

# 20/P/02011 - 34 Fitzjohn Close, Guildford



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**GUILDFORD**  
BOROUGH

20/P/02011 – 34 Fitzjohn Close



Not to scale

**App No:** 20/P/02011  
**Appn Type:** Full Application  
**Case Officer:** Sakina Khanbhai

**8 Wk Deadline:** 16/08/2021

**Parish:** Merrow  
**Agent :** Mr G. Belbin  
Mayford Conservatories Ltd  
Little Honey Pots  
Ellis Farm Close  
Mayford  
Woking  
GU22 9QN

**Ward:** Merrow  
**Applicant:** Mr Inkster  
34 Fitzjohn Close  
Guildford  
GU4 7HB

**Location:** 34 Fitzjohn Close, Guildford, GU4 7HB  
**Proposal:** Erection of a rear conservatory (part retrospective)

### **Executive Summary**

#### **Reason for referral**

This application has been referred to the Planning Committee by Councillor Seabrook on the grounds that the development results in unacceptable harm to the neighbouring amenity of No. 32 Fitzjohn Close in terms of loss of sunlight and daylight contrary to saved policies G1 and H8 of the Guildford Borough Local Plan 2003 (as saved by CLG Direction 24 September 2007).

#### **Key information**

Erection of a rear conservatory (part retrospective)

#### **Summary of considerations and constraints**

Planning permission ref 20/P/01381 was recently approved for the existing ground floor rear extension measuring approximately 3.76 metres in width, 3.3 metres in depth and 3.0 metres in height.

The current application has been submitted because the previously approved plans did not show the building below floor level and ground level. The current plans show the brickwork below DPC and the plans indicate the gradient of the ground level. No external changes are proposed to the approved extension which is substantially complete. Officers have conducted a further site visit and taken measurements on site and are satisfied that the submitted plans accord with what has been built out on site. There is no increase in height or change to the footprint of the development when compared to the existing extension recently approved by the Council.

The proposal would have an acceptable scale and design and, as such, would respect the scale and character of the existing property and the character of the surrounding area.

The development is not considered to result in a detrimental impact on residential amenities enjoyed by the occupants of the neighbouring properties.  
As such, the development is recommended for approval.

## **RECOMMENDATION:**

### **Approve - subject to the following condition(s) and reason(s) :-**

1. The development hereby permitted is shown on the following approved plans: Site Location Plan, Block/Site Plan, Existing Side Elevation, Existing and Proposed Front Elevation, Proposed Side Elevations, Existing and Proposed Rear Elevations, Proposed East Side Elevation, Existing and Proposed Ground Floor Plan and additional information received on 25/11/20 and 24/12/20.

Reason: In the interests of proper planning.

### **Informatives:**

1. This statement is provided in accordance with Article 35(2) of the Town and Country Planning (Development Management Procedure) (England) Order 2015. Guildford Borough Council seek to take a positive and proactive approach to development proposals. We work with applicants in a positive and proactive manner by:

- Offering a pre application advice service
- Where pre-application advice has been sought and that advice has been followed we will advise applicants/agents of any further issues arising during the course of the application
- Where possible officers will seek minor amendments to overcome issues identified at an early stage in the application process

However, Guildford Borough Council will generally not engage in unnecessary negotiation for fundamentally unacceptable proposals or where significant changes to an application is required.

In this case pre-application advice was not sought prior to submission and the application was acceptable as submitted.

2. If you need any advice regarding Building Regulations please do not hesitate to contact Guildford Borough Council Building Control on 01483 444545 or [buildingcontrol@guildford.gov.uk](mailto:buildingcontrol@guildford.gov.uk)

## **Officer's Report**

### **Site description.**

The application relates to a two-storey semi-detached property located within Guildford Urban Area. Fitzjohn Close is characterised by semi detached properties set within relatively small plots.

### **Proposal.**

Erection of a rear conservatory (part retrospective)

### **Relevant planning history.**

<b>Reference:</b>	<b>Description:</b>	<b>Decision Summary:</b>	<b>Appeal:</b>
20/P/01381	Erection of a rear conservatory (part retrospective)	Approve 19/10/2020	N/A
06/P/02463	Rear conservatory.	Refuse 16/01/2007	N/A
06/P/02123	Rear conservatory.	Withdrawn 27/11/2006	N/A

### **Background**

The original planning permission for the application dwelling is ref 81/P/01026 which relates to the erection of 35 dwellings within the surrounding neighbouring area. Condition 3 of this decision removed permitted development rights under the provisions of the Town and Country Planning and General Development Order 1977 within Class 1 of Schedule 1 of the Order. Therefore, planning permission is required for a rear extension to the property.

Planning permission was refused in 2006 for a similar proposal under application 06/P/02463. Under this application the rear extension measured 4.5 metres in width, 3.5 metres in depth and 3.6 metres in height. This application was refused on the grounds that the development would result in a loss of light to the neighbouring property (No. 32 Fitzjohn Close).

Planning permission ref 20/P/01381 was recently approved for the existing ground floor rear extension measuring approximately 3.76 metres in width, 3.3 metres in depth and 3.0 metres in height.

