

**4/00610/13/FHA - GARDEN LANDSCAPING AND RE-CONTOURING WORKS TO PROPOSED SWIMMING POOL.
45 KINGS ROAD, BERKHAMSTED, HP4 3BJ.
APPLICANT: MR & MRS M VAUGHAN.**

[Case Officer - Philip Stanley]

[Grid Ref - SP 98535 07364]

Summary

The application is recommended for approval.

The proposed swimming pool would be a modest but high quality addition to this residential property. The excavation required for both the pool and the regrading of the site's rear garden would not have an adverse effect on the protected trees along the rear boundary or the beech hedge that forms the side boundary with No.47 Kings Road. The residential amenities of adjacent neighbours would not be significantly adversely affected by the development. The proposed development would therefore comply with Policy 11 of the Dacorum Borough Local Plan 1991-2011 and Policy CS12 of the Dacorum Core Strategy (Pre-submission with Modifications January 2013).

Site Description

The application site comprises a substantially extended attractive Arts and Crafts style dwelling situated on the north-west side of Kings Road (opposite the junction with Ashlyns Road) in the residential area of Shootersway, contained within the Berkhamsted urban area. The land slopes uphill from east to west, as well as uphill from the front to the rear of the site. The surrounding area is entirely residential in nature and characterised by detached dwellings, though there are some semi-detached houses on the opposite side of Kings Road.

The property is set well back into the plot and screened by existing mature landscaping and the front close-boarded fencing. A driveway on the left-hand side leads to a detached double garage with two front dormers above. The rear garden is large and continues the uphill slope to the rear and left-hand side. Due to the steepness of the slope the upper floor of the garage is set at rear garden level, while the rear patio is set well below the garden level, which is retained by a 1.8 metre wall with iron railings above. The rear garden boundary consists of various hedging and there is also a line of mature TPO trees along the rear boundary.

Proposal

It is proposed to construct a swimming pool in the rear garden of the site and to regrade the land to provide a patio area around the pool and then two terraces up to the existing garden level.

The swimming pool, which would be constructed to the rear of the garage / gym building, would measure 12 metres long and 4.5 metres wide. The pool was originally submitted to be 3.4 metres from the side boundary with No.47 Kings Road, however amended plans have been provided that increases this distance by a metre to 4.4 metres. The plant for the pool would be housed to the rear of the garage below the gym.

The proposed works to the rear garden have to be seen in the context of those approved under 4/02311/12/FHA. As part of that application for, inter alia, side and rear extensions planning permission was granted for a new patio area cut into the existing garden, together with some terracing and on the western side of the patio a series of steps to take the garden back up to existing levels. Therefore this application solely seeks permission for the patio area around the swimming pool together with two terraces formed by oak sleepers on the north-western and western sides of the swimming pool patio. The oak sleepers would step down the hill on the western side. The patio area would be increasingly dug into the rear garden as one travels to the rear to reflect the upward slope of the garden and would be at its most approximately 1.5 metres lower than the existing garden level.

Referral to Committee

The application is referred to the Development Control Committee due to the contrary views of Berkhamsted Town Council.

Planning History

4/01358/02/FUL: New detached house and garage - Granted 13/09/02. This application involved a new dwelling between No.45 and No.47 and substantial earthworks for a rear patio. This permission was not implemented.

4/00344/05/FHA: Rear extension and internal alterations - Granted 13/04/05. This permission granted a two-storey rear extension that projected a small distance beyond the left-hand side of the house when viewed from the front.

4/00289/05/FHA: Conversion of existing garage to hobbies room and extension to rear to form double garage with gym above - Granted 13/04/05. This permission allowed a double garage to the rear of the existing garage, i.e. to the side of the house. Due to the slope in the land the gym above is at the level of the garden.

4/01548/08/FHA: Single storey extension - Granted 09/09/08. This application related to a garden room located at the rear of the right-hand side of the house, when viewed from the front.

4/02311/12/FHA: Part two-storey and part single storey side and rear extensions to include glazed link to garage. Alterations to front elevations to include replacement of front door and window with larger window and additional dormer to garage roof. Addition of roof light to rear and landscaping of rear garden - Granted 11/02/13.

