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| <b>APPLICATION NO.</b>  | 22/00451/FULLS  |
| <b>APPLICATION TYPE</b> | FULL APPLICATION - SOUTH  |
| <b>REGISTERED</b>       | 21.02.2022  |
| <b>APPLICANT</b>        | Mr Mitesh Patel   |
| <b>SITE</b>             | High Pines , Heatherlands Road, Chilworth, SO16<br>7JB, <b>CHILWORTH</b>                      |
| <b>PROPOSAL</b>         | Resurfacing driveway, create path, replacement gates<br>and timber fence to the rear boundary |
| <b>AMENDMENTS</b>       | None  |
| <b>CASE OFFICER</b>     | Mr Nathan Glasgow   |

Background paper (Local Government Act 1972 Section 100D)

[Click here to view application](#)

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## 1.0 INTRODUCTION

- 1.1 The application is presented to the Southern Area Planning Committee at the request of the three Ward Members.

## 2.0 SITE LOCATION AND DESCRIPTION

- 2.1 High Pines is a large detached dwelling in Chilworth, set within an extensive plot on the eastern side of Heathlands Road, with its rear boundary facing out on to Roman Road. The property is located within the Chilworth Residential Area of Special Character.

## 3.0 PROPOSAL

- 3.1 Resurfacing driveway, create path, replacement gates and timber fence to the rear boundary.
- 3.2 The gates would both be 1m in height, with the majority of the fence line at 1.80m in height. The fence panels directly adjoining the two gates will have a diagonal drop in height to match the two gates.

## 4.0 HISTORY

- 4.1 **21/02563/FULLS** – Resurface driveway and create a new path from drive to property (Part Retrospective) – Withdrawn
- 4.2 **21/01293/VARS** – Variation of condition 2 of 20/02376/FULLS (One and two storey side extensions, two storey front extension, dormers to the rear to provide for rooms in roof and erection of detached garage with room above) to substitute drawing 3986-P-03A for 3986-P-03B – Permission subject to conditions
- 4.3 **20/02376/FULLS** – One and two storey side extensions, two storey front extension, dormers to the rear to provide for rooms in roof and erection of detached garage with room above – Permission subject to conditions

## 5.0 CONSULTATIONS

5.1 **Trees** – No objection subject to conditions

5.2 **HCC Highways** – No objection

## 6.0 REPRESENTATIONS Expired 25.03.2022

### 6.1 **Chilworth Parish Council** – Objection

1. “Resurfacing driveway” – it is not clear to which part of the property this refers. If it is the area coloured brown, no such driveway existed before the applicant created the same. It appears to be, from visual inspection, wide enough for motor vehicles. This view is reinforced by the creation of the two new gates and the build-up of two access points across the ditch (under which are new pipes) recently dug deeper by the applicant
2. “Create path” – it is not clear where this path is on the plan and it is assumed that it is the one running from the house. The PC is puzzled by this. Does it now mean that any Chilworth resident, who wishes to create a garden path, has to apply for planning permission? Clarification is needed.
3. “Replacement gates” – the two statements attached to the Planning Statement are noted. However, the PC is aware of serious conflicting evidence, The next door neighbour, who has lived there for 44 years has no recollection of there having been a gate at the bottom of High Pines. The owner of Brierway, Heatherlands Road confirms that there was a fence along the boundary and there was no formal exit from the property which was separated by the deep ditch, trees and shrubbery. The occupiers of Greystoke Heatherlands Road state that, before 2021, the situation was that there was a post and wire fence marking the boundary, the same as is still visible on the adjacent property (The Brick House). Self-seeded shrubs grew up through the wire and largely hid it from view so they cannot be certain if there were gateposts in situ. There was certainly no gate in place. Statements will be provided other than electronically.
4. “Timber fence to the rear boundary” – please see comments above.
5. Roman Road is a Restricted Byway and the signs at each end specifically ban motor vehicles with another sign indicating “No Vehicles – Except for Authorised Access”. We ask TVBC to liaise with Hampshire County Council as it seems clear that the applicant will want, if permission is granted, to use the proposed gates for vehicles. Also, it must be noted that the road is owned by the Willis Fleming Estate, with whom the PC is making contact.
6. The works already carried out by the Applicant have caused flooding and the PC request that TVBC seek advice from the Highways Agency – please see letter from Professor Shearer.
7. In order to assist TVBC, the PC also submits a photograph taken in 2010 showing the substantial overgrowth at the property, all of which it seems the applicant has removed.

