

**West Area Planning Committee**

9<sup>th</sup> September 2014

**Application Number:** 14/01777/FUL

**Decision Due by:** 29<sup>th</sup> August 2014

**Proposal:** Erection of marquees from 14 June to 20 August for a temporary period of three years (part retrospective)

**Site Address:** 135 Banbury Road, **Appendix 1**

**Ward:** St Margaret's Ward

**Agent:** N/A

**Applicant:** Mr Nicholas Paladina

**Application Called in –** by Councillors – Wade, Goddard, Wilkinson and Fooks for the following reasons - on the basis of current and potential disturbance to neighbours in adjoining back gardens.

---

## **Recommendation:**

APPLICATION BE APPROVED

For the following reasons:

- 1 The proposal is considered to be appropriate in form for the purpose and temporary period proposed. The seasonal need for the structures for the period applied for has been demonstrated and it is not considered that any significant harmful impact will arise as a result of the proposal on the character of the conservation area or neighbouring amenities. The proposal is therefore considered to comply with policies CP1, CP8, CP10, CP 21, CP25 and HE7 of the Oxford Local Plan 2001-2016.
- 2 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 Limited Time Period
- 2 Hours of use
3. Garden restored

## **Main Planning Policies:**

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

CP1 - Development Proposals  
CP8 - Design Development to Relate to its Context  
CP10 - Siting Development to Meet Functional Needs  
HE7 - Conservation Areas  
CP21- Noise  
CP25 - Temporary Buildings

### **Core Strategy**

CS18 - Urban design, town character, historic environment

### **Sites and Housing Plan**

HP14 - Privacy and Daylight

### **Other Material Considerations:**

- National Planning Policy Framework
- Application site lies within the North Oxford Victorian Suburb Conservation Area.

### **Relevant Site History:**

88/00274/NFH- Alterations and erection of a conservatory at the rear of each house- Permitted 17.08.1988

## **Public Consultation**

### **Statutory and Other Consultees:**

Moreton Road Neighbourhood Association, Cunliffe Close Residents' Association, North Oxford Association, Environmental Health

### **Third Party Comments Received:**

5 letters of objection in total from the following addresses:  
3, 5, 19 and the Lathbury Road Residents Association

The following comments were raised:

- Effect on adjoining properties
- Noise and disturbance
- Effect on residential amenity
- Effect on character of the area
- School should limit numbers of student intake

### **Determining Issues:**

- Design
- Impact upon the Conservation Area
- Impact on neighbouring amenity

## **Officers Assessment:**

### **Site Description**

1 The application site comprises of a pair of semi detached properties, 133-135 Banbury Road which were formally dwellings but have since been converted to classrooms and associated use for the use of St Clare's College. The college is situated to the west side of Banbury Road, north of Oxford City centre, but just south of the Summertown shopping area.

### **Proposals.**

2 The application is seeking planning permission for the erection of two marquees for a temporary, specified period with restricted hours of use at a site within the rear garden of the 133-135 Banbury Road site. The marquees are required from 14th June to 20th August each year for a temporary period of three years. The marquees are currently in situ and therefore the application is retrospective.

### **Design.**

3 The marquees are sited together forming a footprint of 8m by 8m with each individual marquee having a foot print of 8m x 4m with a height of 3.05m. They have standard rigid aluminium uprights held with ropes and secured into the ground. They have open sides with a canvas that can be let down in wet weather and the roof supports a white canvas.

4 Policy CP.1 of the Oxford Local Plan (OLP) states that planning permission will only be granted for development that respects the character and appearance of the area and which uses materials of a quality appropriate to the nature of the development, the site and its surroundings. The layout and density of the scheme must also respect the site context.

5 The marquees are simple in form and appropriate to their proposed use for covering the garden are on a temporary period. They would not form an appropriate visual relationship to the main dwelling were they to be sited on a permanent basis but it is considered that for three months of the year and for a temporary period of 3 years the siting is considered to be acceptable.

6 The Local Plan also has a policy that specifically relates to the provision of temporary buildings where there is a need. Policy CP. 25 states that for the purposes of the policy short term is defines at up to 5 years and the applicant must demonstrate the need and clearly state how long they want it for.