Policies

National Policy Guidance

NPPF
Circular 11/95

Dacorum Borough Local Plan

Policies 1, 2, 9, 10, 11, 13, 58 and 99
Appendices 5 and 7

Pre-Submission Core Strategy (incorporating the Main and Minor Modifications:
January 2013)

Policies CS4, CS11 and CS12

Supplementary Planning Guidance

Environmental Guidelines
Residential Character Area BCA 12: Shootersway
Accessibility Zones for the Application of Parking Standards

Representations

Berkhamsted Town Council

Object. The location of the proposed swimming pool would have an adverse impact on the Beech hedge and on the amenity of the neighbouring property by virtue of noise and emissions from the pool pump room. Contrary to Local Plan Policy 11.

Trees and Woodlands

Comments for this application (4/00610/13/FHA)

Patrick Stileman's report supported with drawings from Edward Hunt have reasonably demonstrated that its possible to construct the pool without entering the root protection zone to a point where the tree health will be compromised. So long as the protective fencing is constructed as per drawing 2084-PL31 then the trees should not be harmed. Equally the hedge root protection zone is 1.3 metres from the swimming pool edging and so long as the protective fencing is put up and maintained the hedge should not be compromised.

The question of the on-going relationship between trees and pool has not been discussed at this stage. The position of trees is not going to prevent direct sunshine reaching the pool and that is probably the single thing that would create pressure for pruning / removals. The block of foliage will keep out sky light and as already mentioned produce a steady stream of bits, some of which will land in the pool.

In so much as control of all tree work is with the LPA, refusing on the grounds of pool / tree relationship is I think unlikely to be upheld by an inspector and so while its not ideal I don't think my reservations should now cause you to refuse, if all other aspects are OK.

Comments for the previous application (4/02311/12/FHA) included by Trees & Woodlands Officer as part of his comments for this application.

The current situation is that a group of mature trees are positioned to the NW of the application site in gardens of properties in Graemesdyke Road. The two species are sycamore and Douglas fir, they are all contained within an area of trees covered by a

tree preservation order.

They may be described as mature while not being especially large for their species. The sycamores have slowed considerably in the last few years, in other words their annual growth and vigour has become reduced, one tree may even be described as becoming moribund. It is not immediately clear why this decline has occurred however quite modest changes in soil levels of the sort that can occur at the bottom of gardens, can have this impact on sycamore and it can last for many years. Most broadleaf trees can tolerate a period (20 years +) of slow growth and once functional root volume has been restored, the tree can then continue with normal growth rates.

The trees in question are all 'up the slope' and overhanging the applicant's garden. This makes the trees far more overbearing than they would on a flat site.

The proposal has the potential to cause damage to the trees / hedge and perhaps more likely, damage during the construction period.

The beech hedge to the SW of the garden is in excellent health and of value as a screen to both 45 and 47, should the pool be build, the hedge will be even more important as a screen and sound deflector. The physical presence of the pool should not have an adverse impact on the hedge but clumsiness during the construction period could damage it.

Again the physical presence of the pool is (as an visual estimate) far enough away from the root protection area (RPA) to cause no problems. However its not clear whether the dotted line round each tree is the RPA or a rough estimate of the crown spread nor is it certain that the new level will be achievable by the creation of such a short steep bank or that the grading will need to go further back. Either way some encroachment into the RPA looks possible. Could this be avoided by a retaining wall which would maintain the full RPA and help maintain soil moisture levels ?

If we assume the dotted lines are in fact the extent of the RPAs and place a fence where those dotted lines show, how does the digger get round to the top side of the pool area without causing damage to the RPA ?

Perhaps as important as all the construction thoughts, how will the pool and its users relate to the trees?

The tree crowns appear to be closer than shown on the drawing and either overhang the pool area or very close. There will be a steady stream starting in Spring with bud cases followed by, spent flowers, honeydew, winged seeds and finally leaves that will land in the pool. In addition, sycamore are not lightly leaved trees and will block out a large amount of sky light. This is likely to put pressure on the tree leading to application for tree work.

