
APPLICATION NO.	P11/E1998/RET
APPLICATION TYPE	RETROSPECTIVE
REGISTERED	5.3.2012
PARISH	HENLEY-ON-THAMES
WARD MEMBER(S)	Mr Will Hall Ms Jennifer Wood
APPLICANT	Hamilton Properties Ltd
SITE	Tobermory Peppard Lane Henley-on-Thames, RG9 1NN
PROPOSAL	New private house with detached garage (amendment to planning permission P05/E0119) (As amplified by additional information accompanying email from agent dated 29 March 2012, as amended by revised drawing number 1321-21a received 11 May 2012 and amplified by additional information received from agent on 24 May 2012).
AMENDMENTS	None
GRID REFERENCE	476198/181444
OFFICER	Mrs H.E.Moore

1.0 INTRODUCTION

- 1.1 The application is referred to Planning Committee at the request of the Head of Planning and because the recommendation differs from the views of the Henley Town Council.
- 1.2 The site lies within the main confines of Henley on Thames and comprises part of the former garden area of a property called Ledard, which lies to the rear of this site. The site fronts onto, and takes access from, Peppard Lane which also serves as a bridleway. Trees on the site are protected by a tree preservation order.

2.0 PROPOSAL

- 2.1 Planning permission was granted for the erection of a new dwelling and garage with studio above on the site under planning permission P05/E0119. A further planning permission was granted for the construction of gates and fencing under application reference P11/E0376. Those permissions have been implemented. However, the new dwelling does not comply with the approved plans and various conditions of the planning permissions have not been complied with. This application seeks to retain the development as built.
- 2.2 The main variations between the approved plans and the development as built are –
- The house is longer than approved, by some 1 – 1.4m.
 - The house is higher above ground level than approved at the eastern end.
 - An area of decking has been added to the building.
 - An air source heat pump has been constructed.
 - A protected tree on the frontage impinges on the approved vision splay at the access onto Peppard lane.
 - More screening has been removed from the site than anticipated.
- 2.3 Information submitted in support of the application includes Air Source Heat Pump information and a landscape method statement first issued in 2008.

- 2.4 An amended plan has been submitted which clarifies the position of the vision splay frontage fence.
- 2.5 A Design and Access Statement accompanies the application. The agent raises concern that variances between the approved plans and the actual development on the site was not drawn to the attention of the developer until the development was complete. He explains that the enlargement of the dwelling was the result of a drawing error. The building is designed in segments, and the angle of each segment was calculated a small percentage larger than approved. The height of the building above ground level has increased at the eastern end due to the difference in land levels across the site. Decking had to be introduced at this end of the building to allow access to this part of the building from outside. In terms of privacy, the applicant is willing to provide additional planting in this area. In the view of the agent, the Air Source Heat Pump which has been constructed falls within the limits of 'permitted development' and does not require the grant of planning permission. With regard to planting, further planting is proposed. The agent advises that his client has complied fully with the approved permission in respect of the removal of trees and shrubs which has been done under the supervision of his arboriculturalist and the Council's Forestry Officer. Concerning the parking area, he advises that the use of gravel was not considered to be appropriate due to noise to neighbours and the problem of 'run off' of gravel into Peppard Lane. He advises that the block paving has been installed without grouting to allow water to percolate between the blocks. With regard to the vision splay, he advises that a protected tree lies within the approved vision splay. However, the vision splay which is available is not significantly less than approved and is much better than other vision splays onto Peppard Lane.
- 2.6 Full details of the submitted statements can be viewed on the council's web site www.southoxon.gov.uk
- 2.7 Plans attached at Appendix 1 show the location of the site and details of the development.

3.0 **SUMMARY OF CONSULTATIONS & REPRESENTATIONS**

- 3.1 Henley-on-Thames Town Council – Objection raised. Comment 'The Committee recommends refusal of this application until South Oxfordshire District Council has visited the property and approved all changes made to the building. Specifically the air source heat pump, the fencing/vision splay, the additional planting and the parking surface. We believe that SODC may recommend acceptance of the new position and height of the building.'

OCC (Highways) – No objection, subject to the imposition of conditions requiring a scheme to be implemented to prevent surface water drainage discharging onto the highway, and the retention of parking and manoeuvring areas to be retained. Further comments are contained in the main body of the report.

Forestry Officer – The changes which would be required to bring the actual development into line with the approved development will significantly increase the risk of damage to the retained trees across the site and should only be considered as a last resort. The main area where improvements and mitigation can be made will be by improving the soft landscaping to improve screening and softening of the development.

Environmental Health Officer (Environmental Protection) – Additional information has been submitted regarding the Air Source Heat Pump (ASHP) and the proposed acoustic cover. As a result of the additional information submitted, no objection raised.

OCC (Footpaths) – No objection raised.

The Henley Society (Planning) - No objection raised.

Neighbour consultation – 3 responses received.

Two neighbours have made comments which include –

- The lighting to our house has always been poor. The planting of leylandii on the frontage will further reduce light as they are quick growing.
- No objection raised provided that the protected tree on the frontage, which lies within the approved vision splay, is retained. The available vision splay is much better than any other splay in the whole of Peppard Lane.

