



## Report to West Area Planning Committee

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<b>Application Number:</b>	21/08160/FUL
<b>Proposal:</b>	Householder application for erection of detached garden room to rear with works to garden to include new retaining walls, re-landscaping and alterations to levels, new boundary treatments and planting (part retrospective)
<b>Site Location:</b>	310 Marlow Bottom Road Marlow Bottom Buckinghamshire SL7 3QH
<b>Applicant:</b>	Chris Newell
<b>Case Officer:</b>	Alexia Dodd
<b>Ward(s) affected:</b>	Chiltern Villages
<b>Parish-Town Council:</b>	Marlow Bottom Parish Council
<b>Date valid application received:</b>	28th October 2021
<b>Statutory determination date:</b>	23rd December 2021
<b>Time extension</b>	
<b>Recommendation</b>	Approval

### 1.0 Summary & Recommendation/ Reason for Planning Committee Consideration

- 1.1 This a retrospective householder application for erection of detached garden room to rear with works to garden to include new retaining walls, re-landscaping and alterations to levels, new boundary treatments and planting.
- 1.2 The ground to the rear garden at No.310 Marlow Bottom Road have been altered. Garden terraces have been cut down into the valley side and are supported by retaining walls.
- 1.3 At the top end of the garden an out building has been erected together with new boundary fences.
- 1.4 The application will be determined in consultation with the Chairman and if necessary, by the West Area Planning Committee due to the impact upon the amenity on No.312 Marlow Bottom Road.
- 1.5 The application was called to committee by Councillor Dominic Barnes for consideration because of impact upon neighbouring amenity.

## 1.6 Recommendation – **Approval**

### 2.0 Description of Proposed Development

- 2.1 At No.310 there is newly built replacement dwelling. During the site surveys it was found that the original retaining walls to the garden were failing. The garden was at risk of ground slip into No.321.
- 2.2 The ground levels have been cut down into the hillside by 0.7m. There are formal planting beds and areas of levels ground that will be laid with lawn.
- 2.3 The D&S contains a planting schedule that includes native planting.
- 2.4 At the top end of the garden there is new garden roof. It is about 28m with No.312 and 34m with No.308 from the neighbouring rear elevations.
- 2.5 The application is accompanied by :
  - a) Plans (inc. levels & cross-sections)
  - b) Design & Access Statement
  - c) Ecology & Tree Checklist

### 3.0 Relevant Planning History

Reference	Development	Decision	Decision Date
20/06801/FUL	Demolition of existing chalet bungalow and replacement construction of 1 x 4-bed chalet bungalow with hip/gable roof	PER	06.11.20

### 4.0 Policy Considerations and Evaluation

#### Development Plan Policies and Guidance:

##### **Wycombe District Local Plan (2019)**

- CP1 (Sustainable Development)
- CP10 (Green Infrastructure & the Natural Environment)
- CP9 (Sense of place)
- DM20 (The NPPF)
- DM30 (Chilterns Area of Outstanding Natural Beauty)
- DM32 (Landscape Character & Settlement Patterns)
- DM33 (Managing Carbon Emissions, Transport and Energy Generation)
- DM34 (Delivering Green Infrastructure and Biodiversity in Development)
- DM35 (Place-making and Design Quality)
- DM36 (Extensions & Alterations To Existing Dwellings)

#### **The Adopted Delivery & Site Allocations Plan for Town Centres and Managing Development (2013)**

- DM1 (Presumption in favour of sustainable development)
- DM13 (Conservation and enhancement of sites, habitats and species of biodiversity and geodiversity importance)
- DM14 (Biodiversity in development)

#### **CSDPD**

CS17 (Environmental Assets)

## **Other**

Buckinghamshire County Parking Guidance

Householder Planning and Design Guidance Supplementary Planning Document (2020)

### **Principle and Location of Development**

- 4.1 No.310 Marlow Bottom Road is a replacement dwelling in an existing residential settlement within a Chilterns Valley. Due the valley location the back gardens on the valley side rising uphill at the rear.
- 4.2 This is a householder planning application and therefore domestic development is acceptable so long as it complies with all polices.

