

APPLICATION NO.	P19/V0184/HH
SITE	51 Yarnells Hill Oxford, OX2 9BE
PARISH	NORTH HINKSEY
PROPOSAL	Retrospective planning application submission for the rear patio and raised level of the strip of ground situated between the patio and the site's northern boundary which was carried out during the works of the approved front and rear extension (application No. P17/V2719/HH). Proposed erection of a timber fence on the northern boundary at a height of 1.8 metres from the rising ground level.
WARD MEMBER(S)	Debby Hallett Emily Smith
APPLICANT OFFICER	Mr Alden Alastair Scott

RECOMMENDATION

Planning Permission subject to the following conditions:

Standard Conditions:

1. Approved Plans

Compliance Conditions:

2. Hedge grown and retained at 1.8m high
3. Fence installed and maintained thereafter
4. Ensuite window to remain obscure glazed and top hung only

1.0 INTRODUCTION AND PROPOSAL

- 1.1 This application comes to committee at the request of one of the local members, Councillor Emily Smith.
- 1.2 The application site is a detached house on the east side of Yarnells Hill. To either side are other detached houses, no.49 to the north and no.53 to the south. There are slopes in the locality, downwards from south to north and more gently from west to east. The latest submitted drawings indicate that the slab level of no.51 is approximately 1.3m higher than the slab level of no.49. In December 2017, planning permission was granted on no.51 for a single storey and two storey rear extension (planning application ref. P/17/V2719/HH).

1.3 This new application has been submitted in order to regularise the development that has been built with several differences to the approved scheme. These differences can be summarised as:

- A patio built out from the rear of the house, approximately 16.5m x 5.5m in area, raised above previous ground level by up to 1.3m, with associated engineering works
- A pathway between the patio and the boundary with no.49 – the path is level alongside the house and then slopes down to the garden alongside the patio
- A new wall on the boundary with no.49, up to 1.3m high, to help contain the change in ground level
- A new fence above the wall on the boundary with no.49
- An increase in the height of the single storey extension, as compared to natural ground level, from approximately 3.2m to 3.4m, an increase of approximately 200mm
- The flush rooflight approved in the roof of the single storey extension changed to a pyramidal lantern approximately 300mm high
- A new first floor obscure glazed window in the rear elevation for an ensuite
- Corrected drawings to more accurately reflect the relationship with the neighbouring house at no.49 Yarnells Hill.

A site location plan is below and copies of the latest submitted plans are **attached** as Appendix 1.



2.0 **SUMMARY OF CONSULTATIONS & REPRESENTATIONS**

2.1 Full copies of the responses that have been received can be viewed on the planning application pages of the council’s website, www.whitehorsedc.gov.uk

North Hinksey Parish Council	Object on the following grounds: <ul style="list-style-type: none"> • Loss of light • Overdevelopment • Overlooking • Harms the character of the area
Neighbours	One neighbour objects on the following grounds: <ul style="list-style-type: none"> • Overlooking • Over-dominance and visually intrusive • Contrary to principles of the design guide • Removal of hedgerow and works to boundary without proper legal consent • Glare from reflected light • Unauthorised nature of works and retrospective nature of the application • Significant engineering and drainage works in close proximity to the boundary • Inaccurate drawings

3.0 **RELEVANT PLANNING HISTORY**

3.1 [VE18/623](#)

Non-compliance with approved plans - extension and patio larger and higher than approved P17/V2719/HH.

[P17/V3348/DIS](#) - Approved (05/02/2018)

Discharge of Condition 4 - Plan of Car Parking Provision on ref P17/V2719/HH.

Rear single and two storey extension and internal alterations to provide new open plan dining room and kitchen, and additional bedrooms. Conversion of garage into study and game room with new pitched roof above to provide sufficient floor-ceiling height. Additional extension to front porch to provide improved entrance area.

[P17/V2719/HH](#) - Approved (06/12/2017)

Rear single and two storey extension and internal alterations to provide new open plan dining room and kitchen, and additional bedrooms. Conversion of garage into study and game room with new pitched roof above to provide sufficient floor-ceiling height. Additional extension to front porch to provide improved entrance area. Planning Application History

4.0 **MAIN ISSUES**

4.1 Officers wish to advise members of two matters at the outset

- The fact that the application is retrospective is not a material planning consideration. The Government has made it clear that undertaking works without planning permission is not a criminal offence and that unauthorised development should be controlled by a retrospective planning permission if possible. Therefore, members are advised to assess the planning merits of the case.
- In a residential area where neighbouring houses are at different levels, impact arising from the height of a development has to be assessed with the understanding that, inevitably, it may be greater than in areas of level land. For example, permitted development rights to build extensions without planning permission are no different in an area where neighbouring houses are at different levels to an area where neighbours are at the same level, even though the impact will often be greater. The reasonable expectations of the impact of development are different.

4.2 Officers consider the changes can be assessed in two main groups:

- The raised patio and associated works
- The increased height of the single storey extension and the new obscure glazed window.

4.3 Following on from this, for each group, the main issues are:

- The impact on the visual appearance of the area
- The impact on neighbours' amenity

4.4 **Impact on the Visual Appearance of the Area**

The Patio and Associated Works

Raised patios are not uncommon in a residential area on sloping land. The patio is contained by walls up to 1.3m in height. Within the context of a rear garden that is approximately 50m long and 18m wide, the patio does not harm the visual amenity of the area. The new fencing in itself does not harm the appearance of the area.

