

**3/09/1020/FP - Erection of 1 dwellinghouse at 2B Park Lane, Bishop's Stortford, Herts, CM23 3NH for Mr K Ashraf**

---

**Date of Receipt:** 20.10.2009

**Type:** Full – Minor

**Parish:** BISHOP'S STORTFORD

**Ward:** BISHOP'S STORTFORD - SOUTH

**RECOMMENDATION**

That planning permission be **GRANTED** subject to the following conditions:-

1. Three Year Time limit (1T121)
2. Samples of Materials (2E123)
3. Tree/natural feature protection: fencing (4P075)
4. No development shall take place until full details of the layout of the site and the foundations, including service trenches, ditches, drains and any other excavations of the proposed dwelling and the associated access, parking and turning area insofar as they might affect trees on the site or adjoining the site, shall be submitted to and approved in writing by the Local Planning Authority and shall be implemented thereafter in accordance with the approved details.

**Reason:** To ensure that the building works do not prejudice the health and retention of the trees on or adjoining the site in accordance with policies ENV2 and ENV11 of the East Herts Local Plan Second review April 2007.

5. Before any works commence on site, details of the construction of the access road/driveway shall be submitted to and approved in writing by the Local Planning Authority. Such details shall minimise the depth of excavation for the access road and shall, unless otherwise agreed in writing by the Local Planning Authority, be in accordance with the relevant British Standard and the reference document APN 12 'Through the trees to development' issued by the Arboricultural Advisory and Information Service. The access road/driveway shall be constructed in accordance with those approved details.

**Reason:** To ensure the protection of trees to be retained, and in particular to avoid unnecessary damage to their root systems, in accordance with policy ENV2 and ENV11 of the East Herts Local Plan Second Review April 2007.

### 3/09/1020/FP

6. Notwithstanding the details shown on the approved drawings, no development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority and these works shall be carried out as approved. These details shall include means of enclosure (including any gates walls or fences associated with the development); hard surfacing materials; planting plans; schedules of plants noting species, planting sizes and proposed numbers/densities and a timetable for implementation.

Reason: To ensure the provision of amenity afforded by appropriate landscape design in accordance with policy ENV2 of the East Herts Local Plan Second Review April 2007.

7. All hard and soft landscape works shall be carried out in accordance with the details approved pursuant to Condition 6. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme agreed with the local planning authority. Any trees or plants that, within a period of 5 years after planting are removed, die or become damaged or defective shall be replaced with others of the same species, size and number as originally approved unless the local planning authority has given written consent to any variation.

Reason: To ensure the provision, establishment and maintenance of a reasonable standard of landscaping in accordance with the approved landscape design in accordance with policy ENV2 of the East Herts Local Plan Second Review April 2007.

8. Before first occupation of the development hereby approved, the existing driveway shall be widened to 4.1m for a distance of 5 metres measured from the highway boundary in a material approved in writing by the Local Planning Authority and shall be retained as such thereafter.

Reason: To ensure the provision of an access appropriate for the development in the interests of highway safety.

### Directives

1. Other Legislation (01OL1)

### Summary of Reasons for Decision

The proposal has been considered with regard to the policies of the Development Plan (East of England Plan May 2008, Hertfordshire County Structure Plan, Minerals Local Plan, Waste Local Plan and saved policies of the East Herts Local Plan Second Review April 2007), and in particular SD2, HSG7, ENV1, ENV2, ENV11 and TR7. The balance of the considerations having regard to those

policies and the decisions within LPA references 3/03/1314/OP and 3/04/1385/OP is that permission should be granted.

\_\_\_\_\_ (102009FP.MP)

## **1.0 Background**

- 1.1 Members may recall that this application was deferred at the 13<sup>th</sup> January Committee meeting to allow Officers to seek further information and clarification with regard to the impact of the proposed development on protected trees on the site.
- 1.2 Further information has been received from the applicant, which includes a more detailed site layout plan and the provision of additional arboricultural information and justification. Third parties and relevant consultees have been consulted on that information.
- 1.3 The previous Committee report is attached as Appendix A and Officers do not therefore repeat those comments within this report. The main area of consideration raised within this report focuses on the additional information and clarification sought by members in respect of the impact of the proposed development on the protected trees on the site.

## **2.0 Consultation Responses**

- 2.1 The Arboricultural Officer recommends approval of the application. The Officer comments that the additional arboricultural information has been considered and a site visit has been conducted to check the survey information in accordance with the British Standard BS5837:2005 – Trees in relation to construction: Recommendations.