### **Raising the quality of place making and design**

- 4.3 The location is a settlement washed over by the Chilterns AONB. For this reason, the development would not have a detrimental impact upon the special landscape of the AONB.
- 4.4 The proposed garden room is not out of context in a domestic garden. It has been designed to be in keeping with the replacement dwelling. Garden building has a flat roof and tucked alongside the boundary with No.308.
- 4.5 Having regard to the previous garden landscaping No.310 the replacement retaining walls, lawn terraces and garden room are not out of keeping with the character and appearance of within Marlow Bottom Road.
- 4.6 Dwellings along Marlow Bottom Road and surrounding streets typically have sloping gardens. To enable these gardens to provide a practical level of amenity terraces and retaining walls have been introduced.

### **Amenity of existing and future residents**

- 4.7 The newly landscaped garden would provide a good level of outdoor amenity space of the occupiers of the replacement dwelling.
- 4.8 This is domestic garden in residential area of family dwellings. Therefore children will play in the garden this is normal.
- 4.9 The new garden building is about 28m with No.312 and 34m with No.308 from the neighbouring rear elevations.
- 4.10 The 'Householder Planning and Design Guidance Supplementary Planning Document' recommends a window to window separation distance of 25m to ensure the privacy/amenity between facing windows. The application complies with the SPD. The relationship between neighbours is acceptable. It should be noted that there was an existing garden outbuilding with views across the applicants' garden.
- 4.11 With garden levels having been cut into the hill side the new building is 0.7m lower in the garden of No.310 than its predecessor.
- 4.12 Within the garden of No.308 there is a row of sheds alongside the common boundary with No.310. The development has not had detrimental impact upon the amenity of the neighbouring occupier.
- 4.13 With regards to the amenity of No.312 before the existing ground works took place there was a mature tree alongside the common boundary. This tree overshadowed the rear of No.312 and their patio. It is acknowledged that the boundary fence at this point is higher.

- 4.14 The new/existing relationship with the fence on balance is no worse than that with the tree. The fence does not unduly intrude upon neighbouring amenity (overshadowing/overbearing impact).
- 4.15 The fence as erected ensures the privacy of Nos.308 and 312. These are gardens on a hillside in a residential area of family homes. These are not secluded private garden where there is seclusion from neighbours.
- 4.16 If the boundary fence alongside No. 312 were to be reduced in height as suggested by the neighbour there would be significant overlooking despite the ground levels having cut into the hillside. The suggestion would result in significant harm to the amenity of No.312 from overlooking.
- 4.17 The fence is reasonable and therefore acceptable.

### **Ecology**

- 4.18 There is a requirement in policy to provide measurable net gains in biodiversity.
- 4.19 Policy DM34 requires all development to protect and enhance both biodiversity and green infrastructure features and networks both on and off site for the lifetime of the development
- 4.20 The Design & Access Statement contains information on planting with the aim to increase bio-diversity. In addition to this it reasonable to condition a bird-box or bug-hotel.

### **Transport matters and parking**

- 4.21 This application does not result in any habitable rooms. There are no parking implications.

### **Infrastructure and Developer Contributions**

- 4.22 This is not a development that would liable for CIL.

## **5.0 Weighing and balancing of issues / Overall Assessment**

- 5.1 This section brings together the assessment that has so far been set out in order to weigh and balance relevant planning considerations in order to reach a conclusion on the application.
- 5.2 In determining the planning application, section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise. In addition, Section 143 of the Localism Act amends Section 70 of the Town and Country Planning Act relating to the determination of planning applications and states that in dealing with planning applications, the authority shall have regard to:
- a. Provision of the development plan insofar as they are material,
  - b. Any local finance considerations, so far as they are material to the application (such as CIL if applicable), and,
  - c. Any other material considerations
- 5.3 As set out above it is considered that the proposed development would accord with the development plan policies and is recommended for approval.
- 5.4 In line with the Public Sector Equality Duty the LPA must have due regard to the need to eliminate discrimination and advance equality of opportunity, as set out in section 149 of the Equality Act 2010. In making this recommendation, regard has been given to the Public

Sector Equality Duty and the relevant protected characteristics (age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, and sexual orientation).

