

**East Area Planning Committee**

8th January 2013

**Application Number:** 12/02969/VAR

**Decision Due by:** 17th January 2013

**Proposal:** Application for variation of conditions 3 [tree protection], 4 [landscaping], 6 [means of enclosure], 11 [means of access], 12 [bin and cycle stores] and 13 [vision splays] of planning permission 07/01984/FUL to allow post-commencement discharge of conditions. (Amended description) (Amended plans)

**Site Address:** 139 Rose Hill Oxford Oxfordshire OX4 4HT

**Ward:** Littlemore Ward

**Agent:** Pope Ingram Associates

**Applicant:** Mair Properties

Application called in by Councillors Tanner, Rowley, Coulter and Fry on grounds that the site is a significant local development.

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## **Recommendation:**

APPLICATION BE APPROVED

For the following reasons:

- 1 The proposal to vary conditions 3, 4, 6, 11, 12 and 13 of planning permission 07/01984/FUL to allow discharge of these conditions post commencement of the development is considered to be acceptable given the details provided with the application. A previous planning permission [12/01886/VAR] has been issued in respect of the variation of condition 2 [materials] and the facing bricks and roof tiles used in the erection of the building have now been approved. The Council is satisfied that the discharge of the above conditions will ensure a good quality form of development that complies with adopted policies contained in the Oxford Local Plan 2001 - 2016 and the Core Strategy 2026.
- 2 A letter of objection has been received from an adjoining occupier and the comments made have been carefully considered. However it is considered that the points raised constitute issues that cannot properly be addressed by the planning process and that the discharge of the conditions will enable the partly erected building to be completed and occupied and the site cleared to the benefit of the visual appearance of the locality.

- 3 The Council considers that the proposal accords with the policies of the development plan as summarised below. It has taken into consideration all other material matters, including matters raised in response to consultation and publicity. Any material harm that the development would otherwise give rise to can be offset by the conditions imposed.

subject to the following conditions, which have been imposed for the reasons stated:-

- 1 Design - no additions to dwelling
- 2 Amenity windows obscure glass - second floor dormer rear dormer windows,
- 3 Amenity no additional windows - flank wall elevation of plot 7,
- 4 Details of site levels and excavated material
- 5 Approved tree protection measures to be in place before re-commencement of work on site
- 6 Cycle parking for plot 1

### **Main Local Plan Policies:**

#### **Oxford Local Plan 2001-2016**

**CP1** - Development Proposals

**CP6** - Efficient Use of Land & Density

**CP8** - Design Development to Relate to its Context

**CP9** - Creating Successful New Places

**CP10** - Siting Development to Meet Functional Needs

**CP11** - Landscape Design

**TR3** - Car Parking Standards

**TR4** - Pedestrian & Cycle Facilities

**NE15** - Loss of Trees and Hedgerows

**HS19** - Privacy & Amenity

**HS21** - Private Open Space

#### **Core Strategy**

**CS2\_** - Previously developed and greenfield land

**CS18\_** - Urban design, town character, historic environment

#### **Sites and Housing Plan - Submission**

**HP9\_** - Design, Character and Context

**HP13\_** - Outdoor Space

**HP14\_** - Privacy and Daylight

**HP15\_** - Residential cycle parking

**HP16\_** - Residential car parking

#### **Other Material Considerations:**

National Planning Policy Framework

#### **Relevant Site History:**

07/01984/FUL: Demolish existing house. Erection of terrace of 7 x 3 bedroom, two storey houses [plus rooms in roofspace]. New vehicular access to Rose Hill.

7 car parking spaces and bin store on frontage. Approved  
12/01886/VAR: Application to vary condition 2 [materials] of planning permission  
07/01984/FUL to allow discharge of condition post commencement of  
development. Approved

### **Representations Received:**

1 letter of objection. The main points raised can be summarised as follows:

- The site is prominent and bounded by public roads and a public alleyway
- It is a disgrace that these sorts of applications can be made without interested parties being notified
- Since development began the ground level on the site has been raised by a number of feet and a considerable amount of earth has been dumped on my property, weighing upon another weak fence
- Not sure how a new fence can retain all this earth and possibly a retaining wall should be erected instead of a fence
- The narrowing of a passageway to the side of my property because of all the earth is causing a problem for access
- A member of the developer's family promised that the problem would be addressed by the end of October 2012 but nothing has happened.

### **Statutory and Internal Consultees:**

Thames Water: No objection

### **Issues:**

- Trees and landscaping
- Boundary treatment
- Parking areas, access and vision splays
- Bin and cycle stores

### **Officers Assessment:**

#### Site description and location

1. The application site lies on the east side of Rose Hill and comprises a partly erected two storey building, with accommodation in the roofspace, erected following the grant of planning permission in February 2008 for the erection of a terrace of 7 x 3 bedroom dwellings together with parking, amenity space and bin stores.
2. Access to the site is restricted by way of security fencing and all work on site has now ceased.

