

4.2 - 17/03227/HOUSE      Date expired 5 December 2017

Proposal:                      Extension of existing patio.

Location:                      9 Wyndham Avenue, Leigh, Kent TN11 8RB

Ward(s):                      Leigh & Chiddingstone Causeway

#### **ITEM FOR DECISION**

This application has been referred to the Development Control Committee by Councillor Lake because the patio and fence would be intrusive and not in keeping with the surrounding area.

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

1)      The proposed boundary fence shown on drawing no. 1721-02 rev A shall be constructed within two months of the decision date unless otherwise agreed in writing by the Local Planning Authority, and retained thereafter.

In the interests of neighbouring amenity.

2)      The materials to be used in the construction of the development shall be those indicated on the approved plan 1721-02 Rev A - Date Stamped 15.11.17.

To ensure that the appearance of the development is in harmony with the existing character of the dwelling as supported by Policy EN1 of the Sevenoaks Allocations and Development Management Plan.

3)      The development hereby permitted shall be carried out in accordance with the following approved plans: 1721 - 01 and 02 Rev A - Date Stamped 15.11.17.

For the avoidance of doubt and in the interests of proper planning.

#### **Note to applicant**

In accordance with paragraphs 186 and 187 of the NPPF Sevenoaks District Council (SDC) takes a positive and proactive approach to development proposals. SDC works with applicants/agents in a positive and proactive manner, by;

- Offering a duty officer service to provide initial planning advice,
- Providing a pre-application advice service,
- When appropriate, updating applicants/agents of any small scale issues that may arise in the processing of their application,
- Where possible and appropriate suggesting solutions to secure a successful outcome,
- Allowing applicants to keep up to date with their application and viewing all consultees comments on line  
([www.sevenoaks.gov.uk/environment/planning/planning\\_services\\_online/65](http://www.sevenoaks.gov.uk/environment/planning/planning_services_online/65))

4.asp),

- By providing a regular forum for planning agents,
- Working in line with the NPPF to encourage developments that improve the economic, social and environmental conditions of the area,
- Providing easy on line access to planning policies and guidance, and
- Encouraging them to seek professional advice whenever appropriate.

In this instance the applicant/agent:

- 1) The application was considered by the Planning Committee where the applicant/agent had the opportunity to speak to the committee and promote the application.

### Description of proposal

- 1 Extension of existing patio. The patio has already been built out and therefore this application is to regularise the situation. The application also includes a height increase of the existing boundary fence by 0.3 metres.

### Description of site

- 2 The application site is a semi-detached property in the Wyndham Avenue. The property has recently been extended. The site is situated within the Leigh & Chiddingstone Causeway Ward.

### Constraints

- 3 Urban Confines - Leigh

### Policies

#### *Allocations and Development Management (ADMP)*

- 4 Policies:  
EN1 - Design Principles,  
EN2 - Amenity Protection

#### *Core Strategy (CS)*

- 5 Policies  
SP1 - Design of New Development and Conservation

#### *Other*

- 6 Leigh Village Design Statement
- 7 National Planning Policy (NPPF)

## Relevant planning history

8 16/00659/HOUSE - Demolish existing single storey side extension and build a two storey side extension. GRANT

17/01581/HOUSE - Extension of existing patio. REFUSE

## Consultations

### *Parish Council*

9 Leigh Parish Council strongly objects to this application. The height of the proposed fence would have an unacceptable impact on the residents at 8 Wyndham Avenue. The proposed fence, being 2.4m high, would give loss of light and be overpowering, and altogether would have a detrimental impact on the neighbours.

## Representations

10 One letter of objection has been received from the neighbour at 8 Wyndham Avenue. This raises the following concerns;

- This application is a continuation of the application previously refused.
- The only difference is the proposed fence between 8 and 9 Wyndham Avenue which will be 2.8 metres high.
- The patio pier has been built without planning permission and has been issued with an order to remove.
- Loss of light already occurs from the new extension and now the fence will further block light.
- No other properties have fences 2.8 metres high between their gardens.

## Chief Planning Officer's Appraisal

### Principal issues

11 The main issues for consideration are

- Impact on the Street Scene and Design
- Impact on Neighbouring Amenity

12 Of particular relevant to this application is the following guidance:

### *Presumption in favour of sustainable development:*

13 Para 14 of the NPPF confirms that there is a presumption in favour of sustainable development, and that development that accords with the development plan should be approved unless material considerations indicate otherwise. (See paras 11, 12, 13 of NPPF.)

- 14 Para 14 of the NPPF (and footnote 9) also advises that where the development plan is absent, silent or relevant policies are out of date, permission should be granted unless there are specific policies in the NPPF that indicate that development should be restricted. This applies to a variety of designations, including SSSIs, Green Belt, AONBs, designated heritage assets and locations at risk of flooding.

#### Impact on the character and appearance of the area

- 15 The NPPF states that the Government 'attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.' (para. 56).
- 16 Policy SP1 of the Core Strategy states that all new development should be designed to a high quality and should respond to the distinctive local character of the area in which it is situated.
- 17 Policy EN1 of the ADMP states that the form of proposed development should respond to the scale, height, materials and site coverage of the area. This policy also states that the layout of proposed development should respect the topography and character of the site and the surrounding area.