- 5.5 The application provides for alterations to the applicant's home and no discrimination or inequality would arise from the proposal.
- 5.6 The Human Rights Act 1998 Article 1 the protection of property and the peaceful enjoyment of possessions and Article 8 the right to respect for private and family life, have been taken into account in considering any impact of the development on residential amenity and the measures to avoid and mitigate impacts. It is not considered that the development would infringe these rights.

## **6.0 Working with the applicant / agent**

- 6.1 In accordance with paragraph 38 of the NPPF the Council approach decision-taking in a positive and creative way taking a proactive approach to development proposals focused on solutions and work proactively with applicants to secure developments.
- 6.2 The Council work with the applicants/agents in a positive and proactive manner by offering a pre-application advice service, and as appropriate updating applications/agents of any issues that may arise in the processing of their application.
- 6.3 This retrospective application is the result of a planning enforcement complaint.
- 6.4 In this instance applicant/agent was updated of any issues after the initial site visit, the application was considered acceptable a recommended for approval.

## **7.0 Recommendation: Approval**

Subject to the following conditions and reasons:-

- 1 The development hereby permitted shall be retained accordance with the details contained in the planning application hereby approved and plan numbers PJSA-02-01, PJSA-02-02, PJSA-03-01, PJSA-03-02, PJSA-03-03, 1179-09 at all times unless the Local Planning Authority otherwise first agrees in writing.  
Reason: In the interest of proper planning and to ensure a satisfactory development of the site.
- 2 The planting hereby permitted as set out in the Design and Access Statement shall be implemented at the first planning season following completion of engineering rating operations unless the Local Planning Authority otherwise first agrees in writing.  
Reason: In the interest of proper planning and to ensure a satisfactory development of the site.
- 3 All development is expected to result in a net increase in biodiversity and ecological features proportionate to the development proposed. In order to compensate for the loss and increase biodiversity opportunities (bird-box / bug-hotel) shall either be incorporated development or placed within the garden. It shall thereafter be retained for the lifetime of the development.  
Reason: To comply with the requirements of policy DM34.
- 4 The finished ground levels after the completion of the development shall accord with the approved details on drawings PJSA-03-02 and PJSA-03-02.  
Reason: To ensure that the proposal is constructed at an acceptable level with regards to the surrounding area.

## Informative(s)

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## **APPENDIX A: Consultation Responses and Representations**

### Councillor Comments

#### **Councillor Dominic Barnes**

I've had an opportunity to visit the neighbouring resident at 312 Marlow Bottom road today to have a look at the completed fence I am deeply concerned about the height of this fence to me it looks 12 foot from the bottom.

I know they have done a major amount of excavation in the back gardens where they've lowered the first tier of the garden and then raised the third tier so the next door neighbour has lost light and indeed the fence at the bottom is taller than the garage (single storey).

My view is that the fence should be reduced to 6 foot from the original height to the Garden level and to correspond with the neighbouring house.

However, if minded to approve in its present condition my colleagues (Cllr Zahir Mohammed & Cllr Mark Turner) and I who I've copied on this email wish for this application to be taken to committee.

If you could please let me know whether you are minded to approve this part of the application as I believe that I have supplied the required three ward counsellors to trigger a call in.

