

ITEM NUMBER: 5e

22/00849/UPA	Additional storey to a maximum height of 8.3m with 4 windows to front and 2 to rear	
Site Address:	1 The Orchard Kings Langley Hertfordshire WD4 8JR	
Applicant/Agent:	Mr Ben Sterling	
Case Officer:	Colin Lecart	
Parish/Ward:	Kings Langley Parish Council	Kings Langley
Referral to Committee:	Objection received from Parish Council	

1. RECOMMENDATION

1.1 That prior approval be **GRANTED**.

2. SUMMARY

2.1 The proposal is considered to comply with the criteria set out in Class AA.1 of Schedule 2, Part 1 of the Town and Country (General Permitted Development) Order 2015 (as amended) and the matters subject to prior approval are all considered to be acceptable. The upward extension would therefore be permitted development by virtue of Schedule 2, Part 1, Class AA of the Town and Country (General Permitted Development) Order 2015 (as amended).

2.2 It is considered that the proposal would not have an adverse impact on the residential amenity of neighbouring properties, the external appearance of the dwelling house, or the character of the street scene and it is therefore recommended that prior approval is granted subject to the conditions set out in Paragraph AA.2 of Class AA.

3. SITE DESCRIPTION

3.1 The application site comprises of a detached bungalow on the southern side of the Orchard, Kings Langley.

4. PROPOSAL

4.1 The application seeks to establish whether prior approval is required for an upward extension for an additional storey to a maximum height of 8.3m with 4 windows to front and 2 to the rear.

4.2 This prior notification has been submitted in accordance with conditions AA.2 of Schedule 2 Part 1 Class AA of the Town and Country Planning (General Permitted Development) Order 2015.

4.3 A similar proposal for an increase in height up to 7.8m has been granted prior approval under application reference 21/02320/UPA.

5. PLANNING HISTORY

Planning Applications

21/02317/LDP - Rear extension 4m deep - 7.5m wide - 2.5m eaves height and 4m total height.
GRA - 8th July 2021

21/02319/HPA - Single storey rear extension measuring 8m deep with a maximum height of 4m and a maximum eaves height of 2.5m.

Prior approval Not Required - 8th July 2021

21/02320/UPA - Additional storey to match existing building. 4 windows to front, 2 to rear. Full height with additional storey will be 7.8m
Prior Approval Granted - 9th August 2021

21/02796/FHA - Removal of garage, reduction in ground level to create a level garden (maximum reduction 1400mm) and construction of 8m split level rear extension.
GRA - 22nd October 2021

21/04141/NMA - Non material amendment to planning permission 21/02796/FHA (Removal of garage, reduction in ground level to create a level garden (maximum reduction 1400mm) and construction of 8m split level rear extension.)
GRA - 11th November 2021

21/04383/LDP - Insertion of new ground floor windows and doors. Demolition of porch
GRA - 13th January 2022

21/04401/FUL - Extension of existing dwelling to create 4 dwellings.
REF - 16th February 2022

4/02037/19/FUL - Demolition of existing dwelling and outbuildings and construction of two 4-bedroom semi-detached dwellings.
GRA - 27th January 2020

4/01847/18/OUT - Demolition of exiting bungalow and garage and replace with four (or three) 2-bed dwellings
REF - 13th December 2018

4/00436/18/OUT - Demolition of existing bungalow and garage. Replace with four two-bed Dwellings.
REF - 2nd July 2018

4/03283/17/HPA - Single-storey rear extension measuring 8m deep with a maximum height of 4m and a maximum eaves height of 2.4m

Prior approval Not Required - 1st February 2018

4/03282/17/HPA - Single-storey rear extension measuring 5m deep with a maximum height of 4m and a maximum eaves height of 2.4m

Prior approval Not Required - 1st February 2018

Appeals

22/00026/REFU - Extension of existing dwelling to create 4 dwellings.
LODGED -

4/01847/18/OUT - Development Appeal
- 14th August 2019 – Dismissed

4/00436/18/OUT - Development Appeal
- 15th April 2019 - Dismissed

6. CONSTRAINTS

CIL Zone: CIL2
Kings Langley Conservation Area
Former Land Use (Risk Zone):
Heathrow Safeguarding Zone: LHR Wind Turbine
Large Village: Kings Langley
Listed Building, Grade: II,
Parish: Kings Langley CP
RAF Halton and Chenies Zone: Yellow (45.7m)
Residential Area (Town/Village): Residential Area in Town Village (King Langley)
Parking Standards: New Zone 3
EA Source Protection Zone: 2
EA Source Protection Zone: 3