If the pool part of this application is going to proceed and its position is not ideal, then its needs some arboricultural input to demonstrate that a) the physical presence of the pool is not going to harm surrounding vegetation b) that the construction process is possible without harming surrounding vegetation.

Response to Neighbour Notification / Site Notice / Newspaper Advertisement

One letter of objection has been received from No.47 Kings Road, which had the following (summarised) concerns:

- Adverse impact on the mature beech hedge that forms the side boundary of the site with No.47.
- Adverse impact on their residential amenities by virtue of noise from the pool and the pool plant and emissions from the pool boiler.

Considerations

Policy and Principle

The application site is located within the urban area of Berkhamsted where there is no objection in principle to the proposed swimming pool and rear garden landscaping according to Policy 2 of the DBLP and Policy CS4 of the Core Strategy. Policy 11 of the DBLP seeks high quality development that is sympathetic to the original house, in keeping with the street scene, avoids harm to neighbouring residential amenities and retains important trees and shrubs.

The site is located within the residential character of Shootersway, which is described as "*A large, mainly very low density residential area on the southern side of town featuring a variety of mainly detached houses in a spacious semi-rural setting, dominated by informal heavy landscaping*". In this area there are no special requirements in terms of the scale of or detail to extensions. Private landscaping is strongly encouraged throughout.

Effects on appearance of building

There would be no adverse effects on the appearance of the building. Indeed the previous permission would create a set of stairs seemingly going up to a random point in the rear garden. Therefore this proposal would see those stairs linked in to the swimming pool patio, thereby 'completing' the development.

The oak sleeper terracing is considered to be an effective and attractive way of retaining the upper levels of the garden. Importantly it would allow for a more gradual regrading of the garden area (as opposed to a single vertical wall) and would also be much softer in appearance than a solid brick or concrete wall, especially as it would be possible to plant on each level of the terrace.

Impact on Street Scene

As the proposed development would be located within the rear garden, and the house itself is set well back from the road with substantial road-side planting, the swimming pool and oak sleeper terracing would not be visible from public vantage points along Kings Road.

Impact on Trees and Landscaping

Policies 11 and 99 of the DBLP, as well as Policy CS12 of the Core Strategy, seek the retention of important trees and hedgerows. Due to concerns raised during the previous application relating to harm to protected trees the applicant has

commissioned an Arboricultural Report to assess the qualities of the specimens in and just outside the site and to provide a Tree Constraints Plan. This report has three key findings:

1. There are no Category A (high quality) specimens. The Category B (moderate quality) trees are all within the group of protected trees just beyond the site's rear border (though not all trees within this group are considered to be high quality specimens. The important trees consist of Douglas Firs, Sycamores and a Hazel. The only other Category B specimen is the beech hedge along the shared border with No.47 Kings Road.
2. Out of these Category B trees (10 trees and the beech hedge) only one Douglas Fir and the beech hedge are considered to be in good condition. 8 others are considered to be in fair condition with one in poor condition.
3. The proposed swimming pool and surrounding patio area would not encroach within the Root Protection Areas (RPAs) of these trees / hedge. Only a small section of two oak sleepers would encroach within the RPAs.

The Council's Trees & Woodlands Officer concurs with the conclusions within this report. It must also be remembered that since the report was written the scheme has been amended to take the swimming pool an additional metre from the side beech hedge, thereby reducing any potential for harm to this hedge even further. It will be necessary to add conditions seeking protective fencing as shown on the drawing. However, with this condition the works herein proposed would not cause harm to either the rear protected trees or the attractive side beech hedge.

The Council's Trees & Woodlands Officer has also made an assessment on the future potential for harm on the trees, in terms of whether there would be later pressure to remove the trees because of their impact on the swimming pool as built. In this respect it is worth highlighting that the trees would be north of the pool and as such would not cast a shadow / cause a loss of sunlight over it. This is a critical factor in favour of the swimming pool. The trees would block some daylight and some tree detritus would land in the pool (if uncovered), however these factors would not reduce the applicant's enjoyment of their swimming pool to a significant extent, and certainly not to the extent that loss of sunlight would. Bearing in mind the trees are protected and therefore the Council has control over the future pruning of these specimens it is not considered that the proposals could be refused on the grounds of harm to nearby trees.

