

WA/2023/00789 – Erection of fence and gate together with alterations to driveway. at TOUCHWOOD PETWORTH ROAD WITLEY GODALMING GU8 5QW

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| Applicant: | Mr T Rose - |
| Case Officer: | Sam Wallis |
| Neighbour Notification Expiry Date: | 29/04/2023 |
| Expiry Date/Extended Expiry Date: | 23/09/2023 |
| RECOMMENDATION | That, subject to conditions, permission be GRANTED |

1. Summary

The application has been brought to Planning Committee at the request of the local Ward Member (Councillor Maxine Gale) on behalf of Witley Parish Council to allow the impact on visual amenity and common land to be debated by the Committee. No letters of objections have been received.

The application proposes the erection of front boundary post and rail fence and gate together with alterations to the driveway.

Officers consider the proposal is acceptable with regard to design. Furthermore, the impact on common land would be dealt with separately under an application to the Secretary of State under the Commons Act 2006. Any decision to grant planning permission would not predetermine a decision under that Act. Therefore, the planning balance assessment concludes that the proposal is in accordance with the Development Plan. As such, planning permission is recommended for approval.

2. Site Description

The application site is located to the east of Petworth Road in Witley.

- Property Type: Two-storey dwelling with half-hipped roof and inset pitched dormers.
- Character: Semi-Rural. Ribbon development along the east of Petworth Road with a mix of house types both single storey and two storey of differing form and design.
- Site Level: Largely flat.

3. Proposal

The application seeks permission for:

- Erection of front boundary post and rail fence and gate together with alterations to driveway.

4. Relevant Planning History

| Reference | Proposal | Decision |
|--------------|---|-------------------------|
| WA/2019/1381 | Erection of a dwelling following demolition of existing dwelling and garage. | GRANTED (26/11/2019) |
| WA/2002/0545 | Construction of a vehicular access (as amended by plans and certificate received 07/06/02). | GRANTED (02/07/2002) |

5. Relevant Planning Constraints

- Rural Settlement of Witley
- Conclusive Registered Common Land (Manorial Waste of the Parish of Witley)
- Ancient Woodland 500m Buffer Zone
- Wealden Heaths I Special Area of Conservation 2km Buffer Zone
- Wealden Heaths I Special Protection Area 1km Buffer Zone

6. Relevant Development Plan Policies and Guidance

- **Waverley Borough Local Plan (Part 1): Strategic policies and sites (adopted February 2018):** SP1, TD1, NE1, NE3
- **Witley Neighbourhood Plan 2021:** ND5, ND7
- **Waverley Borough Local Plan (Part 2) (adopted March 2023):** DM1, DM2, DM4, DM5, DM9, DM11, DM13

Other guidance:

- The National Planning Policy Framework 2023 (NPPF)
- The National Planning Practice Guidance 2014 (NPPG)
- Residential Extensions Supplementary Planning Document 2010 (SPD)
- Council's Parking Guidelines (2013)
- Surrey Vehicular and Cycle Parking Guidance (2018)
- National Design Guide (2019)
- Climate Change and Sustainability Supplementary Planning Document (October 2022)

7. Consultations and Parish Council Comments

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| Witley Parish Council | <ul style="list-style-type: none"> • Strongly object to the above application and wish for the fence and gate enclosing common land to be removed. |
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| | <p>The Parish Council object to the accuracy of the red line as it includes common land not owned by the applicant. An application to the Secretary of State (Planning Inspectorate) should be required for enclosure of common land.</p> <ul style="list-style-type: none"> • The application contravenes Policy ND5 of the Witley Neighbourhood Plan and Policy DM4 (Quality Places through Design) of LPP2. • The Parish Council had previously been advised by SCC Highways regarding the inclusion of the land in the Witley Neighbourhood Plan as Local Green Space, that it was needed to be left for possible improvements such as pavements and cycleways for integrated transport links. <p>(26/04/2023)</p> |
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8. Representations

None received.

Planning Considerations:

9. Principle of development

The site is within the defined settlement area of Witley wherein the principle of extensions and alterations is acceptable subject to residential and visual amenity impact.

Policy SP1 of the Local Plan (Part 1) 2018 states that when considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development.

10. Planning history and differences with previous proposal

The planning history is a material consideration.

Planning permission has been previously granted for the erection of a dwelling following demolition of the existing dwelling and garage (WA/2019/1381). This has since been implemented with the addition of post and rail fencing and some extension of hardstanding differentiating from the previous application. This proposal seeks to regularise matters on site.

