glazing which serves bedrooms. It is not considered that these windows would provide a materially different view to that which is achieved currently and is considered to be acceptable. It is considered that the proposed first floor flank windows to the western flank elevation, which serve bathrooms would be acceptable subject to an obscure glazing and top-level opening only condition. It is not considered that the glazing angled to overlook the front driveway serving the dressing room and en-suite would cause overlooking to any neighbour
- 7.3.5 It is acknowledged that the glazing serving the master bedroom wraps around the dwelling therefore is angled towards the adjoining neighbour to the south-east. While this is factored into consideration, there would be a significant separation distance of over 15m from this fenestration to the boundary. As such, it is considered that this window would be acceptable to be clear glazed and not result in unacceptable levels of overlooking. It is similarly considered that the true flank window in the south-eastern elevation would not cause overlooking.
- 7.3.6 It is not considered that the proposed rear patio would result in overlooking to any adjoining neighbour given its height and profile from the current ground level.
- 7.3.7 The proposed development would therefore be acceptable 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 Highways & Parking

- 7.4.1 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 set out parking standards.
- 7.4.2 The existing and proposed front driveway could accommodate at least three car parking spaces, in line with the Council's adopted parking standards for a dwelling of this size. No changes to the existing access are proposed as part of the proposed development which would remain the same.
- 7.4.3 The proposed development would include a considerable amount of excavation to form the proposed basement, and it is considered to be reasonable and necessary to attached a construction management plan condition to any approval to ensure the LPA are able to review and approved details of the construction activities including timings of works, vehicle movements, dust and mud suppression measures and details of where excavated material would be taken.
- 7.4.4 The proposed development is therefore acceptable in accordance with Policy CP10 of the Core Strategy (adopted October 2011) and Policy DM13 and Appendix 5 of the Development Management Policies document (adopted July 2013).

7.5 Trees & Landscape

- 7.5.1 Policy CP12 of the Core Strategy expects development proposals to 'have regard to the character, amenities and quality of an area', to 'conserve and enhance natural and heritage assets' and to 'ensure the development is adequately landscaped and is designed to retain, enhance or improve important existing natural features.' 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 The application site contains mature trees to the site frontage and throughout the site and other mature trees within the vicinity. The application is accompanied by a comprehensive Arboricultural Impact Assessment and Tree Protection Plan. It is proposed that a total of six trees are removed to accommodate the proposed development. Out of these trees one Category B tree (T58) to the rear of the dwelling would be removed to accommodate the proposed swimming pool element of the dwelling. Category B trees are categorised as trees which may be somewhat smaller or not particularly high-quality however still make a significant impact on the local environment and have a significant life expectancy. Three of these trees would be Category C trees which are categorised as smaller trees or ones considered to be of low quality which have a limited life expectancy or contribute very little to the amenity of the locality. The remaining two trees to be removed are Category U trees which are categorised as tree that are dead or are showing signs of significant, immediate, and irreversible overall decline.
- 7.5.3 It is considered that the loss of the trees would be acceptable to accommodate the proposed development and, given the number of trees to remain on site, would not significantly impact the landscape character and appearance of the area. The Arboricultural Report does not specify any replacement planting to mitigate the trees to be removed however the landscaping scheme indicates replacement planting throughout the site. It is considered appropriate to include a condition for details of replacement planting to mitigate the loss of trees.
- 7.5.4 The report also specifies that the proposed driveway alterations would be within the root protection zones of four trees. The Arboricultural Report states that the driveway is to be designed in conjunction with an arboriculturist, using a no-dig construction method above the current soil level. The existing tarmac driveway will be retained in situ where possible to prevent unnecessary disturbance of soil within the rooting zone of these trees. Given the nature of the proposed driveway alterations which would not include digging or excavating to a significant depth, it is not considered that these trees would be harmfully impacted by this element of the proposal if due care is taken as set out in the report.
- 7.5.5 The application is accompanied by a Tree Protection Plan which specifies protective fencing in accordance with BS5837:2012. A condition will be included on any permission for this to be erected prior to the commencement of works and removed only once works have been complete.
- 7.5.6 In summary, subject to appropriate conditions, the proposed development is acceptable in accordance with Policy CP12 of the Core Strategy (2011) and Policy DM6 of the Development Management Policies LDD (2013).
- 7.6 Rear Garden 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 privacy, prospect, amenity and garden space.
- 7.6.2 The dwelling would retain a garden of approximately 3000sqm in area which is considered to be acceptable.
- 7.7 Refuse & Recycling
- 7.7.1 Core Strategy Policy CP1 states that development should provide opportunities for recycling wherever possible. Policy DM10 of the Development Management Policies document sets out that adequate provision for the storage and recycling of waste should be incorporated into proposals and that new development will only be supported where the siting or design

of waste/recycling areas would not result in any adverse impact to residential or workplace amenities, where waste/recycling areas can be easily accessed (and moved) by occupiers and waste operatives and where there would be no obstruction to pedestrian, cyclist or driver sight lines.

