
APPLICATION NO.	21/02161/VARN
APPLICATION TYPE	VARIATION OF CONDITIONS - NORTH
REGISTERED	20.07.2021
APPLICANT	Mr and Mrs Anthony Burley
SITE	Newtown House, 20 Newtown Close, Andover SP10 3AU ANDOVER TOWN (MILLWAY)
PROPOSAL	Application to vary condition 9, 11 and remove condition 5 of approved application 18/00375/FULLN (Erection of dwelling and double garage) to allow changes to approved landscape plans/drawings and reinstate permitted development rights
AMENDMENTS	Amended Landscape Plan and Planning Statement received 14 th September 2021. Landscape Management Plan received 20 th September 2021
CASE OFFICER	Mrs Samantha Owen

Background paper (Local Government Act 1972 Section 100D)

1.0 INTRODUCTION

1.1 The application is presented to the Northern Area Planning Committee in accordance with the Officers and Members Protocol.

2.0 SITE LOCATION AND DESCRIPTION

2.1 Newtown House is a two storey detached property located at the end of a cul-de-sac. The whole site is covered by an Area TPO from 1973. The boundary of the property is a 2m close boarded fence to the north, east and west. A laurel hedge has been planted along part of the eastern boundary. The boundary with the neighbouring property, number 19, which is located opposite number 20 is a post and rail fence and hedge. The property has an integral garage and off road parking. The front garden is dominated by a mature sycamore tree located within the garden of number 19.

3.0 PROPOSAL

3.1 This application seeks to vary conditions 9 and 11 and to remove condition 5 of approved application 18/00375/FULLN (Erection of dwelling and double garage) to allow changes to approved landscape plans/drawings and reinstate permitted development rights.

3.2 Condition 9 of 18/00375/FULLN states:

Within the first planting season following the completion of the dwelling hereby permitted, the replacement trees as shown on Landscaping Plan D115 Rev D, shall be planted.

Reason: In the interests of amenity and the appearance of the locality in accordance with E2 within the Test Valley Borough Revised Local Plan.

This condition is being requested to be varied because the Applicant has put forward evidence that two replacement trees are not required as only one was covered by the Area TPO.

3.3 Condition 11 of 18/00375/FULLN states

The development hereby permitted shall not be carried out except in complete accordance with plan numbers D103, D210, D001, D002A, D115 D, D220 A, D-210, D100 D, D300 B, D310 A, D180.

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

This condition would need to be varied if the application was permitted to reflect the proposed changes to the landscaping.

3.4 Condition 5 of 18/00375/FULLN is proposed to be removed and states:

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order amending, revoking or re-enacting that Order), no building, structure, walls or fences of any kind shall be erected without the prior written consent of the Local Planning Authority.

Reason: In order that the Local Planning Authority can exercise control in the locality in the interest of the local amenities and protected trees in accordance with Test Valley Borough Revised Local Plan (2016).

This Condition is requested to be removed and all Permitted Development Rights re-instated.

4.0 HISTORY

4.1 21/02116/FULLN - Erection of summerhouse in rear garden and carport in front garden – Under consideration.

4.2 18/00375/NMA1 - Changes to rear garden, wall and steps - Amendment to planning permission 18/00375/FULLN – Approval 15/11/2018.

4.3 18/00375/FULLN - Erection of dwelling and double garage – Permit 05/06/2018.

5.0 CONSULTATIONS

5.1 Landscape: Comment following plans dated 20th September 2021

- Management Plan is acceptable
- Require plants to be planted at a larger size than that suggested by the Agent in their email of the 19th September 2021 but satisfied with species and locations.

This latter bullet point will be discussed with the Agent and reported on in the Update Paper.

5.2 Trees

Initial Comments dated 10th September 2021

The submitted documentation includes a commentary within its accompanying planning statement concerning whether or not trees that had been present on the site prior to construction of the new dwelling, were or were not protected by a TPO. Consent 18/00375/FULLN was granted on the basis of acceptability of the whole project as presented within the planning submission. The site supported considerable tree and shrub cover prior to determination of the application. It was appropriate to ensure an appropriate balance of replanting as part of the overall development. The submitted proposals included some tree felling which was balanced by tree and hedge planting promised by the applicant in their landscape plans. This then was the scheme assessed and determined to be acceptable.

I have found nothing in this variation proposal that gives reason or justification that would lead to a change of opinion for that expressed at the time of the original application, or to my being able to give support to a reduction in the overall level of tree or hedge planting.

Comment following revised plans of 14th September 2021

The revised documents do not supply any new information that would lead me to revise my conclusions from those given in my recent consultation response:

- A. I can find no justification for the reduction in proposed landscape planting from that which the applicant signed up to by submission of the original landscape scheme. Therefore am unable to support the variation proposal.
- B. Subject to verification of the discrepancies in the documents as above, the proposed summer house and proposed car port could be executed without resulting in significant harm to trees identified for retention on or adjacent to the site. This is subject to the need for appropriate working practices and appropriate tree protection during execution of the project, which can be secured through condition as previously drafted. Note that my observations with regard to reduction of proposed planting in comparison to the approved scheme remain.

6.0 REPRESENTATIONS Expired 14.08.2021

6.1 **Andover Town Council:** No objection but disappointed that trees are not being replaced one for one.

6.2 1 x representation from 19 Newtown Close

- Request that time constraints are applied to this application to implement and complete the landscaping.