11. Design and impact on visual amenity

Policy TD1 of the Local Plan 2018 (Part 1) and Policy DM4 of the Waverley Borough Local Plan (Part 2) requires development to be of high quality design and to be well related in size,

scale and character to its surroundings. Both are attributed substantial and full weight respectively due to its level of consistency with the NPPF 2023.

Policy ND5 of the Witley Neighbourhood Plan states that as appropriate to their scale, nature and location new developments should take account of Section 3 of the WPC Design Guidelines.

WPC Design Guidelines specifically highlights that boundary treatments should reinforce the sense of continuity of the building line and help define the street, appropriate to the rural character of the area. The use of panel fencing in these publicly visible boundaries should be avoided.

The proposal is retrospective and has been implemented as evidenced on the officer's site visit. It is evident that the post and rail fence extends forward of the immediate neighbouring boundary lines, albeit small at 4.7m, but a protrusion nonetheless onto adjacent land designated as common land, the impact upon which will be discussed further down the report.

The style of a timber post and rail fence is far less prominent than panelled fencing and has a modest height of approximately 1.3m. The primary contention highlighted by Witley Parish Council on design grounds is in regard to surrounding boundary lines. Whilst the immediate neighbours have not extended forward into common land, further south along Petworth Road at Dovefields, Rosebank and Lulworth, there is a range of boundary treatments that encroach into this land, with maintained foliage and gravel hardstanding that are further forward than this proposal. Boundary setbacks along Petworth Road do therefore vary and thus, whilst officers do recommend following adjacent building lines, given the wider setting on Petworth Road coupled with the style of fence and gate, officers do not consider that the proposal is sufficiently detrimental to warrant refusal.

On balance, the proposal would therefore largely accord with Policy TD1 of the Local Plan (Part 1) 2018, Policy ND5 of the Witley Neighbourhood Plan, Policy DM4 of the Waverley Borough Local Plan (Part 2) and the Residential Extensions SPD.

12. Impact on residential amenity

Policy TD1 of the Local Plan (Part 1) 2018 and Policy DM5 of the Waverley Local Plan (Part 2) 2022 seeks to ensure that new development is designed to create safe and attractive environments that meet the needs of users and incorporate the principles of sustainable development. Both are given substantial and full weight respectively due to its consistency with the NPPF 2023.

The proposal is for 1.4m timber post and rail fence with associated hardstanding. The fencing would not be of a height or position to adversely impact the residential amenity of any neighbouring properties, by way of loss of light, loss of privacy or overbearing development.

As such, the proposed development would not result in harm to the residential amenity of neighbouring properties in accordance with Policy TD1 of the Local Plan Part 1 2018, Policies DM1 and DM5 of the Local Plan (Part 2) 2023.

13. Effect on Wealden Heaths SPA

The proposed development is for the erection of fences and alterations to the driveway and as such, it is not likely to result in a significant increase in the number of people permanently residing on the site and therefore would not have a likely significant effect on the integrity of the SPAs in accordance with Policy NE1 of the Local Plan 2018 (Part 1). An appropriate assessment is not therefore required.

14. Biodiversity and compliance with Habitat Regulations 2017

Policy NE1 of the Local Plan (Part 1) 2018 states that the Council will seek to conserve and enhance biodiversity. Development will be permitted provided it retains, protects and enhances biodiversity and ensures any negative impacts are avoided or, if unavoidable, mitigated.

Further, Circular 06/2005 states 'It is essential that the presence or otherwise of protected species and the extent that they may be affected by the proposed development, is established before planning permission is granted.'

Having regard to the completed biodiversity checklist and environmental constraints, it is considered that the proposal is in accordance with Policy NE1 of the Local Plan 2018 (Part 1).

15. Ancient Woodland

The application site is within 500m of ancient woodland. As the proposal is well separated from the woodland itself, it is not considered to be materially harmful and would be in accordance with Policy NE2 of the Local Plan (Part 1) 2018, Policy DM11 of the Waverley Borough Local Plan (Part 2) and paragraph 180 of the NPPF.

16. Impact on Common Land

There is an area of registered Common Land which runs along the south western boundary of the site. Having regard to the submitted plans accompanying this application, it would appear that elements of the proposed works within the site would cross the line of the Common Land.

Officers note the comments by the local parish council regarding the fence and part of the access being on common land.

In light of the above, Officers would advise that a Common Land application under Section 38 of the Commons Act 2006 would be needed outside of the application process, which

would allow works to be carried out on registered common land under the Commons Registration Act 1965.

