

APPLICATION NO.	P16/S2623/FUL
APPLICATION TYPE	FULL APPLICATION
REGISTERED	2.8.2016
PARISH	Henley-on-Thames
WARD MEMBERS	Joan Bland Stefan Gawrysiak Lorraine Hillier
APPLICANT	Edwards
SITE	White Lodge, Normanstead, Henley-on-Thames, RG9 1XR
PROPOSAL	Variation of Condition 10 of Planning Permission P15/S1166/FUL, to revise the landscaping proposal (as amended by further revised boundary treatment plan received 03 October 2016).
AMENDMENTS	As above
OFFICER	Simon Kitson

1.0 **INTRODUCTION**

- 1.1 This application has been referred to the Planning Committee as the officers' recommendation conflicts with the views of the local ward member and Henley Town Council.
- 1.2 The application property (which is shown on the OS extract **attached** as Appendix A) comprises a recently erected, detached, two storey dwelling set within a plot of approximately 0.13ha. The site does not fall within a designated area.
- 1.3 Planning permission for the new build was granted by the area planning committee in 2015, under application ref: [P15/S1166/FUL](#). The approval was subject to a number of conditions, which included the permanent retention of a number of trees at the site boundaries and the provision of tree protection measures during the course of the construction works. Condition 10 of the decision notice states:-

Unless otherwise agreed in writing by the Local Planning Authority, all existing hedges and trees shown to be retained, at the south-east boundary with Rose Cottage and the south-west boundary with the properties at The Close, shall be preserved and properly maintained at a height of at least 5m from the ground level at White Lodge. In the event of any of the trees dying or being seriously damaged or destroyed, a new tree or equivalent number of trees, as the case may be, of a species first approved by the Local Planning Authority, shall be planted and properly maintained in a position or positions first approved by the Local Planning Authority.

Reason: In the interests of neighbouring amenity and to safeguard trees and other vegetation which are visually important, in accordance with Policy CSQ3 of the South Oxfordshire Core Strategy 2027 and Policies D4, G2, C9 and D1 of the South Oxfordshire Local Plan 2011.

- 1.4 A copy of the previously approved plans and decision notice is **attached** as Appendix B.

2.0 **PROPOSAL**

2.1 This application follows the subsequent removal of the trees by the developer, in breach of the planning condition. As detailed in the application submission, consent is now sought for the variation of Condition 10 of the previous approval, to allow for a replacement planting scheme.

2.2 Following a number of revisions, the applicant proposed 8 Quercus Ilex (Oak) at the south-west boundary with the properties at The Close; and 13 Phyllastachys Aurea (Bamboo) at the south-east boundary with Rose Cottage. This planting scheme commenced in November.

2.3 A copy of the final proposed planting scheme is **attached** as Appendix C. The consultation responses and supporting documentation can be viewed on the council's website at: www.southoxon.co.uk

3.0 **SUMMARY OF CONSULTATIONS & REPRESENTATIONS**

3.1 Henley-on-Thames Town Council – Objection (all revisions)

Forestry Officer (South Oxfordshire District Council) - No objection to the proposed planting schemes. The boundary treatment will strike an acceptable balance between providing the necessary screening whilst achieving the most usable garden space for the future occupants of the new dwelling, provided that it is properly maintained.

Neighbour Objections (6)

- The applicants should provide the same boundary treatment which existed prior to the construction works
- Significant concerns raised over privacy and overlooking. Conifer trees should be planted with a 5m minimum height
- Bamboo would be acceptable at the Rose cottage boundary, only if it is maintained effectively as a hedge and provides a dense screening
- The proposed planting at the boundary with the properties at The close is only acceptable if the trees are maintained at a height of 5/6m from the ground level at the neighbouring property.