7.0 **POLICY**

7.1 Government Guidance

National Planning Policy Framework (NPPF)

National Planning Practice Guidance (NPPG)

7.2 Test Valley Borough Revised Local Plan (2016)(RLP)

COM2 – Settlement Hierarchy

E1 – High, Quality Development in the Borough

E2 – Protect, Conserve and Enhance the Landscape Character of the Borough

LHW4 – Amenity

8.0 **PLANNING CONSIDERATIONS**

8.1 The main planning considerations are the effects of the proposed variation of two conditions and removal of one condition on:

- Landscaping; and
- Impact on trees and amenity in relation to Permitted Development Rights

8.2 **Landscaping**

This application seeks a change to the proposed landscaping scheme as approved under application 18/00375/FULLN. The main changes are:

- Retention of plum and apple tree in rear garden
- Only one additional tree planted in rear garden as opposed to two.
- One tree and one shrub in front garden as opposed to two trees.
- One tree on boundary with number 18
- Removal of hornbeam hedge to front garden and to side boundary.
- New hedge along eastern boundary of front garden.
- Change of surface of parking area and manoeuvring area

8.3 Policy E2 of the RLP requires development to positively integrate into the landscape character of the area and be designed so that they do not harm the health and future retention of important landscape features. The proposed landscape changes would result in a reduction in the amount of planting from that previously agreed under application 18/00375/FULLN. The purpose of the landscaping scheme is to ensure that the new dwelling would integrate well within the existing landscape and character of the area, it was considered under 18/00375/FULLN important to replace some of those trees that had been lost on the plot and to increase planting in the front garden area.

8.4 The applicant submitted a dendrochronological report. The purpose of this Report was to date the two trees that were lost when permission for the dwelling was granted under 18/00375/FULLN to ascertain if they were covered by the Area TPO. Due to the tolerance within the Report and the fine margin of error that could occur the Tree Officer has not agreed with the findings of this Report, as if wrong the Tree Officer would potentially be exposing the Applicant to committing an offence by breaching the TPO. It is therefore concluded that both the Larch and the Robinia were covered by the Area TPO.

- 8.5 Three trees are proposed with one in the rear garden and two in the front garden. The Applicant is also proposing to retain an existing plum and apple tree in the rear garden. Public views of the plot are restricted to the cul-de-sac of Newtown Close where views of the site would be at a distance. Within the wider area the dwelling has a backdrop of mature trees and it is concluded that the proposed landscaping scheme would sufficiently integrate the development into the character of the area.
- 8.6 A third party representation raised the concern about the implementation of the landscaping scheme and requested that time constraints be imposed on the delivery and implementation of the landscaping. Condition 2 requires the landscaping to be carried out within a specific time scale. It is concluded that the variation to the landscape and associated drawing condition would be acceptable and comply with policies E1 and E2 of the RLP.
- 8.7 Impact on trees and amenity in relation to Permitted Development (PD) Removal of Condition 5 of 18/00375/FULLN is being requested. As set out in paragraph 3.4 above this condition removed PD rights for building, structures, walls or fences. This was to protect the roots of those trees adjoining the site which are subject to a Tree Preservation Order (TPO) and to protect the local amenity of the area.
- 8.8 PD rights do not override TPO legislation and therefore works carried out through PD resulting in damage to any TPO tree remains an offence. As the Trees are protected under TPO legislation this reason for removing PD should not be maintained.
- 8.9 The house permitted under 18/00375/FULLN has now been built and is occupied. Following a further site visit and assessment on the local amenity of the area it is considered that withdrawal of PD rights are not reasonable and therefore it is recommended that all PD rights for this property are re-instated through the grant of this application. As such it is concluded that this aspect of the application would be in accordance with policies E1 and E2 of the RLP.
- 9.0 **CONCLUSION**
- 9.1 It is considered that the proposed landscaping scheme would ensure the development over time would integrate into the landscape character of the area in accordance with Policy E2 of the RLP.
- 9.2 The reinstatement of PD Rights for the property for structures and walls would not give rise to unacceptable impacts on neighbouring amenity. The TPO trees would still be protected by TPO legislation.
- 10.0 **RECOMMENDATION**
- PERMISSION subject to:**
- 1. The development hereby permitted shall not be carried out except in complete accordance with plan numbers D115K and D100J
Reason: For the avoidance of doubt and in the interests of proper planning.**

2. Landscaping shall be carried out in accordance with the approved Landscaping Plan D115K and the approved Management Plan. The landscape works shall be carried out in accordance with the approved details and before the end of March 2022.
Reason: To improve the appearance of the site and enhance the character of the development in the interest of visual amenity and contribute to the character of the local area in accordance with Test Valley Borough Revised Local Plan (2016) Policy E1 and E2.
3. The space shown for parking and manoeuvring of vehicles on the approved plan to enable them to enter and leave in a forward gear shall be reserved for such purposes at all times.
Reason: In the interests of highway safety in accordance with Test Valley Borough Revised Local Plan (2016) Policy T1.

Note to applicant:

1. In reaching this decision Test Valley Borough Council (TVBC) has had regard to the National Planning Policy Framework and takes a positive and proactive approach to development proposals focused on solutions. TVBC work with applicants and their agents in a positive and proactive manner offering a pre-application advice service and updating applicants/agents of issues that may arise in dealing with the application and where possible suggesting solutions.
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