### Parish/Town Council Comments

**Marlow Bottom Parish Council:** No objection

### Consultation Responses

None required

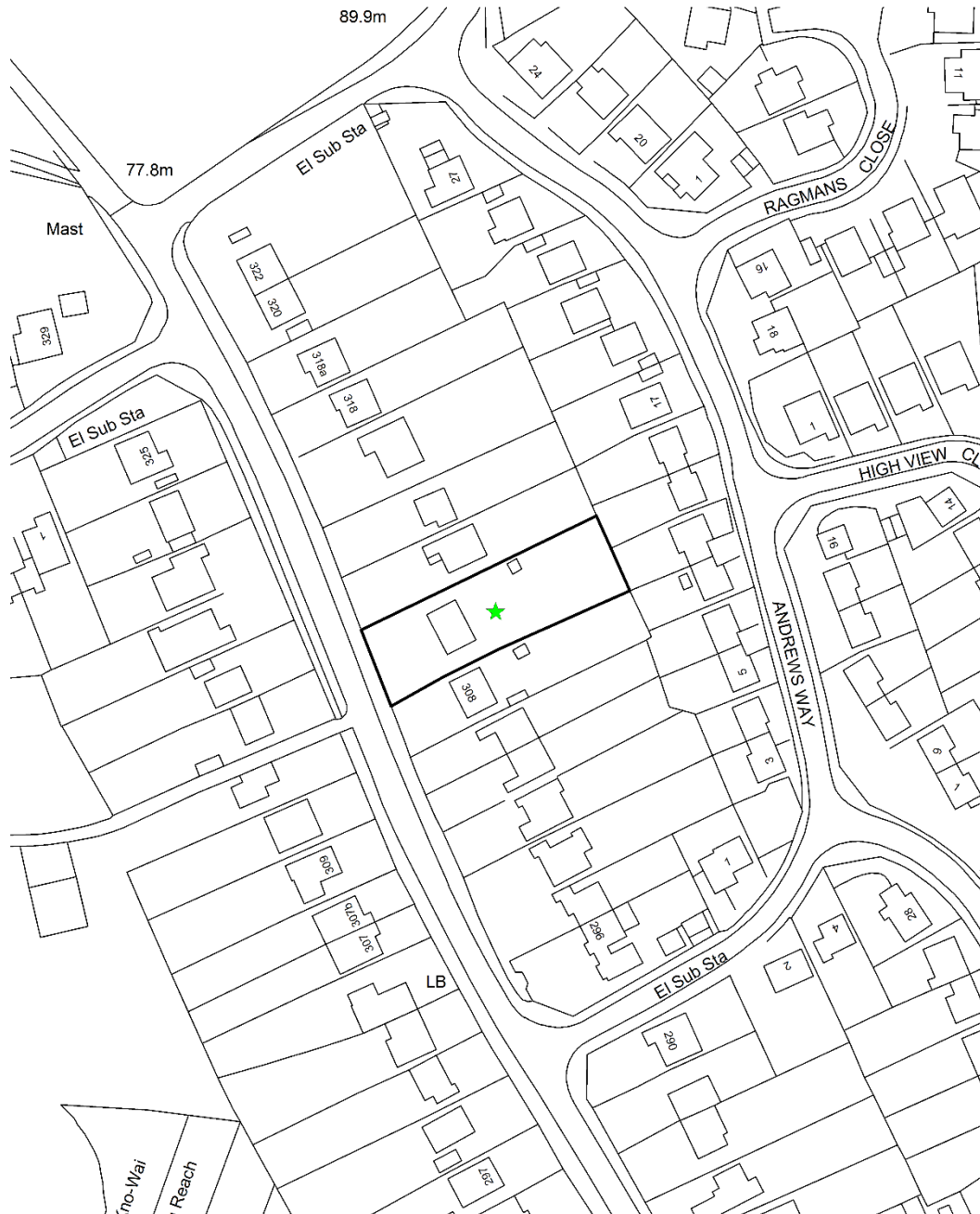
### Representations

There is one objector to the application. The objection have been summarised for this report:

- The application is retrospective
- The ground levels have been raised
- Loss of Light to garden
- Loss of light to dwelling
- Overbearing impact upon patio
- The garden could be used as a football pitch
- Loss of privacy from overlooking (garden terraces & outbuilding)
- The fence is too tall
- There is a dispute over the long term responsibility and maintenance of the fence

# APPENDIX B: Site Location Plan

21/08160/FUL  
Scale 1/1250



Planning Committee  
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