4.0 **RELEVANT PLANNING HISTORY**

4.1 [P16/S0356/FUL](#) - Withdrawn (09/05/2016)

Variation of Condition 10 Landscaping on application ref. P15/S1166/FUL

[P15/S1166/FUL](#) - Approved (01/07/2015)

Demolition of existing dwelling and erection of new house and garage

5.0 **POLICY & GUIDANCE**

5.1 The Joint Henley and Harpsden Neighbourhood Plan (JHHNP) policies;

H4 – Infill and self build dwellings

DQS1 – Local character

5.2 South Oxfordshire Core Strategy (SOCS) policies;

CSHEN1 - The Strategy for Henley-on-Thames

CSQ3 - Design

CSS1 - The Overall Strategy

5.3 South Oxfordshire Local Plan 2011(SOLP) policies;

- C8 - Adverse affect on protected species
- C9 - Loss of landscape features
- CS1 - Presumption in favour of sustainable development
- D1 - Principles of good design
- D3 - Outdoor amenity area
- D4 - Reasonable level of privacy for occupiers
- G2 - Protect district from adverse development
- 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 2016 (SOLP)

5.4 National Planning Policy Framework (NPPF)

National Planning Policy Framework Planning Practice Guidance (NPPG)

6.0 **PLANNING CONSIDERATIONS**

6.1 It is fully acknowledged that the planning committee imposed a condition on the previous consent, specifying that the trees at the neighbouring boundaries would be retained, and at a height of 5m from ground level at White Lodge. It is regrettable that the trees were subsequently removed in breach of this condition and the council has lodged an enforcement investigation into this matter. However, the applicant has submitted this application to vary the condition in order to provide a replacement planting scheme of a similar height to the previous hedging. Whilst it is accepted that this situation has caused frustration locally, officers are obliged to assess the current application against the Development Plan and consider whether the planting scheme now proposed would fulfil the purpose of the original condition.

6.2 In assessing this application and considering the expediency of possible enforcement action, the council must have regard to the national statutory guidance on the use of conditions in planning applications. The NPPF clearly states that “Planning conditions should only be imposed where they are: necessary; relevant to planning and to the development to be permitted; enforceable; precise and; reasonable in all other respects.” (Paragraph 206). The NPPG states that: “a condition must not be imposed unless there is a definite planning reason for it, i.e. it is needed to make the development acceptable in planning terms...if a condition is wider in scope than is necessary to achieve the desired objective it will fail the test of necessity”.

6.3 Having regard to the purpose of the original condition, as referenced in the decision notice, the main issues for consideration in this application are as follows:-

- Whether the proposal is acceptable in terms of the relationship with the surrounding landscape
- Whether the revised boundary treatment would mitigate the current impact upon neighbouring amenity to an acceptable degree

Landscape Impact

6.4 The landscaping scheme has been through several revisions since its submission and this application itself follows a scheme ([P16/S0356/FUL](#)) which was withdrawn following officer’s concerns over the adequacy of the pleaded trees originally proposed.

- 6.5 Although the application site is within the built-up confines of Henley, close to the town centre, this area of housing is set back from the residential frontage along Greys Hill, and accessed via a relatively secluded private road where there is generally a less rigid grain of development. Although many of the trees and hedges within the site were not of particular arboricultural value they did nonetheless contribute to the verdant character of the area. Under the original application for the replacement dwelling, officers were keen to secure the retention of the boundary treatment in order to mitigate the impacts on both neighbouring amenity and the surrounding landscape.
- 6.6 Through extensive discussion with the Forestry Team, officers are satisfied that the proposed planting scheme would help soften the visual impact of the proposed dwelling and the associated landscaping works. It is noted that concerns have been raised by a neighbour over the decline of the Horse Chestnut tree at the north-west corner of the site and the associated safety issues. If the committee are minded to grant approval, it is suggested that the conditions allow for a possible variation of the scheme to be agreed in writing. Should this tree require removal, details of mitigation planting would need to be agreed with the council.

Neighbouring Amenity

- 6.7 There are objections raised by local residents, Henley Town Council and the local ward member to the replacement planting scheme. These argue that the replacement planting does not satisfactorily mitigate the privacy impact of the development. The neighbours' specific concerns focus primarily upon the density of the planting already undertaken, uncertainties over the maintenance requirements and enforceability of the original planning condition.
- 6.8 Officers have made a number of visits to the application site and neighbouring properties and sought specialist advice from the council's Forestry Team. There are two aspects to the scheme under consideration here: the bamboo planting at the boundary with Rose Cottage to the south-east; and the Oak planting at the south-west boundary with the properties at The Close.