7. REPRESENTATIONS

Consultation responses

7.1 These are reproduced in full at Appendix A.

Neighbour notification/site notice responses

7.2 These are reproduced in full at Appendix B.

8. PLANNING LEGISLATION/POLICIES

Schedule 2, Part 1, Class AA of the General Permitted Development Order (2015) (England) (As Amended)

9. CONSIDERATIONS

Main Issues

9.1 The development complies with the limitations contained within Schedule 2, Part 1, Class AA of the General Permitted Development Order (2015) and therefore the main consideration of this application are the matters relating to prior approval which are:

Impact on amenity of adjoining premises
External appearance of the dwelling house,
Air traffic and defence asset impacts
Protected views

Criteria contained within the legislation:

9.2 The proposal should be assessed under Class AA of Part 1 of the Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015. The following will assess whether the proposal complies with the relevant criteria contained within the legislation.

Permitted Development Rights	
Any conditions on planning permissions removing Permitted Development Rights?	No

Any Article 4 Directions removing Permitted Development Rights?	No

9.3 The proposal comprises permitted development subject to the relevant criteria as contained within Schedule 2, Part 1, Class AA of the General Permitted Development Order (2015) (England) (As Amended).

9.4 Permitted development:

AA. *The enlargement of a dwellinghouse consisting of the construction of—*

(a) up to two additional storeys, where the existing dwellinghouse consists of two or more storeys; or

(b) one additional storey, where the existing dwellinghouse consists of one storey, immediately above the topmost storey of the dwellinghouse, together with any engineering operations reasonably necessary for the purpose of that construction.

9.5 Development not permitted:

9.6 *The proposed development meets all the relevant criteria set out in Class AA.1 including the following detailed criteria for detached dwellinghouses, whereby Development is not permitted by Class AA if, inter alia:*

c) the dwellinghouse was constructed before 1st July 1948 or after 28th October 2018;

(e) Following the development the height of the highest part of the roof of the dwellinghouse would exceed 18 metres;

(f) Following the development the height of the highest part of the roof of the dwellinghouse would exceed the height of the highest part of the roof of the existing dwellinghouse by more than—

- (i) 3.5 metres, where the existing dwellinghouse consists of one storey; or***
- (ii) 7 metres, where the existing dwellinghouse consists of more than one storey;***

(h) The floor to ceiling height of any additional storey, measured internally, would exceed the lower of—

- i. 3 metres; or*
- ii. the floor to ceiling height, measured internally, of any storey of the principal part of the existing dwellinghouse;*

(i) Any additional storey is constructed other than on the principal part of the dwellinghouse;

Conditions:

9.7 AA.2.—(1) *Development is permitted by Class AA subject to the conditions set out in sub-paragraphs (2) and (3):*

(a) The materials used in any exterior work must be of a similar appearance to those used in the construction of the exterior of the existing dwellinghouse;

(b) the development must not include a window in any wall or roof slope forming a side elevation of the dwelling house;

(c) the roof pitch of the principal part of the dwellinghouse following the development must be the same as the roof pitch of the existing dwellinghouse; and

(d) following the development, the dwellinghouse must be used as a dwellinghouse within the meaning of Class C3 of the Schedule to the Use Classes Order and for no other purpose, except to the extent that the other purpose is ancillary to the primary use as a dwellinghouse.

Is the proposal Permitted Development?

9.8 It has been possible to ascertain from historic OS maps that the property was not built before July 1948 and it was not built after October 2018.

9.9 The proposal would comply with the relevant height increase criteria for detached properties. The floor to ceiling height is indicated as 2.4m, which complies with this aspect of the criteria. It is noted that the floor to ceiling height indicated on the first floor would mean that the height of the ceiling would somewhat level with the top of the windows. This would be subject to building control approval. If this would not comply with building regulations, then the floor to ceiling height would have to be increased, with another prior approval or planning permission required from the council for this.

9.10 The extension would take place over the principal part of the dwelling house.

9.11 The applicant has also confirmed that the proposal will comply with the conditions in accordance with the legislation as set out above.