7.7.2 The existing dwelling is located within a residential area and the collection of refuse and recycling bins adjacent to the highway would be considered acceptable in accordance with Policy CP1 of the Core Strategy (adopted October 2011) and Policy DM10 of the Development Management Policies LDD (adopted July 2013).

7.8 Sustainability

7.8.1 Policy DM4 of the Development Management Policies document states that applications for new residential development will be required to demonstrate that the development will meet a zero carbon standard (as defined by central government). However the government are not pursuing zero carbon at this time and therefore the requirements of DM4 to achieve a 5% saving in CO2 over 2013 Building Regulations Part L would continue to apply.

7.8.2 The comments of Chorleywood Parish Council are noted in respect of the demolition of the existing dwelling. It is acknowledged that the Parish state that “*refurbishing existing buildings is the most efficient way of reducing waste and reducing carbon emissions. Substantial demolition of a house should not be allowed without full justification.*” Whilst this is noted, the Design & Access Statement sets out sustainability strategies, which includes a range of measures as to how the proposed dwelling would be more energy efficient than the existing dwelling on a day-to-day basis. These strategies and measures include features such as insulation, ground or air source heating and the incorporation of solar technologies.

7.8.3 The application is accompanied by energy calculations from Elmhurst, dated 1 August 2022. Whilst energy saving measures are set out within the Design & Access Statement, it is considered appropriate for a condition to be included on the grant of any permission for a detailed Energy Statement to be submitted which demonstrates how such efficiency measures are to be incorporated into the building fabric in order to reduce energy demand and confirms that the proposed scheme is to secure at least a 5% reduction in CO2 emissions below the baseline emission rate based on Part L 2013 edition.

7.9 CIL

7.9.1 Core Strategy Policy CP8 requires development to make adequate contribution to infrastructure and services. The Three Rivers Community Infrastructure Levy (CIL) came into force on 1 April 2015. The levy applies to new dwellings and development comprising 100sq. metres or more of floorspace (net gain), including residential extensions, although exemptions/relief can be sought for self-build developments and affordable housing. The Charging Schedule sets out that the application site is within 'Area A' within which there is a charge of £180 per sq. metre of residential development.

7.10 Biodiversity

7.10.1 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.

7.10.2 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.

- 7.10.3 The application was accompanied by an Ecological Report and surveys including badger and Great Crested Newt surveys. Following discussions with Hertfordshire Ecology and appropriate amendments to the report during the course of the application, no objection is raised by this consultee subject to the inclusion of appropriate ecology conditions.
- 7.10.4 Based on the results of the surveys, Hertfordshire Ecology do not consider Great Crested Newts to be present on site therefore the development would not impact this protected species. The report noted that there is an existing, albeit unused, badger sett to the front garden of the property which could be impacted by the proposed works. As set out above, the Ecology Report was amended during the course of the application to demonstrate that the development would not harmfully impact badgers and also proposed appropriate mitigation measures. Hertfordshire Ecology also recommended the inclusions of further conditions for the development to incorporate the ecological enhancement measures set out in the report. These relate to bats, breeding birds, insects and hedgehogs. This consultee has also recommended the inclusion of conditions for a lighting plan and landscape and ecological management plan.

8 Recommendation

That PLANNING PERMISSION BE GRANTED subject 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: PL05 REV P2, PL04 REV P2, PL03 REV P2, PL02 REV P3, PL01 REV P3, PL-302, PL-301, PL-202, PL-201, PL-08, PL-02, H1421-T, H1421-T, H1421-E, ATS-TCP-23336
- Reason: For the avoidance of doubt and in the proper interests of planning and in the interests of the visual amenities of the locality, the residential amenity of neighbouring occupiers in accordance with Policies CP1, CP9, CP10 and CP12 of the Core Strategy (adopted October 2011) and Policies DM1, DM6, DM13 and Appendices 2 and 5 of the Development Management Policies LDD (adopted July 2013).
- C3 Before any building operations above ground level hereby permitted are commenced, samples and details of the proposed external materials of the dwelling, including the proposed new driveway, shall be submitted to and approved in writing by the Local Planning Authority and no external materials shall be used other than those approved.
- Reason: In the interests of the visual amenity of the area in accordance with Policies CP1 and CP12 of the Core Strategy (adopted October 2011) and Policy DM1 and Appendix 2 of the Development Management Policies LDD (adopted July 2013).
- C4 The protective measures detailed on drawing ATS-TCP-23336 shall be installed in full accordance with the scheme before any equipment, machinery or materials are brought on to the site for the purposes of development and shall be maintained on site throughout the entire course of the development in accordance with the scheme 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 prevent damage to trees during construction 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).