Impact on Neighbours

The neighbour to the west, No.47 Kings Road has objected to the application on the grounds of noise coming from the pool and the plant room. However, it must be remembered that the construction of a swimming pool in a rear garden is usually permitted development and that only the need for excavation brings the pool within the control of planning. Furthermore the plant required for the pool does not form part of this application being a permitted development installation.

Notwithstanding this the applicant's Agent has confirmed that, "*The garage is cut into the ground at the rear by over 2 metres in height. There is a recess in the rear left-hand corner of the garage and it is our intention to install the pool plant within this partly underground section of the garage. The wall facing the boundary (see plan 2084-P22 side elevation) is partly below ground and therefore the likelihood of sound*

transmission is extremely low".

No other neighbours would be affected by the proposed development.

Conclusions

The proposed swimming pool, surrounding patio, and oak sleeper terraces would form an attractive addition to the property. The excavation work proposed would take place outside the root protection zones of important trees and the side beech hedge and therefore this application would not see the loss of these specimens. It is further noted that the pool has been relocated eastwards by 1 metre, thereby taking it further away from No.47 Kings and reducing any impact arising from noise and disturbance. Therefore, the proposed development would comply with Policy 11 of the Dacorum Borough Local Plan.

RECOMMENDATION - That planning permission be **GRANTED** for the reasons referred to above and subject to the following conditions:

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

Reason: To comply with the requirements of Section 91 (1) of the Town and Country Planning Act 1990 as amended by Section 51 (1) of the Planning and Compulsory Purchase Act 2004.

- 2 The development shall be carried out in accordance with the Schedule of Materials in section 11 of the application form signed and dated 02/04/2013 submitted with this application.**

Reason: To ensure a satisfactory appearance to the development in accordance with Policy 11 of the Dacorum borough Local Plan.

- 3 No development shall commence until details of the position, height and type of protective fencing for the protection of the side beech hedge and rear trees are submitted to in writing and approved by the Local Planning Authority. The protection measures shall be implemented in full accordance with the approved details prior to the commencement of works on site and shall remain in place until the completion of the works.**

Reason: In order to ensure that damage does not occur to the trees and hedge during building operations in accordance with Policy 99 of the Dcaorum Borough Local Plan.

- 4 The development hereby permitted shall be carried out in accordance with the following approved plans:**

Site Location Plan

2084-T1
2084-PL31

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

NOTE 1:

This decision to grant planning permission has been taken for the following reason and having regard to the policies and proposals in the development plan set out below and to all other material planning considerations, including relevant supplementary planning guidance.

The site is located in an area where domestic extensions are acceptable in principle in accordance with Policy 2 of the Borough Plan. There would be no adverse effects on the appearance of the building or the appearance of the street scene. The amenity of adjoining neighbours would not be adversely affected. Important trees and hedges would be unaffected by the proposals subject to a suitably worded condition. The proposals therefore accord with Policy 11 of the Borough Plan and Policy CS12 of the Pre-Submission Core Strategy (incorporating the Main and Minor Modifications: January 2013).

NOTE 2:

The following policies of the development plan are relevant to this decision:

Dacorum Borough Local Plan 1991 - 2011

Policies 2, 9, 10, 11, 13, 58 and 99
Appendices 5 and 7

Pre-Submission Core Strategy (incorporating the Main and Minor Modifications: January 2013)

Policies CS4, CS11, CS12

Supplementary Planning Guidance

Development in Residential Areas

NOTE 3:

Planning permission has been granted for this proposal. Discussion with the applicant to seek an acceptable solution was not necessary in this instance. The Council has therefore acted pro-actively in line with the requirements of the Framework (paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) (England) (Amendment No. 2) Order 2012.