The Arboricultural Officer outlines that the proposed property can be constructed without undue impact on the oaks (T2 – T6) on the site, provided that the trees are protected in accordance with the British standard. The Officer has provided an annotated drawing within the consultation response which indicates that the building itself does not fall within the Root Protection Area of the trees.

The Officer does however comment that the access drive and parking area will have an impact on the oaks (T2, T3 and T4) due to the amount of access drive and hardstanding that will need to be constructed over the root protection area. However, he does not object to the proposed development on this ground and comments that the access road and hardstanding can be implemented in accordance with the reference document APN 12 ‘Through the trees to development’ issued by the Arboricultural Advisory and Information Service, which can be controlled via a planning condition.

The Officer also comments on the details within the additional arboricultural information in respect of the impact of the trees on the future residents of the property. The Arboricultural Officer however comments that the research relied upon in the arboricultural report is based upon research conducted in the USA which has several temperature zones and current thinking on trees, shade and shelter would not translate to the urban situation of the UK where gardens are often considerably smaller and mature trees are therefore close to residential property. The Officer comments that the proximity of the proposed house to the oak trees would invite an ongoing problem of shade and debris cast by the trees which are generally the most frequent causes of complaint regarding nearby trees and will always generate applications to reduce crowns of protected trees. However, the Officer comments that any such proposals for inappropriate crown reduction and removal of the trees can be dealt with under the TPO legislation and the works could be refused.

The Arboricultural Officer recommends that conditions relating to construction details to the road and associated hardstanding need to be submitted prior to the commencement of development and the applicant should submit a landscape design proposal to show any landscape planting to the access drive and boundary.

- 2.2 Hertfordshire County Highways do not wish to restrict the grant of permission. The Highways Officer outlines that the proposed arrangement does not allow for straightforward three point turn movements particularly into and from the southernmost parking space. It is not however so restrictive that it is impossible to turn a vehicle within the arrangement and remains acceptable with the conditions previously mentioned remaining relevant.

### **3.0 Town Council Representations**

- 3.1 Bishop's Stortford Town Council have not made any further representation on the additional information provided.

### **4.0 Other Representations**

- 4.1 The additional arboricultural information has been advertised by way of neighbour notification.
- 4.2 Of the 34 letters of representation which were previously received, a further 2 letters have now been received in respect of the additional information which can be summarised as follows:-

## **3/09/1020/FP**

- Research referred to in the additional arboricultural information should not be relied upon as it relates to the USA not the UK
- Potential future works to access roads as a result of tree root activity
- Trees may come under pressure for removal owing to shading to the dwelling
- The RPA of the trees should not be offset into the adjoining gardens

### **5.0 Policy**

5.1 The relevant saved Local Plan policies in this application include the following:-

- SD2 Settlement Hierarchy
- ENV1 Design and Environmental Quality
- ENV2 Landscaping
- ENV11 Protection of Existing Hedgerows and Trees
- TR7 Car Parking - Standards

### **6.0 Considerations**

6.1 As highlighted at the commencement of this report, the planning considerations that will be discussed in this report focus on the impact on the protected trees within the site.

6.2 In this respect the details from the applicants' Arboriculturalist are important considerations as are the comments from the Arboricultural Officer. From the information available it seems that there are three main issues which require discussion:

- 1) Impact on the Root Protection Area (RPA) of the trees as a result of the building;
- 2) Impact on the Root Protection Area of the trees as a result of the hardstanding and;
- 3) Potential pressure for the trees to be removed in the future.

6.3 In respect of 1) above, the information submitted by the applicant, and as clarified by the Councils Arboricultural Officer, outlines that the proposed dwelling will not be sited within the RPA of the trees. Officers note the comments from a neighbouring property that the RPA should not be offset into their garden and that a tree is not plotted in the correct position. With regards to the first issue, the Arboricultural Officer has indicated on an annotated plan attached with the application the RPA of the trees without any such 'offset'. That information reveals that the proposed building is outside the RPA. In respect of the second issue, the Arboricultural Officer

has visited the site and does not make any comment on the accuracy of the plans. On the basis of the information provided Officers are satisfied that the proposed building will not result in a significant impact on the RPA of the trees.