In regard to Section 193 of the Law of Property Act 1925, the rights of air and exercise to the public are subject to “any Act, scheme or provisional order for the regulation of land”. This includes the Town and Country Planning Act (grant of planning permission for development of common land) and the Commons Act (permission to carry out restricted works). Any rights that the public have over the land in question can be extinguished by the applicant obtaining the necessary permissions under the relevant legislation.

Two forms of legislative control apply to the application site: under the Planning Act and the need to obtain planning permission for the works but also, under the Commons Act 2006 for “restricted works”. These are separate processes and any decision to grant planning permission would not predetermine a decision under the Commons Act 2006.

The normal planning process has to be undertaken, taking into account the normal planning considerations. If an application to the Secretary of State (SoS) is successful, the land would be released from its registration as common land. The applicant may have to register replacement land as common land for the land lost from the common.

There is nothing to stop the applicant making an application for planning permission in advance of submitting an application in relation to the Commons Act to the SoS, and one does not prejudice the consideration of the other (i.e. if planning permission is granted it does not necessarily follow that an application for common land deregulation would be allowed).

17. Climate Change & Sustainability

Policy CC1 of the Local Plan (Part 1) 2018 seeks to support development which contributes to mitigating and adapting to the impacts of climate change, including measures that use renewable and low carbon energy supply systems.

Policy CC2 of the Local Plan (Part 1) 2018 seeks to promote sustainable patterns of development and reduce the level of greenhouse gas emissions.

Policy DM2 of the Local Plan (Part 2) 2023 states that all development should seek to maximise energy efficiency and reduce carbon emissions through its design, structure, orientation and positioning, landscaping and relevant technology.

The Council’s Climate Change and Sustainability SPD (October 2022) is relevant.

A Climate Change and Sustainability Checklist has been submitted in support of the application. The proposal would include timber fencing which is a renewable material. Given the minor scale of works proposed, this is considered proportionate and would comply with the relevant policies and guidance. No concern is therefore raised.

18. Conclusion

The planning balance assessment concludes that the proposal is in accordance with the Development Plan, as such, planning permission is recommended for approval.

Recommendation

That permission be GRANTED subject to the following conditions:

1. Condition:

The plan numbers to which this permission relates are 1234/01A and 1234/02. The development shall be carried out in accordance with the approved plans. No material variation from these plans shall take place unless otherwise first agreed in writing with the Local Planning Authority.

Reason:

In order that the development hereby permitted shall be fully implemented in complete accordance with the approved plans and to accord with Policy TD1 of the Local Plan 2018 (Part 1) and Policy DM4 of the Local Plan 2023 (Part 2).

Informatives

- 1. The applicant is advised that as development involves the inclosure of Common Land, a separate consent is required under the Commons Regulations, and it will be necessary for an application to be made to this effect to the Secretary of State.

The Council confirms that in assessing this planning application it has worked with the applicant in a positive and proactive way, in line with the requirements of Paragraph 38 of the National Planning Policy Framework 2021.

Case Officer Sam Wallis Signed: Date: 15 August 2023

Agreed by Team or DC Manager.....Date:.....

Time extension agreement in writing seen by signing off officer:

Yes

No

N/A

Agreed by Development Manager or Head of Planning Services

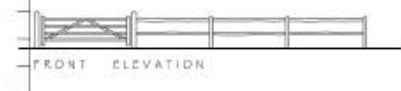
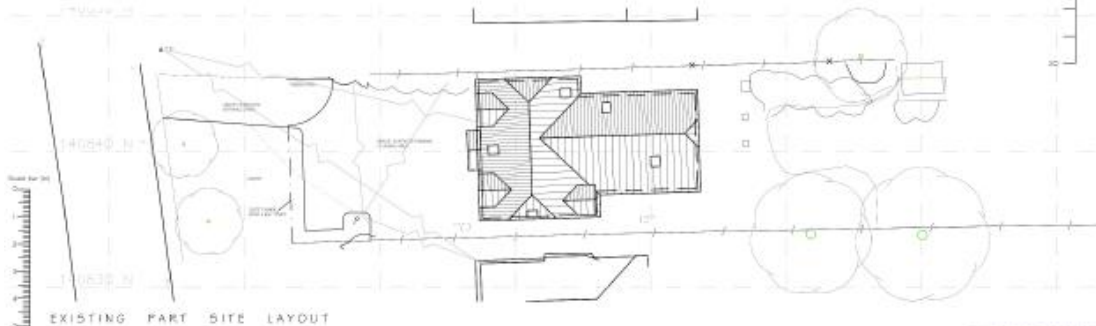
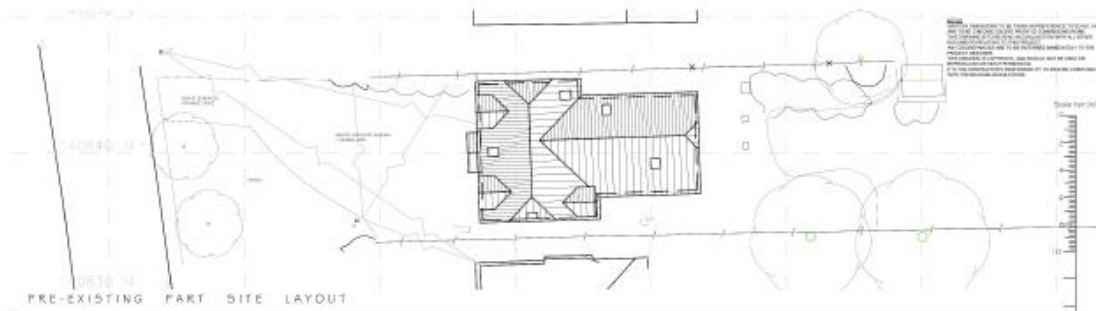
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This report has been agreed under the delegated authority by the Head of Planning Services.