The current application has been submitted to include brickwork below DPC on the drawings as this detail was omitted on the previous application. The new plans for the extension also indicate the gradient of the ground level. No external changes are proposed to the approved extension which is substantially complete. Officers have conducted a further site visit and taken measurements on site and are satisfied that the submitted plans accord with what has been built out on site.

**Consultations.**

None.

**Third party comments:**

One letter of representation has been received raising the following objections and concerns:

- The line of the existing fence is inaccurate and lower than shown on the plans, therefore the build will be visible above the fence line.(Officer note: the plans are considered to be accurate and it is acknowledged the development is visible above the fence line. This impact has been addressed within the main sections of the report).
- Encroachment of 45 degree rule
- overbearing impact
- Loss of light to dining room window and overshadowing to garden
- Lack of privacy

**Planning policies.**

National Planning Policy Framework (NPPF) 2021

Chapter 12. Achieving well-designed places

Guildford Borough Local Plan: Strategy and Sites (adopted by Council on 25 April 2019).

Policy D1: Place shaping

Guildford Borough Local Plan 2003 (as saved by CLG Direction 24 September 2007):

G1	General Standards of Development
G5	Design Code
H8	Extensions to Dwellings in Urban Areas

Supplementary planning documents:

Residential Extensions and Alterations Guide 2018

**Planning considerations.**

Impact on scale and character of the existing dwelling and surrounding area

The case officer has visited the site and is satisfied that the scale of the extension is in keeping with the size of the existing property and surrounding buildings.

The design of the extension would not detract from the character of either the existing property or the surrounding area.

## Neighbouring Amenity

The nearest neighbouring properties to the application site are Nos 32 and 36 Fitzjohn Close.

No.32 is the adjoining property which is most likely to be impacted to some extent by the development given the close proximity of the extension to No.32's ground floor rear openings and garden.

The current proposal has been submitted to provide further clarification on the full extent of the development built out on site. The submitted plans include the DPC level and gradient of the land which was not previously shown on the earlier approval. There are no material changes to this scheme which could affect the assessment of the current application in terms of impact on neighbouring amenity when compared to the approved scheme Ref 20/P/01381. The structure is no higher than that previously approved. The neighbouring amenity assessment is set out below:

It is acknowledged that the extension intercepts the 45 degree angle, however there is already an existing impact on No. 32's sunlight/daylight given the siting of an existing raised fence panel closest to the rear elevations of the properties on the shared boundary. It is also noted that No.32's rear openings comprise of a 3 pane window, kitchen door and window and a further side window which serve the kitchen/dining room area. Therefore the development would not result in an unacceptable loss of sunlight/daylight to No.32's ground floor rooms.

The conservatory extension also comprises of a glazed roof which would result in a more light weight structure than if a solid tiled roof were to be built. Whilst the extension is still visible above the raised fence panel, this in itself does constitute unacceptable harm to No.32's neighbouring amenity. It is also notable that at the time of the officers site visit for the current application the structure was nearing completion. Officers have therefore been able to assess the as built situation and this reinforces the original assessment and are satisfied that the development does not harm the amenities of the adjoining occupiers.

The development is of a smaller scale than the initial refused application in terms of width, depth and height, whilst these changes are not a significant reduction in size when compared to the previous refusal, Officer's are satisfied that the extension does not result in detrimental impact to No32's neighbouring amenity. It should also be noted, that there are no other material factors under the current application compared to the recent approved scheme to warrant grounds for refusal.

Owing to its modest scale, the conservatory extension would not appear an overbearing feature and there are no overlooking concerns resulting from the development.

## Retrospective application

A ministerial planning policy statement on 31 August 2015 introduced a planning policy to make intentional unauthorised development a material consideration that would be weighed in the determination of planning applications and appeals. This has been supplemented by a written answer to the House of Commons on 19 October 2018 confirming that the remains a potential material consideration.

The statement does not advise the level of weight it that should be applied, neither does it override Section 73A of the Town and Country Planning Act 1990 (as amended) which provides the legal basis for submitting a retrospective application. The nPPG also confirm the use of an application as a legitimate means of regularising a breach of planning control. Given these factors it is unlikely that where development accords with the provisions of the Development Plan that refusal could be justified only on the grounds that it was unauthorised.

In considering this current application, which seeks to regularise unauthorised development, the local planning authority has given weight to the fact that the application is retrospective. In this case, the applicant was informed the development is unauthorised and required planning permission by the Council's Planning Enforcement Team. Subsequently the applicant sought to regularise the unlawful development by applying for planning permission. However, in the absence of any evidence to demonstrate that the applicant intentionally sought to breach planning legislation, or any detailed guidance from central government on the level of weight that should be applied in such circumstances, the fact that this application is retrospective is only considered to weigh against granting planning permission to a limited degree.

**Conclusion.**

The proposal would have an acceptable design, would not result in detrimental impact on residential amenities of the neighbouring properties. For these reasons, the application is acceptable and is therefore recommended for approval.