6.2 Further comments from residents were sent to the LPA by the Parish Council. These comments were made in support of the Parish Council’s formal response as summarised in para. 6.1. The comments from local residents have been taken into consideration in the determination of the application and are assessed below.

## 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

E4: Residential Areas of Special Character

E5: Biodiversity

LHW4: Amenity

T1: Managing Movement

T2: Parking Standards

### 7.3 Supplementary Planning Documents (SPD)

Chilworth Village Design Statement (VDS)

Chilworth Residential Area of Special Character (RASC)

## 8.0 **PLANNING CONSIDERATIONS**

### 8.1 The main planning considerations are:

- Principle of development
- Impact on character and appearance of the area
- Impact on protected trees
- Impact on ecology
- Impact on neighbouring amenity
- Impact on highway safety and parking provision

### 8.2 Principle of development

The application site is located within the settlement boundary of Chilworth, as defined by the Inset Maps of the Revised Local Plan. Development within the settlement boundary is considered to be acceptable in principle, under Policy COM2, subject to compliance with other relevant planning policy.

### 8.3 Impact on the character and appearance of the area

High Pines' principal access is taken directly from Heatherlands Road on its eastern boundary. The development, which is the subject to this planning application, is located to the rear of the site along Roman Road, which is a single lane restricted byway/road. This restricted byway/road is a largely compacted gravel/hard-core surface and is characterised by its rural nature and dominated by tree coverage, and is not seen in the context of the neighbouring Heatherlands Road or Hadrian Way, which are more formalised and residential in nature and appearance. Below is a consideration of the individual aspects of the proposal and an assessment against Policy E1 of the Revised Local Plan.

#### 8.4 Fence

The proposed boundary fencing along Roman Road is 1.8m in height, and runs along the entire western (rear) boundary of the property. The fence panels to either side of the proposed gates would drop diagonally in height from 1.8m to 1m, to match the gates. From the case officer's site visit, it is apparent that neighbouring properties with boundaries fronting Roman Road have similar boundary treatment in the form of circa 1.8m high close-board fencing, and due to this, it is considered that the proposed fencing complements and respects the character of the area. The fencing is considered to result in a neutral impact upon the street scene and character of the area, and not contrary to Policy E1 of the Revised Local Plan.

#### 8.5 Gates

The gates that have been installed and which are currently on site do not benefit from planning permission and are not the subject of this planning application. To overcome the concerns of the Council and local residents a revised design has been provided. The proposed gates would measure 1m in height, reducing their visual appearance and being of a size that is complementary to other access gates found on Roman Road. The lower gates with graduated fence panels is considered to be an acceptable solution, which will assist in integrating the development into the local area. The gates are considered to result in a neutral impact upon the character and appearance of the street scene, and this aspect is considered to accord with Policy E1 of the Revised Local Plan.

#### 8.6 Driveway and pathway

The driveway is of a "C" shape connecting the two access points, which are approximately 46m apart. The driveway is not visible from public vantage points on Roman Road, apart from very limited views underneath the gate. The proposed pathway will be visible due to the existing topography of the site, which rises from Roman Road up towards the existing dwelling. However, the path would be seen in the context of the existing domestic property and its residential garden. Both the driveway and pathway would have a neutral impact upon the character and appearance of the area and is therefore not considered to be contrary to Policy E1 of the Revised Local Plan.

#### 8.7 Chilworth Village Design Statement (VDS)

The Chilworth VDS states that boundary treatments are significant features because "they greatly affect the street scene". It goes further to make reference to fencing not being in-keeping with the area as it looks out of place. As highlighted above in para. 8.3, Roman Road is not seen in the same context of the formal roads throughout Chilworth, where principal access is taken from principal streets/roads. However, the VDS is silent on design recommendations specifically related to boundary treatments to the side and rear of the gardens. Due to the setting of Roman Road and its context within the wider street scene, the proposal is not considered to be contrary to the Chilworth VDS.