One neighbour has raised objection and his concerns include the following matters –

- An air source heat pump has been installed close to the boundary with my property and causes noise and disturbance.
- The front fence has not been built in accordance with the approved plans. A softer roadside appearance was anticipated.
- The parking area and driveway is larger than approved and has not been built in materials which accord with the plans.
- More trees/shrubbery has been removed from the site which does not comply with the submitted landscape plan. There is no record that the trees removed had the agreement of the Forestry Officer. The garden is urban looking. Additional screening should be provided between the new dwelling and my property.
- The building is longer than approved (between 1 and 1.4m) and is closer to my boundary (by 1.1m).
- The building is higher above ground level (between 0.9 and 1m due to the variation in ground level) at the eastern end of the approved building. The increased size and height of the building adversely affects the rural amenity of the locality.
- Decking has been constructed at the side (eastern end – stands 1m high) and rear of the building without planning permission. This has resulted in a loss of privacy to my house and garden.
- The ground area in the site has been raised which may have affected the health of the retained trees.
- The gate posts and gates look very stark in the street scene and the access is wider and tarmacked with no drainage.
- The council and the developer are working too closely together. Liaison with neighbours should also take place to resolve concerns/breaches.
- The developer has ignored the conditions of the planning permission.
- The current retrospective planning application should not be determined until my concerns are addressed.
- The council's enforcement investigation process should be reviewed to ensure that development which does not comply with the approved plans is investigated at an early stage.

4.0 **RELEVANT PLANNING HISTORY**

4.1 [P11/E0376](#) - Approved (05/05/2011)

New fencing and entrance gates to east boundary onto Peppard Lane. As amended by email and gate details drg no 12a received on the 25th March 2011 from the Agent. - Planning Permission on 05/05/2011

[P05/E0119](#) - Approved (01/06/2005)

New private house with detached garage (as amended by drawing no.HLPL/102A and fencing detail accompanying letter from Agent dated 29 April 2005). - Planning Permission on 01/06/2005

5.0 **POLICY & GUIDANCE**

5.1 South Oxfordshire Local Plan 2011 policies;

- C9 - Loss of landscape features
- D1 - Principles of good design
- D2 - Safe and secure parking for vehicles and cycles
- D3 - Outdoor amenity area
- D4 - Reasonable level of privacy for occupiers
- EP2 - Adverse affect by noise or vibration
- EP6 - Sustainable drainage
- G6 - Appropriateness of development to its site & surroundings
- H4 - Housing sites in towns and larger villages outside Green Belt
- T1 - Safe, convenient and adequate highway network for all users
- T2 - Unloading, turning and parking for all highway users

South Oxfordshire Design Guide 2008

National Planning Policy Framework

6.0 **PLANNING CONSIDERATIONS**

6.1 The main issues to consider are –

1. Whether the increased size and height of the building, and the construction of decking, detracts from the amenity of the adjoining property or from the character of the area.
2. Whether the available vision splay is satisfactory in terms of highway safety.
3. Whether the installation of the air source heat pump is satisfactory in relation to the adjoining property.
4. Whether the trees on the site have been satisfactorily retained.
5. Whether the additional planting proposed will improve views of the property in the locality and improve screening to the neighbouring property.
6. Whether the on-site drainage is satisfactory.
7. Enforcement considerations.

Whether the increased size and height of the building, and the construction of decking, detracts from the amenity of the adjoining property or from the character of the area.

- 6.2 The new dwelling is modern in style and curved in shape. When producing the working drawings, the architect miscalculated the angle of each curved section, and this has resulted in the building being between 1m and 1.4 m longer than approved. In addition, the plans approved in 2005 did not fully take into account that the level of the land slopes downwards from west to east. Whilst the western end of the building is cut into the ground, this could not fully compensate for the drop in level at the eastern end. Accordingly, the ground floor of the eastern end of the building is approximately 1m above ground level, and consequently, the overall height of this section of the building from ground level is higher than approved. In order to achieve satisfactory entrance to this end of the building from the outside, an area of decking has been erected.

- 6.3 Officers have inspected the interior of the building and assessed views towards the neighbour's property from ground and first floor areas, and have also viewed the new house from the neighbour's property and garden. It has been noted that the first floor window facing towards the neighbouring property serves a bathroom window, and that significant screening has been retained between the two properties. In these circumstances, officers have concluded that the increased proximity and height of the building have not significantly adversely affected the residential amenity of the adjoining property.
- 6.4 With regard to the character of the area, the new dwelling is set well back from the road. Whilst the increased length of the building has narrowed the gap between the new dwelling and the adjoining property, officers consider that this has not adversely affected the character of the area.

Whether the available vision splay is satisfactory in terms of highway safety.