9.12 Due to the above, it is considered the proposal would comply with criteria as listed within Schedule 2, Part 1, Class AA of the General Permitted Development Order (2015).

Consideration of Matters of Prior Approval

9.13 Paragraph AA.2 of Class AA states that before beginning the development, the developer

(a) must apply to the local planning authority for prior approval as to:

(i) impact on the amenity of any adjoining premises including overlooking, privacy and the loss of light;

(ii) the external appearance of the dwellinghouse, including the design and architectural features of:

(aa) the principal elevation of the dwellinghouse, and

(bb) any side elevation of the dwellinghouse that fronts a highway;

(iii) air traffic and defence asset impacts of the development; and

(iv) whether, as a result of the siting of the dwellinghouse, the development will impact on a protected view identified in the Directions Relating to Protected Vistas dated 15th March 2012 issued by the Secretary of State;

(b) must provide the local planning authority with a report for the management of the construction of the development, which sets out the proposed development hours of operation and how any adverse impact of noise, dust, vibration and traffic on adjoining owners or occupiers will be mitigated

Impact on the Amenity of Adjoining Premises

9.14 It is acknowledged that the inclusion of windows at first floor level would result in overlooking of no. 3 the Orchard; yet no. 3 forms one half of a semi-detached pair and therefore its garden will already be overlooked from at least one direction. These dwellings are located within an established settlement and in close proximity to one another. Accordingly, a certain degree of mutual overlooking is expected. The level of overlooking which would arise as a result of this application would not be sufficient to warrant withholding approval. It is important to note that there would be no loss of privacy to the internal environment of no. 3.

9.15 The proposal would maintain the same building footprint/build line of the existing property and would therefore not have an impact on light received by the front and rear elevations of number 3. The side windows of number 3 which face the site do not appear to serve habitable rooms and with respect to the garden areas and sunlight, the site is located north west of the site, limiting its impact in this regard. Furthermore, it is not considered that a 0.5m increase in height above a previously consented scheme for an upward extension under 21/02320/UPA would result in an increased impact above that scheme, which was also deemed acceptable in this regard.

9.16 Therefore, it is considered that there would be no significant adverse impacts on the residential amenity of neighbouring properties.

Impact on External Appearance of Dwellinghouse

9.17 Paragraph AA.2 (3) (a) (ii) of Class AA allows the local planning authority to take account of the external appearance of a dwelling, including the design and architectural features of the principal elevation and any side elevation which fronts a highway.

9.18 The wording is such that the term *external appearance* does not solely relate to design and architectural features. On the contrary, these are merely examples of factors which are able to be considered under the broad heading of *external appearance*. The external appearance of a dwelling and the question of whether or not it constitutes good design cannot so easily be divorced or considered separately from its context. This approach has been confirmed in the court case of *Cab Housing Ltd & Ors V Secretary of State for Levelling Up, Housing and Communities & Ors [2022]*.

9.19 The proposal seeks to turn a bungalow into a two-storey dwelling. Given that almost all of the other dwellings within the street are of two-storey construction, this does not give rise to any major concerns. Indeed, it would assist in making the street more uniform.

9.20 An additional plan showing the street scene and the ridge height of the application property in comparison with no. 3 The Orchard and the other set of properties going up the hill has been provided. This plan demonstrates that the ridge height would be approximately 0.2 metres lower than that of no. 3, compared to 0.7 metres granted under the previous proposal.

9.21 It is noted that staggering of ridge heights is observed on the two storey properties going up the street. The stagger between number 1 and number 3 would now be 0.2 metres, resulting in a smaller transition in height than that established by the previous consent. It is noted that the existing stagger in height between number 5 and number 7 further up the hill is approximately 0.6m. Therefore, the

stagger in height between numbers 1 and 3 would be smaller than this existing staggering further up the road as a result of the development.

9.22 However, when considering the spacing that exists between the sets of properties as well as the site's location on a corner plot at the bottom of the road, it is considered that the smaller staggered height between numbers 1 and 3 would not be overtly prominent. It is considered that this difference would not be immediately visible when one is turning the corner around the flank elevation of number 1 at the bottom of the road, or when travelling down from the top of the road to the north east.