Decision falls within(*number reference*) of the Scheme of Delegation

..... (initialled by Authorising officer)

APPENDIX



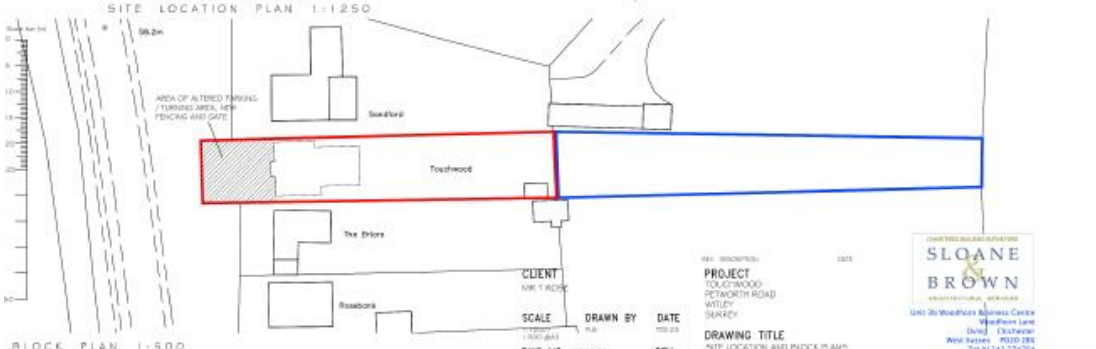
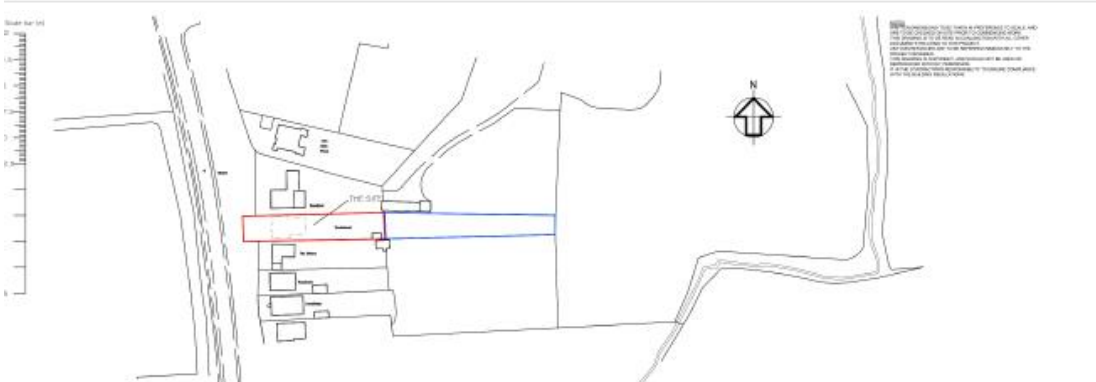
CLIENT: MR T ROSE
 SCALE: 1:200
 DWG NO: 123401

DRAWN BY: N.B.
 DATE: 10.12.19
 REV. A

PROJECT: TOLGWOOD PETWORTH ROAD WITLEY SURREY GU8 5DN
 DRAWING TITLE: PRE-EXISTING AND EXISTING PART SITE LAYOUT PLANS

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 DWG NO: 123402

DRAWN BY: N.B.
 DATE: 10.12.19
 REV. A

PROJECT: TOLGWOOD PETWORTH ROAD WITLEY SURREY
 DRAWING TITLE: SITE LOCATION AND BLOCK PLANS

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