- 6.4 With regards to point 2) the Arboricultural Officer accepts that the proposed hardstanding and associated parking space will be located within the RPA and there will, to some degree, be an impact on that area. However, as per the comments in the previous report at paragraph 7.10, this is a matter Officers consider can be adequately controlled via a planning condition. For those reasons and to ensure the protection of the tree, such a condition is considered to be necessary in this case.
- 6.5 Officers note a letter of representation which raises concerns with the potential future costs and impact of roots on the hardstanding area once it has been implemented. Officers appreciate this concern; however, any necessary maintenance of the hardstanding area would be the same as any other maintenance costs associated with the dwelling itself and would not, in this case, warrant the refusal of the application.
- 6.6 With regards to the potential impact of the tree on future residents, this is an issue which is discussed in the applicants' Arboricultural Report. The applicant provides some level of detail with regards to this issue and the following points are raised:-
- The oak trees that are located within the rear garden are generally located to the east, south and southwest of the proposed building.
  - In terms of the elevations of the building facing onto the trees, on the east elevation of the building there are windows to the porch, kitchen and lounge at ground floor and 2 bedrooms at first floor. On the southern elevation there are 2 additional windows serving the lounge (one being a pair of French doors) at ground floor and a window serving a bedroom.
- Eastern elevation of building
- Winter months: The east elevation of the property would receive sunlight from the low passage of the sun beneath the tree canopies with little shading as the trees would be defoliated for 6 months of the year. As the building faces east there would be no sunlight entering the windows on the eastern elevation once the sun has passed around to the south (late morning to mid-day) irrespective of whether there were trees in place or not.
  - Summer months: On the eastern elevation there would be light striking the building until the sun rose and the trees cast a shadow on the building. Any shadow cast by the trees is considered by the applicant to be a benefit (discussed below).

Southern elevation of the building

- Winter months: The building would, as per the above comments in respect of the eastern elevation, receive little shade during the winter months as the trees would be defoliated for 6 months of the year.
- Summer months: The building would be cast in a shadow as the sun rises (which the applicant considers to be a benefit) and would provide privacy to the dwelling.

- 6.7 The applicant provides information to argue that the shading of the property during the summer months is to be considered as a benefit to the property. The applicant outlines that trees can be as effective as other energy saving home improvements, such as insulation and the installation of weather-tight windows and doors and can save energy through cooling in the hotter months of the year. The applicant outlines that at the development site, the proposed building will benefit by the presence of the oak trees that will provide shade and wind shelter. The applicant supports such a position based upon information and research undertaken in the USA. A letter of representation and the Arboricultural Officer recognise that information and comment that such information is not salient as the research referred to is based upon studies in the USA. Any such research is somewhat difficult to translate to the situation in the UK as there are very different environmental circumstances and a greater degree of density of development in the UK.
- 6.8 Members should be mindful that a previous application, albeit for a more significant amount of development (provision of three dwellings) was refused in LPA reference 3/04/1585/OP with one element of the reason for refusal relating to the probable need in the future for the crown reduction or complete removal of the protected trees on the site in order to provide sufficient light to the new properties.
- 6.9 However, balanced against that are the benefits to the development as outlined by the applicant and the information provided which suggests that the building will be cast in shadow for approximately 6 months of the year. The advice of the Councils Arboricultural Officer is that any future proposals for inappropriate works to the protected trees can be dealt with under the TPO legislation, and no objections are raised by that Officer with regards to the future potential impact on the trees. Whilst it is for Members to balance those considerations accordingly, Officers do not consider that the proposed development will result in significant potential impact on the existing trees on the site as a result of the proposed development that would warrant the refusal of the application. Any future proposed works to the trees would be most appropriately regulated through the TPO legislation, as suggested by the Arboricultural Officer.

**Conditions**

6.10 The comments in the previous Officers committee report at paragraphs 7.21 – 7.23 in respect of the need for planning conditions remain, and are recommended by Officers in the form of the conditions outlined at the commencement of this report.

**7.0 Conclusion**

7.1 Having regard to the above considerations in combination with those outlined in Appendix A, Officers are of the view that the proposed development is acceptable in its size, scale, layout and design. It would not appear incongruous in the context of the surrounding area and would have no significant adverse impact on the character and appearance of the locality. The requirements of policies HSG7 and ENV1 would thus be met. The degree of impact on highway safety is acceptable, as is the level of provision for parking and access space. There are a number of protected trees on the site; however, the degree of impact on those trees is not considered to be significant and can be controlled effectively via condition. The impact on neighbour amenity under the requirements of policy ENV1 has been considered also, and for the reasons outlined above is not considered to be to such a degree as to warrant the refusal of the application.

7.2 It is a material consideration that planning permission has previously been refused for a more significant development relating to the impact on the loss of the protected trees only. This application proposes to retain those trees which Officers consider to be acceptable and any impact on those trees as a result of the development can be effectively controlled via condition. The proposed development is not considered to result in a significant impact in terms of the future threat to the trees and any such matters can be effectively controlled through the TPO legislation.

7.3 Having regard to the above considerations it is therefore recommended that planning permission be granted subject to the conditions set out at the commencement of this report.