9.23 Thus, when passing the site in general, it is considered that the minutiae of the slight differences in staggered heights would largely go unnoticed, or at least not draw undue attention to itself on the street scene. In this sense, it is not considered that decrease in the staggered height of number 1 compared to number 3 of 0.5 metres below the previously consented scheme would result in a harmful impact.

9.24 The current building is of no architectural merit and this would not change – either for the better or for the worse – as a result of this application; rather, it is considered that, from an architectural perspective, there would be a neutral impact.

9.25 It is therefore considered that the impact on the external appearance of the dwelling house itself would not be harmful when considering that the existing property is not of particularly high architectural quality in the first instance. It is also considered that the proposal would not have a detrimental impact on the street scene as a whole, when noting the prevalence of two storey dwellings on the road in the first instance and a staggering in height, albeit minimal, would still be maintained.

Air Traffic and Defence Asset Impacts

9.26 The height of the development (under 45.7m) is such that there would be no implications for air traffic and defence assets.

9.27 The Civil Aviation Authority has been consulted on the application but have not commented.

Protected Views

9.28 The proposal would not affect any protected views.

Construction Management

9.29 A management plan does not form part of the application submission; however, the requirement is that this be provided prior to the commencement of development. As such, a lack of a plan is not, in and of itself, a reason to refuse prior approval. Should prior approval be granted, a suitable worded condition will be included.

Conclusion

9.30 The proposal is considered to comply with the criteria set out AA.1 and the matters subject to prior approval are all considered to be acceptable. The upward extension would therefore be permitted development by virtue of Schedule 2, Part 1, Class AA of the Town and Country (General Permitted Development) Order 2015 (as amended).

9.31 It is considered that the proposal would not have an adverse impact on the residential amenity of neighbouring properties, the external appearance of the dwelling house, or the character of the

street scene and it is therefore recommended that prior approval is granted under Paragraph AA.2 of Class AA.

Condition and Reason:

1. **No development shall take place until a report for the management of the construction of the development, which sets out the proposed development hours of operation and how any adverse impact of noise, dust, vibration and traffic on adjoining owners or occupiers will be mitigated, has been submitted to and approved in writing by the local planning authority.**

Reason: To comply with the requirements of Schedule 2, Part 1, Class AA, AA.2, 3 (b) of the Town and Country Planning (General Permitted Development) (England) Order 2015.

Informatives :

1. Along with Condition 1, the development shall also comply with the conditions as listed within Paragraph AA.2 (2) of Schedule 2, Part 1, Class AA of the General Permitted Development Order (2015). These are Listed below :

- a) the materials used in any exterior work must be of a similar appearance to those used in the construction of the exterior of the existing dwellinghouse;*
- (b) the development must not include a window in any wall or roof slope forming a side elevation of the dwelling house;*
- (c) the roof pitch of the principal part of the dwellinghouse following the development must be the same as the roof pitch of the existing dwellinghouse; and*
- (d) following the development, the dwellinghouse must be used as a dwellinghouse within the meaning of Class C3 of the Schedule to the Use Classes Order and for no other purpose, except to the extent that the other purpose is ancillary to the primary use as a dwellinghouse.*

APPENDIX A: CONSULTEE RESPONSES

Consultee	Comments
Hertfordshire Highways (HCC)	<p>Decision Notice is given under article 18 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 that the Hertfordshire County Council as Highway Authority does not wish to restrict the grant of permission.</p> <p>Highway Informatives HCC as Highway Authority recommends inclusion of the following Advisory Note (AN) / highway informative to ensure that any works within the highway are carried out in accordance with the provisions of the Highway Act 1980:</p>

AN 1) Storage of materials: The applicant is advised that the storage of materials associated with the construction of this development should be provided within the site on land which is not public highway, and the use of such areas must not interfere with the public highway. If this is not possible, authorisation should be sought from the Highway Authority before construction works commence.

Further information is available via the County Council website at: <https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/business-and-developer-information/business-licences/business-licences.aspx> or by telephoning 0300 1234047.

AN 2) Obstruction of highway: It is an offence under section 137 of the Highways Act 1980 for any person, without lawful authority or excuse, in any way to wilfully obstruct the free passage along a highway or public right of way. If this development is likely to result in the public highway or public right of way network becoming routinely blocked (fully or partly) the applicant must contact the Highway Authority to obtain their permission and requirements before construction works commence.

Further information is available via the County Council website at: <https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/business-and-developer-information/business-licences/business-licences.aspx> or by telephoning 0300 1234047.