#### The Proposal

3. The application seeks planning permission to vary conditions 3 [tree protection], 4 [landscaping], 6 [means of enclosure], 11 [means of access], 12 [bin and cycle stores] and 13 [vision splays] to allow their discharge after the commencement of development as work on site is now well under way. The application has been submitted following an enforcement investigation in 2012 when it was pointed out to the applicant that certain pre-commencement conditions had not been discharged

which meant that the development that had been carried out on the site was unauthorised and vulnerable to enforcement action.

4. The purpose of this application is to regularise the situation as regards the outstanding planning conditions.

#### Trees and landscaping – conditions 3 and 4

5. Condition 3 requires the submission of detailed measures for the protection of the trees to be retained during the carrying out of the development. Tree protection measures have not been provided on site to date but details have now been submitted to show how the large tree on the site frontage would be protected and the agent has confirmed that these measures will be in place before works re-commence on site [condition 5 refers].
6. A landscaping plan has been submitted that shows new tree and shrub planting at the front and side of the site together with some additional planting within the individual private gardens of the new dwellings. This planting is considered to be satisfactory.

#### Boundary treatment - condition 6

7. The proposed boundary treatments are 1.8 metre high close boarded fencing apart from the side boundary adjacent to the public alleyway where there exists a substantial breeze block wall which is to be retained. Officers have no objection to the use of close boarded fences.
8. As a result of the comments received from the occupier of 2 Rose Court regarding earth moving and site levels, it is considered reasonable to impose a further condition requiring details of site levels and any necessary movement of the excavated soil. [condition 4 refers].

#### Parking areas, vision splays and means of access – conditions 11 and 13

9. Plans submitted with the application show that the area in front of the new building would be laid out using percolating block pavements [terracotta] to provide 7 car parking spaces together with some manoeuvring space to enable cars to access and egress the site in a forward gear. This arrangement would provide a single car parking space per dwelling and would also ensure that the surface of the new parking area would be SUDS compliant. Officers have no objections to these details and are satisfied that they comply with the requirements of condition 11.
10. Vision splays and a new access are also shown on the submitted plans. It is proposed to re-site the vehicle access to the northern end of the site and use part of the existing access as a pedestrian means of access to the development. This has been agreed by the County Council at the time of the original application although the LHA has stated that, given the sensitivity of the new access in terms of its proximity to a pelican crossing

and traffic lights, the developer needs to alert the LHA prior to the construction of the new access in order that appropriate traffic measures can be put into place. It is suggested that this requirement is added to the decision notice as an informative.

#### Bin and cycle stores – condition 12

11. It is proposed to site a communal bin store close to the pedestrian access to the site and plans submitted show that that this would be a wooden structure which would be effectively screened behind the existing boundary wall. Officers have no objection to these details.
12. As regards cycle parking, this is shown on the plans as being provided in the individual front gardens of plots 2 – 6 and at the side of plot 7. No cycle parking is shown to serve plot 1 and this is therefore required by condition 6. The cycle parking would take the form of covered Sheffield stands which would each accommodate 2 cycles.
13. The other conditions proposed are included in the original planning permission and relate to a restriction on permitted development for the new dwellings, obscure glazing to the second floor dormer windows and a restriction on the insertion of additional windows in the flank wall of the dwelling on plot 7.

#### **Conclusion:**

14. The proposal to vary conditions 3, 4, 6, 9, 11 and 13 of planning permission 07/01984/FUL to allow discharge of these conditions post commencement of the development is considered to be acceptable given the details submitted with the application. A previous application [12/01886/VAR] to vary condition 2 [materials] has been approved and the facing bricks and tiles used for the development have been agreed. The Council is satisfied that the discharge of these conditions will ensure a good quality form of development that will comply with adopted policies contained in the Oxford Local Plan 2001 – 2016 and the Oxford Core Strategy 2026.

#### Human Rights Act 1998

Officers have considered the Human Rights Act 1998 in reaching a recommendation to grant planning permission, subject to conditions. Officers have considered the potential interference with the rights of the owners/occupiers of surrounding properties under Article 8 and/or Article 1 of the First Protocol of the Act and consider that it is proportionate.

Officers have also considered the interference with the human rights of the applicant under Article 8 and/or Article 1 of the First Protocol caused by imposing conditions. Officers consider that the conditions are necessary to protect the rights and freedoms of others and to control the use of property in accordance

with the general interest. The interference is therefore justifiable and proportionate.

Section 17 of the Crime and Disorder Act 1998

Officers have considered, with due regard, the likely effect of the proposal on the need to reduce crime and disorder as part of the determination of this application, in accordance with section 17 of the Crime and Disorder Act 1998. In reaching a recommendation to grant planning permission, officers consider that the proposal will not undermine crime prevention or the promotion of community safety.

**Background Papers:**

07/01984/FUL

12/01886/VAR

12/02969/VAR

**Contact Officer:** Angela Fettiplace

**Extension:** 2445

**Date:** 19th December 2012