- 6.5 The 2005 planning permission imposed a condition concerning the provision of a vision splay to serve the new access onto Peppard lane. This permission was superseded by a planning permission (P11/E0376) for fencing and gates. Whilst the new frontage fencing was being erected, it was noted that a mature tree, protected by a tree preservation order, impinged on the vision splay line, and precluded the provision of the full vision splay as required by the 2011 permission. The Forestry Officer would object to the removal of the mature tree in this frontage position.
- 6.6 The Highways Officer has visited the site as part of the processing of this application. He has noted that the available vision splay to the edge of the road does not fully meet the terms of the planning condition. However, given the nature of Peppard Lane, he is satisfied that the available vision splay is satisfactory in these circumstances.
- 6.7 The applicant has advised that the frontage fence will be set back as far as possible to ensure that the maximum possible vision splay has been achieved whilst still retaining the mature tree on the frontage. This will be done as soon as a contractor is available. The vision splay serving this new dwelling is much greater than most accesses onto Peppard Lane, and accordingly, no objection is raised from a highway safety point of view.

Whether the installation of the air source heat pump is satisfactory in relation to the adjoining property.

- 6.8 An Air Source Heat Pump (ASHP) has been installed at the site, adjacent to the boundary with New Lodge without the grant of planning permission. Since the installation of the ASHP, 'permitted development rights' have been introduced by the Government to allow such installations without the grant of planning permission.
- 6.9 The developer has noted the concerns of the neighbour concerning noise from the ASHP, and is proposing to install an acoustic hood over the equipment at the end of May. Additional information has been submitted concerning the specification of the ASPH which has been installed, and the acoustic hood to be installed. As a result of this, the Council's Environmental Protection Officer considers that the installation should not cause noise disturbance and accordingly raises no objection to the installation.

Whether the trees on the site have been satisfactorily retained.

- 6.10 All of the trees on the site are protected by a tree preservation order. A neighbour is concerned that the trees may not have been satisfactorily retained during the development of the site and that trees have been removed without the permission of the council's Forestry Officer.
- 6.11 The council's Forestry Officer has confirmed that some tree and shrub removal was allowed under the original planning permission, and some trees have been removed following his agreement. The Forestry Officer inspected the site during the early stages of construction and was satisfied that the trees were being appropriately protected. No level changes had occurred around the central beech tree, though later in the development, a small layer of soil/turf has been laid over the roots. Whilst these changes are not good practice, they are unlikely to affect the life of the beech tree. The developer employed an arboricultural consultant who undertook monitoring of the site works. Drainage service runs are appropriately located outside tree protection areas as per the approved plans. The surface water drainage system feeds into a grey water recycling tank, as per the approved plans. The permeability of the block paved parking area which has been installed is likely to change the soil moisture levels. However, the submitted information suggests that the water will drain into the rooting areas of a number of trees, and given the volume of traffic likely to use the drive, the contamination of water run off will be negligible.
- 6.12 In relation to the current application, the council's Forestry Officer has commented that it is difficult to fully assess the impact on the retained trees of the recently constructed dwelling and the associated landscaping. However, in his view, the changes which would be needed to bring the actual development into line with the previously approved plans, would significantly increase the risk of damage to retained trees across the site, and should only be considered as a last resort.

Whether the additional planting proposed will improve views of the property in the locality and improve screening to the neighbouring property.

- 6.13 The agent has advised that screening which has been removed from the site comprised low value plants which were generally overgrown. This has had the impact of opening up the site to some extent in the street scene, and has removed some intervening planting between the new dwelling and the adjoining property. In these circumstances, additional planting has been undertaken at the site, as shown on the landscaping plan attached to the report. Through time, this should add to the screening of the site and add to the semi rural character of the site, and the council's Forestry Officer raises no objection.

Whether the on-site drainage is satisfactory.

- 6.14 As set out above, drainage service runs on the site are located outside the tree protection areas. Whilst the approved surface of the parking areas was a gravel surface, block paving has been installed instead. This has been installed with no grouting between, and the council's drainage engineer raises no objection to this.
- 6.15 The highways officer has noted that, due to the slope of the land, the access drive, as constructed, is likely to drain onto the highway. In his view, this would not be acceptable, and measures should be taken to ensure that the run-off from the drive does not drain into the highway. This requirement is set out in the recommended conditions.

Enforcement considerations

6.16 The National Planning Policy Framework (NPPF) says that "*Enforcement action is discretionary, and local planning authorities should act proportionately in responding to suspected breaches of planning control*". It is not proportionate or expedient for the council to take enforcement action if an application is made and the development can be made acceptable by grant of planning permission and the imposition of conditions.

6.17 In the circumstances relating to this site, officers consider that planning permission can be granted subject to the conditions set out below.

7.0 CONCLUSION

7.1 The proposal complies with the relevant Development Plan Policies and it is considered that, subject to the attached conditions, the development would not materially harm the character and appearance of the area or the living conditions of nearby residents.

8.0 RECOMMENDATION

8.1 **That subject to the setting back of the frontage fence and the fitting of the acoustic hood, then planning permission be granted subject to imposition of the following conditions –**

- 1. Drain at access to be submitted for approval and installed as approved within 3 months of date of decision.**
- 2. Retention of parking and turning areas as provided.**
- 3. Studio above garage to be occupied as ancillary/incidental accommodation in conjunction with Tobermory.**

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