- 8.8 Chilworth Residential Area of Special Character (RASC)  
Policy E4 will permit development within a RASC provided that a) the resulting sizes of both the proposed and remainder of the original plot, when sub-divided, are not significantly smaller than those in the immediate vicinity, and b) the size, scale, layout, type, siting and detailed design are compatible with the character of that RASC. The site is situated within Character Area 2A.
- 8.9 The proposal seeks permission for boundary treatment in the form of a fence and gates and also a new driveway and pathway within the plot of High Pines. The proposal does not seek an additional dwelling or to sub-divide the plot and as such, criterion a) is not relevant in this instance.
- 8.10 Character Area 2A is defined as, *“the plots consist of deep setbacks with the buildings skewed in relation to the frontage with little subdivision of plots. The entrances off of the side street are individual and gated. There are some inconsistent boundary treatments (walls/hedge) and varied building style”*. The character area description emphasises the inconsistent boundary treatments and gated accesses, although the context of the character area is based around the frontages, and not the rear/side boundaries, such as this proposal. The proposal is not considered to be contrary to either criterion b) of Policy E4 and the Chilworth Residential Area of Special Character.
- 8.11 Impact on protected trees  
TPO.TVBC.510 protects many trees on and surrounding the site. The submitted Arboricultural information surveyed the land levels and proximity of the proposed development to trees and included an advisory note that ‘free draining material’ is used for the pathway linking the house to this driveway. The applicant has confirmed that small wooden support boards would be used for path edging and that free draining materials, such as gravel, would also be used. A condition has been recommended in order to obtain a tree protection plan prior to development commencing. Subject to the imposition of the condition the proposal would accord with Policy E2 of the Revised Local Plan.
- 8.12 Impact on ecology  
The development is not likely to affect bats as the proposal will not result in the removal of any trees on site and no works are proposed to any existing buildings on site. The proposal is considered to accord with Policy E5 of the Revised Local Plan.
- 8.13 Impact on neighbouring amenity  
The development would not result in a loss of amenity to neighbouring properties in terms of a loss of light and/or a loss of amenity and privacy, and the proposal accords with Policy LHW4 of the Revised Local Plan.

8.14 Impact on highway safety and parking provision

The proposed gates are set back from Roman Way by approximately 4.5m, which is sufficient for visibility purposes in both directions. The use of the site would not be changed (residential) and as such, there is not considered to be a change in the intensity of the use of the highway or access points. The Highways Officer at HCC has no objection to the scheme and the proposal accords with Policy T1 of the Revised Local Plan. Furthermore, the proposal does not trigger the requirement to provide additional parking spaces, and therefore also accords with Policy T2 of the Revised Local Plan.

8.15 Other matters

The Parish Council has objected to the scheme (as shown in para. 6.1 above) and has sought the views of local residents in support of their comments. The Parish Council comments are assessed below in the same order as those in para. 6.1, along with the relevant comments from local residents that were submitted by the Parish Council.

8.16 Resurfacing driveway

The driveway that is subject to this application is the 'C' shaped section on the site plan (3923-P-02), joining the two access points. The application is for the 'resurfacing' of the driveway and without evidence to the contrary that the driveway was in existence prior to the application being made, the application is therefore assessed on it being 'resurfaced'. Irrespective of this, as set out in Para 8.6, the proposal is not considered to result in harm to the character and appearance of the area and therefore not contrary to Policy E1 of the Revised Local Plan.

8.17 Creation of path

The submitted site plan (3923-P-02) also shows the location of the proposed path, which will extend from the resurfaced driveway, eastwards to the house. The Parish Council have requested clarification that any resident has to apply for a garden path. Whether works constitute development or not is a matter of planning judgement and based on the works being proposed. In this case the applicant has sought planning permission for the works and the Council has a duty to consider the application on its planning merits and has done so.

8.18 Replacement gates & timber fence to rear boundary

The Parish Council have accepted that there is conflicting evidence being provided, in the form of confirmations from existing and previous residents regarding the status of gates being in position along this boundary. The conflicting observations are noted, however, the application has been assessed on its merits and against local and national planning policies. As set out above, the proposal does not result in harm to the character and appearance of the area, results in no harm to highway safety and results in no harm to the amenities of local residents. As such it is considered that the proposal conforms to both Local and national planning policies.

8.19 Roman Road/restricted byway

Roman Road is a restricted byway, titled as Chilworth 4a (with Chilworth 4b forming the southern part of the byway, south of Hadrian Way). Hampshire County Council define a restricted byway for use “for walking, cycling, horse riding and horse drawn carriages (or other non-motorised vehicles). However, as the Parish Council have confirmed, this byway is also available for vehicular access as per the road sign at its entrance. This access, and the byway, is available for the residents of the houses that use Roman Road as an access point, which includes Searle House and Pauncefoot House, and also Forest House, north of the M27 motorway.

8.20 The application seeks to install gates and resurface a driveway, primarily for the additional parking of vehicles that serve a residential property. It is considered that this restricted byway, by virtue of the existing residential properties and authorised access, enables this to occur. Furthermore, it must be highlighted that Hampshire Highways were consulted on the application and have no objections to the scheme.