7 The applicant has submitted a supporting statement which demonstrates there is an additional influx of students over the summer period for summer English Language and revision courses. Due to this the meal time services is kept short to ensure timetables are met but there is not enough seating inside the building for all those students to take meals at the same time which is why the outside seating is used for queuing, and on occasions for dining itself. Of course,

regardless of the marquees, the seating could be used in the garden at any time.

8 Taking this into account it is clear that there is a current seasonal demand which the college has attempted to cater for by providing the temporary structures to keep the mealtimes as orderly and short as possible, and with a minimum of disturbance. The 9 week period for 3 years, is considered short term for the purposes of the policy but beyond that period the expectation should be that the college provides more suitable permanent dining accommodation for its students. In discussions with officers there it is a clear aspiration on behalf of the college to do so and to enter into a dialogue accordingly. An informative attached to the permission could usefully remind the college of the desirability of doing so.

### **Impact on Conservation Area.**

9 Policy HE.7 of OLP states that planning permission will only be granted for development that preserves or enhances the special character and appearance of the conservation areas or its setting.

10 The permanent siting of marquees at this site by their very nature cannot be considered as development that either preserves or enhances the character and appearance of the conservation area. However, this application is for a temporary period of approximately 9 weeks only for each of 3 years. The marquees can be removed without leaving any lasting physical damage to the detriment of the garden or the wider conversation area and a condition can be imposed to ensure this is the case.

12 In terms of the use of the marquee and any impact this might have on the character of the conservation area, the garden area is of course available for the use of students of the college irrespective of whether a marquee is present or not. Indeed it is important that students have access to outdoor amenity space and that they are not confined to indoor teaching spaces alone.

11 Taking this into account it is considered the proposals would not conflict with conservation aims given the very temporary nature of the proposal.

### **Impact on Neighbouring Amenities.**

12 Policy CP 21 of the OLP states that planning permission would not be granted for any development that would cause unacceptable noise and particular attention should be given to noise levels close to noise sensitive developments and in public and private amenity space both indoor and outdoor.

13 The marquees are proposed to be used for breakfast, lunchtime and dinner service 08:00 am to 09:00 am, 12:00 noon to 13:45 pm and 18:00 pm to 19:30 pm every day. The applicant states the marquees would be cleared by 21:00 pm each evening.

14 For their part the Council's Environmental Development colleagues have commented on the proposal confirming that the noise levels likely to be generated by the use of the marquees would be adequately restricted by the

imposition of conditions to limit the hours of use.

15 Comments have been received from neighbouring householders however regarding their residential amenities and that the seating outside would have a detrimental impact in terms of noise and disturbance. Officers are mindful of this, however weight must also be given to the fact that a certain level of seating may be provided within the school gardens, regardless of whether a marquee is present or not.

16 Given the limited hours of use put forward, the relatively short period of requirement and the commitment to seek permanent solutions, it is not considered that the provision of the marquees would result in any additional adverse impact to the amenities currently enjoyed by neighbouring properties such as to warrant refusal of planning permission.

17 Nevertheless it is suggested that a time limit should be imposed by condition in line with the hours of use the applicant proposes to ensure the use of the marquee is not used later than 9.00 pm each evening.

18 If a noise issue does occur, there is other legislation to address such matters should it be found it does result in a statutory nuisance. Environmental Development Officers have not found this to be the case on previous investigations however.

## **Conclusion.**

19 Due to the temporary nature of the marquee it is not considered that the impact of its use would have a detrimental impact on the conservation area such as to warrant the refusal of planning permission. Whilst the comments of neighbours are fully acknowledged, the suggested conditions would limit the impact on neighbouring amenities in the expectation that more permanent solutions are brought forward in due course. Officers have concluded that withholding planning permission would not be justified and that temporary planning permission should be granted.

## **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 permission officers consider that the proposal will not undermine crime prevention or the promotion of community safety.

**Background Papers:**

**Contact Officer:** Will Holloway

**Date:** 29<sup>th</sup> August 2014