AN 3) Debris and deposits on the highway: It is an offence under section 148 of the Highways Act 1980 to deposit compost, dung or other material for dressing land, or any rubbish on a made up carriageway, or any or other debris on a highway to the interruption of any highway user. Section 149 of the same Act gives the Highway Authority powers to remove such material at the expense of the party responsible. Therefore, best practical means shall be taken at all times to ensure that all vehicles leaving the site during construction of the development and use thereafter are in a condition such as not to emit dust or deposit mud, slurry or other debris on the highway. Further information is available by telephoning 0300 1234047.

	<p>Comments</p> <p>The proposal is for the construction of an additional storey to a maximum height of 8.3m with 4 windows to front and 2 to rear at 1 The Orchard, Kings Langley. The Orchard is a dead-end unclassified local access route that is highway maintainable at public expense.</p> <p>The additional story of the building is unlikely to impact visibility splays for the surrounding highway network. HCC Highways do not consider additional bedrooms to increase trips to and from the dwelling. There is proposed to be no alterations to the existing highway network.</p> <p>HCC Highways would not wish to restrict a grant of permission for the site subject to the inclusion of the above informatives</p>
Environmental And Community Protection (DBC)	Having reviewed the application submission and the ECP records I am able to confirm that there is no objection on the grounds of land contamination. Also, there is no requirement for further contaminated land information to be provided, or for contaminated land planning conditions to be recommended in relation to this application.
Parish/Town Council	The Council objects to this proposal because of its height / size being too large for the plot, would be unattractive and have a detrimental impact and be out-of-keeping with the street scene / neighbouring properties.

APPENDIX B: NEIGHBOUR RESPONSES

Number of Neighbour Comments

Neighbour Consultations	Contributors	Neutral	Objections	Support
13	3	0	3	0

Neighbour Responses

Address	Comments
10 The Orchard Kings Langley Hertfordshire WD4 8JR	I am objecting to this proposal as it is yet another obvious ruse by the applicant to be a first step in further proposals to attempt to shoehorn 4 dwellings into a small site, despite this being rejected multiple times before. It is also rather alarming that the first line of the site notice says ' New dwelling houses on detached blocks of flats' Does this mean that

	<p>is his next ridiculous objective? The fact that the applicant has erected an illegal 2 metre fence on the front boundary with the highway obscuring visibility for traffic on a bend and not removed it despite an enforcement notice is further proof of his contempt for the planning process</p>
<p>12 The Orchard Kings Langley Hertfordshire WD4 8JR</p>	<p>I wish to object to this planning application.</p> <p>The information provided by the planning officer's letter contradicts the public notice posted at the property. There's no mention of the property being occupied as flats in the planning officers letter but the public notice states this.</p> <p>The planning application is lacking in content and doesn't include details of the future occupation of the property. My concern is that without clarification, the property may be occupied as bed sits or a HMO.</p> <p>I also object to the 4 windows at the front of the property as this is out of keeping/character with other properties in The Orchard.</p> <p>Please clarify the future occupation of the property and make sure adequate off street car parking is provided.</p> <p>I don't think this application can be considered unless the future, long term occupancy of the property is established.</p>
<p>14 The Orchard Kings Langley Hertfordshire WD4 8JR</p>	<p>I wish to object to this planning application on a number of points.</p> <p>The planning application notice attached to the fencing of the property does not match the notification that I received through the post and states: Reason for Alert 'New dwellinghouses on detached blocks of flats'</p> <p>This information was not provided on the written notification of the 22nd March which stated that this was just an 'Additional storey to a maximum height of 8.3m with 4 windows to front and 2 to rear.</p> <p>I have studied the application and planning information available online and can see no mention of this being a 'block of flats' and I therefore feel that we have been deceived by the developer. The application form makes no mention of the changes from a single dwelling to a HMO or 'block of flats'.</p> <p>The application also makes no reference to additional parking facilities to be provided or the amount of outdoor space made available for the properties. Previous applications for multiple properties on this site have been rejected because of over development, parking and other considerations and I fell that this one should be rejected on the same</p>

grounds.

I feel that given the limited amount of information on the application regarding the future use of the property makes this impossible to approve. If the developer wants to put a 'block of flats' on the site then an appropriate application should be made in full and not 'through the back door'.