4.5 The Single Storey Extension and Obscure Glazed Window

The overall height on the application site has been increased by approximately 200mm to 3.4m, and a pyramidal roof lantern has been added. When compared to the scheme as a whole, these changes are relatively small and do not change the impact of the scheme on the visual appearance of the area. The new window is relatively small and is also in keeping

4.6 **Impact on Neighbours' Amenity**

The neighbour most affected by the changes is no.49, which lies to the north of the application site and has a slab level 1.3m lower. The permitted single storey extension projects approximately 3.6m beyond the rear wall of no.49.

4.7 The Patio and Associated Works

The latest plans submitted for the application include section drawings of the changes made relative to the neighbour at no.49. As built, the patio nearest to no.49 has a lower, stepped area within it, 480mm lower than the rest of the patio. The neighbour at no.49 is concerned about overlooking of his property and looking into upper floor windows. To combat this concern the applicant proposes the following mitigation:

- To grow a 1.8m high hedge at the north edge of the patio in a purposely designed planter to prevent overlooking from the patio
- A new fence set on top of the boundary wall to prevent overlooking from the pathway to the side of the house and patio.

The neighbour is also concerned that the combined height of the proposed wall/fence together will cause loss of light and shadowing of his rear garden and lounge window. The neighbour has a paved patio area immediately to the rear of his house which is used for sitting out. The lounge window, facing down the neighbour's rear garden, lies approximately 2m from the boundary. To assess the impact, officers have compared the effect to that of a permitted development extension, but assuming for this comparison that there is no difference in ground level between no.51 and no.49.

- 4.8 When measured from the neighbour's patio, the total height of the wall/fence at its maximum will be approximately 3m until a point approximately 4.5m from the rear wall of the neighbour, after which it will slope down to a height of 1.8m at a point approximately 8m from the neighbour's rear wall. Under permitted development rights, an owner of a detached house can build, on a neighbour's boundary and on level land, an extension up to 3m high and projecting, at this height, up to 8m from the original rear house wall. Having made this comparison, officers consider the effect of the proposed wall/fence on the neighbour at no.49 in terms of loss of light and dominance is no worse than that which could be reasonably expected on neighbouring detached houses following an extension under permitted development.
- 4.9 The proposed hedge will provide a barrier at the north end of the patio and effectively prevent anyone using this part of it. The provision and maintenance of the hedge can be secured by a planning condition.
- 4.10 With regard to the concern of looking into upper floor windows, officers have visited the neighbour to assess the impact. Inter-visibility with the nearest upper floor window appears possible only from the extreme north-east corner of the patio and not from the vast majority of it and, even then, the angles are significant. Given this, officers consider the change is not sufficient to have altered the perspective between the garden and the upper floor windows to a degree that causes planning harm.
- 4.11 The neighbour is also concerned about the lighting installed on the patio and the degree of reflection caused by the white inner facing of the sunken element. It is not unusual to see relatively low power lighting in domestic

gardens and there is nothing to indicate that the lighting in this case is greater in intensity than that which could be reasonably expected, particularly as the light is reflected and not direct.

4.12 The Single Storey Extension and Obscure Glazed Window

The single storey extension has increased in height by approximately 200mm, which in the site measures as a change from 3.2m to 3.4m, whilst from the neighbour's lower patio level it equates to an increase from approximately 4.35m to 4.55m. The neighbour argues that the height is effectively that of a two storey building and should be assessed as such.

4.13 As explained above, officers are mindful that, in a neighbourhood of sloping land, there is a different reasonable expectation of the impact of a domestic extension from that which prevails in an area of level land. In this context, officers disagree with the neighbour, and consider that the change to the height is too small to cross a threshold that qualifies as planning harm. The position of the extension relative to the boundary has not changed – it is set approximately 1.2m away from the boundary. As the neighbour's rear garden is approximately 18m wide and 50m long, the effect of the change on the amenity of the garden as a whole is considered to be negligible.

4.14 The first floor obscure glazed window is top-hung and faces the applicant's rear garden. It lies next to a bedroom window that is clear glazed. As it is obscure glazed and top-hung, and will remain so by condition, officers consider there is no harm from overlooking.

5.0 **CONCLUSION**

5.1 Officers have assessed the changes that have been made to the previously approved scheme. The main changes are the installation of the raised patio and the associated works to the north boundary with no.49, and the increase in the height of the extension by approximately 200m. Officers consider the effects caused by the changes do not cross key thresholds of planning harm in terms of loss of light, dominance, loss of privacy or general amenity. Consequently, the development is considered to comply with relevant policies of the development plan, and with the NPPF.

The following policies and guidance have been taken into account:

Vale of White Horse Local Plan 2031 Part 1 policies;

CP37 - Design and Local Distinctiveness

Vale of White Horse Local Plan 2031 Part 2 policies;

DP23 - Impact of Development on Amenity

Neighbourhood Plan

North Hinksey Neighbourhood Plan has been to examination and the examiner's report has suggested a number of modifications. North Hinksey Parish Council has responded to the suggestions and requested further consideration is given for some of the suggestions. Further work may be necessary. In light of this, it is considered that the

neighbourhood plan has little weight at this time, at least until agreement has been reached on the final version of all of the policies in the plan and it can advance towards a referendum

National Planning Policy Framework 2019

National Planning Practice Guidance 2014 - 2019

Vale of White Horse Design Guide SPD 2015

Equalities Act 2010

The proposal has been assessed against section 149 of the Equalities Act. It is considered that no identified group will suffer discrimination as a result of this proposal

Human Rights Act, 1998

The application has been assessed against Schedule 1, Part 1, Article 8, and against Schedule 1, Part 2, Article 1 of the Human Rights Act, 1998. The harm to individuals has been balanced against the public interest and the officer recommendation is considered to be proportionate.

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