#### *Extension to existing patio*

- 18 This application seeks to regularise the extension to the patio area which has already been built out. The round-headed patio area extends beyond the line of the existing patio by approximately 4.6 metres, has a width of 3 metres and a height of 0.65 metres from natural ground level. This 'pier' is built close to the boundary with 8 Wyndham Avenue and is currently being used as an outside seating area with table and chairs. The new patio area is not excessive in size and has been constructed using materials that fit well with the host dwelling. The patio is not visible from the street scene or from outside the application site.

#### *Fence*

- 19 The existing fence between the application site and 8 Wyndham Avenue measures 1.8 metres from the garden level of the application site and 1.5 metres from the level of the new patio. Due to the land levels (the application site being raised higher than No. 8 Wyndham Avenue) the existing boundary fence is approximately 2.2 metres in its highest part when viewed from 8 Wyndham Avenue.
- 20 As part of this application it is proposed to increase the height of the fence between the two properties to overcome the loss of privacy the patio creates to 8 Wyndham Avenue. The proposed fence between the application site and 8 Wyndham Avenue will be increased so that the fence height from the level of the patio would be 1.8 metres (to provide adequate screening). Again, due to the land levels the proposed boundary fence is approximately 2.5 metres when viewed from 8 Wyndham Avenue. This is an increase of 0.3 metres (one foot).

- 21 Although it is accepted that the proposed 2.5 metre boundary fence is higher than a typical fence found between properties, it is not unusual where there are differing land levels for fences to be higher. In this particular situation the height increase is only 0.3 metres which I do not consider to be a significant change. For this reason I consider the design of the fence and its height to be acceptable.
- 22 In light of the above, it is considered that the patio and fence would not have a detrimental impact on the character and appearance of the local area.

### *Amenity*

- 23 Paragraph 17 of the NPPF identifies a set of core land-use planning principles that should underpin decision-taking. One of these principles is that planning should always seek to secure a good standard of amenity for all existing and future occupants of land and buildings.
- 24 Policy EN2 of the Allocations and Development Management Plan outlines that proposals will be permitted where they would provide adequate residential amenities for existing and future occupiers of the development, and would safeguard the amenities of existing and future occupants of nearby properties by ensuring that development does not result in excessive noise, vibration, odour, air pollution, activity or vehicle movements, overlooking or visual intrusion and where the build form would not result in an unacceptable loss of privacy, or light enjoyed by the occupiers of nearby properties.
- 25 At present the extension to the patio area that has been built out results in a significant loss of privacy to No. 8 Wyndham Avenue. The reason the previous application was refused was 'The extended patio area results in an unacceptable loss of privacy and overlooking of 8 Wyndham Avenue. As such the extended patio area is contrary to the National Planning Policy Framework, Policy EN2 of the Sevenoaks Allocations and Development Management Plan and the Sevenoaks Residential Extensions SPD'.
- 26 This application seeks to regularise the extended patio area but also introduces a higher boundary fence between the application site and the neighbouring property at No.8 Wyndham Avenue, to overcome the loss of privacy/overlooking resulting from the patio pier.
- 27 The proposed fence between the application site and 8 Wyndham Avenue will be increased so that the fence height from the level of the patio would be 1.8 metres (providing adequate screening). This is an increase of 0.3 metres over the existing fence and will be controlled by condition to be increased within two months of the date of the decision. Members will note that planning applications should be not refused when conditions can be imposed to address concerns raised and make development acceptable.
- 28 8 Wyndham Avenue has a single-storey extension which is positioned close to the boundary with 9 Wyndham Avenue. The rear part of this extension contains a WC and a utility room, neither are habitable rooms. While it is acknowledged that the fence may result in some loss of light to these rooms

they are not habitable rooms. In relation to the lounge which is a habitable room I am satisfied that the fence is a sufficient distance away (approximately 7 metres) to not result in a significant loss of light to this room.

- 29 In terms of outlook, again I am satisfied that the increase in fence height by 0.3 metres would not affect the immediate outlook from the lounge window.
- 30 In light of the above, it is considered that the patio pier and proposed fence would not have an objectionable impact on neighbouring amenity.
- 31 In the previous application it was concluded that a condition requesting a fence to provide privacy would not be acceptable, as the fence created would be overbearing. No formal assessment of this was carried out in the previous application as this did not form part of the proposal.

#### **Other issues not addressed within the report**

- 32 In response to neighbour comments;
- This application is a continuation of the application previously refused.
- 33 This application is to regularise the extension to the patio that has been built out and also includes a fence between 8 and 9 Wyndham Avenue to provide a privacy screen.
- The only difference is the proposed fence between 8 and 9 Wyndham Avenue which will be 2.8 metres high.
- 34 The proposed fence would measure 2.5 metres high when viewed from 8 Wyndham Avenue.
- The patio pier has been built without planning permission and has been issued with an order to remove.
- 35 No enforcement notice has been issued to remove the patio. Any enforcement action would be in abeyance pending the decision of this application. Enforcement action is only ever taken when it is expedient, proportionate and in the public interest.

#### *CIL*

- 36 This development is not CIL liable.

#### **Conclusion**

I consider that the proposed development would not have a detrimental impact on the character and appearance of the local area and would not harm neighbouring amenity. Consequently the development is in accordance with the development plan and therefore the Officer's recommendation is to approve.

## Background Papers

### Site and Block Plans

Contact Officer(s): Rebecca Fellows Extension: 7390

Richard Morris  
Chief Planning Officer

Link to application details:

<https://pa.sevenoaks.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=OXM789BKH7G00>

Link to associated documents:

<https://pa.sevenoaks.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=OXM789BKH7G00>