Rose Cottage

- 6.9 Whilst the dwelling is highly visible from the living accommodation and gardens at Rose Cottage, it is well established that the impact of a proposal upon private views is not a material planning consideration. The purpose of the original condition was not to screen all views of the development, rather it was to ensure that there is an acceptable level of privacy to the occupiers of both the new property and the neighbouring dwellings.
- 6.10 With regard to overlooking, it is noted that the only first floor window at the new dwelling facing Rose Cottage is obscure glazed, as per Condition 4 of the original consent and the privacy of the ground floor accommodation at both properties is secured by the substantial new fence at the property boundary. The main window at Rose Cottage facing the development serves a landing at the top of the neighbour's internal stairwell. It does not serve a room comprising primary living accommodation. Furthermore, the adjacent rooflight serves a bathroom and, due to the distance from the development and the roof pitch, there is no loss of privacy. Although there is a front-facing bedroom window at Rose Cottage, it is towards the eastern end of the dwelling and it overlooks the neighbour's driveway. Any views of other parts of the application property from this room would be very oblique.

- 6.11 Although officers recognise that the neighbour had expected a higher level of screening following discussions with the applicant, officers are satisfied that the boundary treatment now implemented addresses potential losses of privacy to both properties and it is unreasonable to require any further planting having regard to the lack of planning harm and national guidance on the use of planning conditions.

The Close

- 6.12 Officers accept that the relationship between the application site and the neighbouring properties at The Close has significantly changed following the removal of the substantial hedging and the scale of the new dwelling. This has inevitably impacted on the outlook from the gardens, reduced the level of privacy afforded to these properties and increased the perception of overlooking. In assessing the suitability of the replacement planting, officers have to accept that it is not reasonable, having regard to national and local planning policy, to require new developments to be completely screened in views from neighbour's gardens. In assessing the degree of harm of the privacy impact arising from the removal of the trees, officers have regard to the design standards set out within the SODG.
- 6.13 It is noted that the neighbours all benefit from garden areas close to 10m in depth and the application property comfortably exceeds this. The distance between the rear facing windows at the application property and the living accommodation at the majority of the neighbouring properties also exceeds the 25m minimum recommended in the council's adopted design guidance, irrespective of the loss of the boundary treatment.
- 6.14 It is noted that the removal of the previous hedge has resulted in a situation where directly facing windows between a projecting gable at White Lodge and the living room at no. 43 The Close, are separated by a distance around 1.5m less than the 25m SODG recommendation. However, the case officer has visited both properties and is satisfied that the planting now undertaken does mitigate the loss of privacy. The view from the neighbour's living room to the bedroom in the gable is already substantially obscured by one of the Oak trees and this relationship will improve as the tree develops.
- 6.15 Whilst concerns have been raised over the gaps between the planted trees at both boundaries and the timescales for their growth to form a more substantial hedge, this aspect of the proposal was discussed with the council's Forestry Team. Officers are advised that the Bamboo will thicken as the plants mature, to provide a denser screen which would be relatively easy to maintain. The Quercus will continue to fill the gaps over time, provided that the tops are clipped annually. Although it may be the case that the full level of opaque replacement hedging expected by the neighbours may take 2 – 3 years to achieve, the level of screening will continue to develop over this period. Officers therefore do not consider that there is a reasonable basis to refuse this application as the planting scheme provided will satisfactorily mitigate the loss of privacy to the neighbouring properties, to the extent that it fulfils the purpose of the original planning condition.

7.0 CONCLUSION

- 7.1 The proposal complies with the relevant Development Plan policies and national planning guidance. The Council is satisfied that the proposed replacement planting scheme would help soften the visual impact of the development and it would provide a reasonable level of privacy for both occupants of the new dwelling and the occupants of the surrounding neighbouring properties.

8.0 **RECOMMENDATION**

To grant planning permission subject to the following conditions:

1. The development hereby approved must be implemented strictly in accordance with the approved plans.
2. Unless otherwise agreed in writing by the Local Planning Authority, the agreed planting scheme at the south-east boundary with Rose Cottage and the south-west boundary with the properties at The Close, shall be preserved and properly maintained as a hedge with a height of at least 5m from the ground level at White Lodge. In the event of any of the trees dying or being seriously damaged or destroyed, a new tree or equivalent number of trees, as the case may be, of a species first approved by the Local Planning Authority, shall be planted and properly maintained in a position or positions first approved by the Local Planning Authority.

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