8.21 It has also been highlighted that the road is owned by the Willis Fleming Estate. The ownership of the road is not a material planning consideration, and the works subject to this application are all within the red edge/ownership of the applicant.

8.22 Flooding

The application site is not within flood zones 2 or 3. It is assumed that this concern relates to the drainage tunnel that has been referred to within the neighbours comments, but this is outside of the red edge and therefore not relevant to this planning application.

8.23 Photograph

The photograph from 2010 provided by the Parish Council is quite blurry and not entirely clear as to what is being shown. The commentary suggests it shows the substantial overgrowth at the property, which has all since been removed. There is no suggestion that this overgrowth was protected under a TPO. The LPA's Tree Officers have been to site and not made any comment regarding loss of a TPO or raised any concerns about the removal of any vegetation within the site. The removal of vegetation is not controlled by the LPA and can be carried out at any time by any person, provided it is not protected by a TPO.

8.24 Summary of comments sent to Parish Council from residents

The Parish Council sought comments from local residents regarding the historic situation of the rear boundary of High Pines. These comments were not sent directly to the LPA during the public consultation phase of the application. However, the matters raised in these letters are assessed below.

8.25 Unknown address

A neighbour confirms they have “no recollection of there ever being a gate at the bottom of High Pines”. The acceptability of the gates has been addressed in para 8.4-8.13 above.

8.26 Brierway, Heatherlands Road (summary)

- The owners have embarked on a progressive programme of development
- First stage was phased clearance of all mature and seemingly healthy trees and shrubbery. Was there permission for this?
- This has resulted in opening up sight and noise from M27 and loss of habitat
- Created gateways and hard-standing at the bottom of the garden
- A fence was previously in-situ, but no formal exit from the property.
- Intent appears to be creation of a development plot
- No objection to development but subject to rules being followed and to a high standard
- The ditch infill was amateurish and damaging for water drainage

8.27 The planning application seeks to retrospectively gain planning permission for the development that has been undertaken and the installation of alternative gates. As above, the Tree Officers have not raised any concern regarding the loss of TPO trees. There is no control regarding noise and sight issues arising from the motorway due to the clearance of vegetation. Regarding potential development, this is not a material planning consideration as they do not form part of the submitted application. As above, the ditch is outside of the red edge and again, not relevant in the determination of the planning application.

8.28 Greystoke, Heatherlands Road (summary)

- Before 2021, there was a post and wire fence. Self-seeded shrubs grew through the wire and hid it from view. We cannot be certain if there were gateposts.
- Installation of large drainage pipes along drainage ditch between Roman Road and property boundary.

8.29 The comments are noted. As set out above, the application has been considered on its merits.

9.0 **CONCLUSION**

9.1 The application is considered to provide a boundary feature that is complementary to the character of the area and integrates with the surrounding neighbouring properties, while providing safe vehicular access onto Roman Road. The scheme is considered to accord with the relevant policies of the Test Valley Borough Revised Local Plan (2016) and the Chilworth VDS and RASC. The proposal is therefore considered to be acceptable.

10.0 **RECOMMENDATION**

**PERMISSION subject to:**

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

**Reason: To comply with the provision of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.**

2. **The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans/numbers:  
Proposed Plans - 3923-P-02 C  
Reason: For the avoidance of doubt and in the interests of proper planning.**
3. **The proposed internal footpath shall be made of a free draining material, with materials built up and not dug into the existing ground, unless otherwise approved in writing by the Local Planning Authority.  
Reason: To ensure the avoidance of damage to existing trees and natural features during the construction phase in accordance with Test Valley Borough Revised Local Plan (2016) policy E2.**
4. **No development shall commence (including site clearance and any other preparatory works) until a scheme for the protection of trees to be retained has been submitted to and approved in writing by the Local Planning Authority. Such a scheme shall include a plan showing the location and specification of tree protective barriers. Such barriers shall be erected prior to any other site operations and at least three working days notice shall be given to the Local Planning Authority that it has been erected. Once installed the fencing shall remain in place and maintained whilst works are being undertaken on site.  
Note: The protective barriers shall be as specified at Chapter 6.2 and detailed in figure 2 of B.S.5837:2012 unless otherwise agreed in writing with the Local Planning Authority.  
Reason: To ensure the enhancement of the development by the retention of existing trees and natural features during the construction phase in accordance with Test Valley Borough Revised Local Plan (2016) policy E2.**

**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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