- C5 Works to construct the driveway shall not commence on site until an Arboricultural method statement (prepared in accordance with BS: 5837 (2012) 'Trees in relation to design, demolition and construction') has been submitted to and approved in writing by the Local Planning Authority. This method statement shall include details of methods of excavation and construction methods, in particular where they lie close to trees. The driveway shall thereafter be installed only in accordance with the details approved by this condition.

Reason: To prevent damage to trees during construction 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).

- C6 The development hereby permitted shall not be first occupied until details of all replacement planting including proposed species, planting height and type and position on site has been submitted to and approved in writing by the Local Planning Authority. All replacement planting shall be carried out before the end of the first planting and seeding season following completion of the development.

If any existing tree shown to be retained, or the proposed 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 (ie November to March inclusive).

Reason: This condition is required to ensure the completed scheme has a satisfactory visual impact on the character and appearance of the area in accordance with Policies CP1 and CP12 of the Core Strategy (adopted October 2011) and Policy DM6 of the Development Management Policies LDD (adopted July 2013)

- C7 Prior to the first occupation of the dwelling hereby permitted the first floor flank windows within the western flank elevation serving bathrooms shall be fitted with purpose made obscured glazing and shall be top level opening only at 1.7m above the floor level of the rooms in which the window is installed. The windows shall be permanently retained in that condition thereafter.

Reason: To safeguard the amenities of the occupiers of neighbouring residential properties in accordance with Policies CP1 and CP12 of the Core Strategy (adopted October 2011) and Policy DM1 and Appendix 2 of the Development Management Policies LDD (adopted July 2013).

- C8 Before any building operations above ground level hereby permitted are commenced, an Energy Statement demonstrating energy saving measures set out in the Design & Access Statement, to achieve the requirement of the 2013 Building Regulations Part L, have been submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented prior to occupation of the development and permanently maintained thereafter.

Reason: In order to ensure that the development will meet the requirements of Policy CP1 of the Core Strategy (adopted October 2011) and Policy DM4 of the Development Management Policies LDD (adopted July 2013) and to make as full a contribution to sustainable development principles as possible.

- C9 Immediately following the implementation 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 - enlargement, improvement or other alteration to the dwelling;

Class B - enlargement consisting of an addition to the roof;

Class F - any hard surface.

No development of any of these 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 having regard to the visual amenities of the locality, the residential amenity of neighbouring occupiers and to protect the openness of the Green Belt in accordance with Policies CP1, CP9, CP10, CP11 and CP12 of the Core Strategy (adopted October 2011) and Policies DM1, DM2, DM6, DM13 and Appendices 2 and 5 of the Development Management Policies LDD (adopted July 2013).

- C10 The Ecological mitigation and enhancement measures shall be carried out in accordance with the details set out in section 4.3 of the Ecological Appraisal, dated 04/03/2022, and in section 4.4 of the Full Badger Survey, dated 17/10/2022, and in full accordance with the relevant timescales included within each report, and shall be permanently maintained thereafter.

Reason: To prevent the development having an adverse effect on biodiversity in compliance with Policies CP1, CP9 and CP12 of the Core Strategy (adopted October 2011) and Policy DM6 of the Development Management Policies LDD (adopted July 2013).

- C11 No external lighting shall be installed on the site or affixed to any buildings on the site unless the Local Planning Authority has first approved in writing details of the position, height, design and intensity. The lighting shall thereafter be installed only in accordance with the approved details.

Reason: In the interests of visual amenity and biodiversity and to meet the requirements of Policies CP1, CP9 and CP12 of the Core Strategy (adopted October 2011) and Policies DM6 and DM9 of the Development Management Policies LDD (adopted July 2013).

- C12 Prior to the first occupation of the development hereby permitted, a Landscaping and Ecological Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in full accordance with the submitted details and shall be permanently maintained thereafter.

Reason: To prevent the development having an adverse effect on biodiversity in compliance with Policies CP1, CP9 and CP12 of the Core Strategy (adopted October 2011) and Policy DM6 of the Development Management Policies LDD (adopted July 2013).

- C13 The development shall not begin until full details of construction vehicle access, vehicle movements, on-site parking arrangements for construction workers and wheel washing facilities have been submitted to and approved in writing by the Local Planning Authority. The Construction Management Plan should also include details of where excavated material from the basement is to be transported to and/or whether this is to be redistributed on site. The relevant details shall be submitted in the form of a Construction Management Plan and the approved details shall be implemented throughout the construction programme.

Reason: This is a pre-commencement condition in order to minimise danger, obstruction and inconvenience to users of the highway in accordance with Policies CP1 and CP10 of the Core Strategy (adopted October 2011).

- C14 The areas of flat / green roofs shall not be used for amenity purposes and should only be used for the purposes of carrying out essential maintenance works.

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

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) - 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.

- 12 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.
- 13 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.