

APPLICATION NO.	P13/V1469/FUL
APPLICATION TYPE	FULL APPLICATION
REGISTERED	26.6.2013
PARISH	NORTH HINKSEY
WARD MEMBER(S)	Eric Batts Debby Hallett
APPLICANT	Mr E Horne
SITE	Greenacre Stanton Road, Oxford, OX2 9AY
PROPOSAL	Application to vary condition 2 of planning permission P11/V2894, to amend the plan numbers for Plots A and B.
AMENDMENTS	None
GRID REFERENCE	449126/204692
OFFICER	Mr Robert Cramp

1.0 INTRODUCTION

- 1.1 This application has been submitted following an enforcement investigation (VE13/029) into development being undertaken not in accordance with planning permission P11/V2894. Specifically, basement areas have been constructed beneath two proposed dwellings where basements had not previously been approved.
- 1.2 The current application now seeks to regularise the development by the grant of a retrospective amendment to the original planning permission to allow for the retention of the basements.
- 1.3 This application is referred to the planning committee at the request of Cllr Eric Batts given the controversial nature of the development and the degree of local objection.

2.0 PLANNING HISTORY & PROPOSED DEVELOPMENT

- 2.1 The application site is situated on the south west side of Stanton Road, which is a private road off Harcourt Hill, Oxford. It has an area of approximately 4000m² with a width of approximately 50m and a depth of approximately 80m. The surrounding area is generally characterised by large detached dwellings on sizeable plots with well established gardens. The houses are well setback from the road.
- 2.2 In September 2012 planning permission ([P11/V2894](#)) was granted on appeal for the demolition of an existing house, the division of the land into two separate plots and the erection of two new family homes. The approved plans were subsequently amended by the grant of planning permission ([P12/V2380/FUL](#)) involving only minor amendments to the front elevation of one of the proposed new dwellings
- 2.3 In February 2013 enforcement investigations ([VE13/029](#) and [VE13/043](#)) were commenced into development not being undertaken in accordance with the approved plans. Specifically, extensive basement areas were being constructed in connection with the proposed dwellings, which were not included on the approved plans.
- 2.4 The current application now seeks to regularise the above breach of planning by an amendment to the original planning permission P11/V2894 to incorporate amended plans which allow for the construction of basements in connection with each of the approved dwellings.

2.5 The only physical manifestations of the basements above the finished ground levels will be:

- a glass balustrade around a light well in the back garden of each dwelling; and
- a ground level concrete slabs that will also serve as a patio to the rear of each dwelling;

Additional light and ventilation will be provided by light wells in the southern (side) elevation of each of the dwellings, however the corresponding windows will be entirely below the finished ground level. The appearance of both dwellings above ground level will otherwise remain unchanged from the plans already approved.

2.6 The plans submitted in support of the current application indicate an intention to use the basements for purposes ancillary to the proposed dwellings, including a TV room, play room, gym, change room and plant room.

3.0 SUMMARY OF CONSULTATIONS & REPRESENTATIONS

3.1 North Hinksey Parish Council Object for the following reasons:

- Retrospective application
- Not a minor amendment but a new development
- Future permitted development right issues relating to rear concrete area above basement
- Size of development inappropriate to site and surroundings

3.2 Drainage Engineer No Objection - The revised drainage plan (dwng no.OX02) now indicates drainage of the base of the basement areas which will result in very deep soakaway structures in the rear gardens. The specifications for these and their proximity to the houses will need to be agreed. The patio areas at the rear and sides of the houses may also need drainage.

Further details are therefore required by way of condition.

3.3 9 x Neighbour Objectors Object for the following reasons:

- Not a minor amendment
- Retrospective application (abuse of planning system)
- Basements extend well beyond the rear elevation of the dwellings. The use of the resulting patio for future extensions may result in overlook of neighbouring gardens
- Drainage implications
- Basements result in an increase in the height of development of between 0.5m to 1.0m increasing the prominence of the development.
- The dwellings are too large for their plot sizes contrary to the character of the area in terms of size, scale, bulk, etc.
- Large quantity of earth fill generated by excavations will result in further increase in the level of the land
- Concern that light wells will collect leaves and rain water
- Concern that light wells will become stair wells
- Increase floor space will result in over intensification of use and insufficient parking
- Concern that the houses will become houses in multiple occupation or residential flats.

Suggest the following conditions if approved:

- No external access to basements

- Removal of permitted development rights for future extensions, alterations and outbuildings.
- Development to be no taller than the original plans
- Basements be used for storage only
- Basement to be used only for storage or purposes shown on plans
- No subdivision of properties
- Retention of existing trees
- Details of soft landscaping be provided

4.0 **POLICY & GUIDANCE**

- 4.1 Vale of White Horse Local Plan 2011 policies;
DC1 - Design
DC5 - Access
DC6 - Landscaping
DC9 - The Impact of Development on Neighbouring Uses
H10 - Development in the Five Main Settlements

- 4.2 The National Planning Policy Framework (NPPF)

5.0 **PLANNING CONSIDERATIONS**

- 5.1 The principle of a development involving the erection of two new dwellings on this site has already been approved by planning permission [P11/V2894](#). The current application does not represent an opportunity to revisit this earlier decision. Rather the planning committee should be concerned only with the impacts of the proposed amendments to the approved scheme, involving the provision of basements to each of the two approved dwellings.
- 5.2 The main issues to be considered in the assessment of the current application are:
- the impact of the basements on the character of the site and its surrounding;
 - the impact of the basements on the amenity of neighbouring developments;
 - other material considerations; and
 - other matters raised by objectors.

Character

- 5.3 The only physical manifestations of the proposed basements above finished ground level will be:
- a glass balustrades around a light well in the back garden of each dwelling providing light to the subterranean basements; and
 - a ground level concrete slabs that will also serve as a patio area to the rear of each dwelling.
- The appearance of both dwellings above the finished ground level will otherwise remain unchanged from the plans already approved.
- 5.4 Concern has been raised by objectors that the provision of the basements may have resulted in an increase in the height of the buildings above that of the previously approved scheme, thereby giving greater prominence to the development. Objectors suggest that the height of the development has increased by between 0.5m to 1.0m. The original approved plans, however, contain no reference to levels (existing or proposed); nor does the original planning permission contain any conditions to control the heights of floor slabs. Therefore it is not possible to say with any certainty how the basements have affected the height of the development, if at all. Accordingly, there is no basis for the inclusion of condition restricting the height of the development to the previously approved plans, as suggested by objectors.

- 5.5 The original approved plans do however indicate an intention to create two separate building platforms by cutting and filling the site. In the normal course of events a developer would seek to offset quantities of cut and fill in order to minimise the cost of importing or disposing of fill. Therefore allowing for a cross site fall of approximately 2.6m from boundary to boundary, this would allow for the creation of two building platforms with an average height difference of approximately 0.86m, both between the platforms themselves and to the adjoining properties on either side. This is generally consistent with levels of the development currently under construction as verified by an independent survey of the site undertaken by the council's surveyor. In the circumstances of the present case the land is proposed to fall by 0.75m from the 'Thatched House' to Plot B; by 0.8m from Plot B to Plot A; and by 1.09m from Plot A to 'Ardmore'. These levels are generally consistent with the average levels derived from the above crude calculation (with variations of between 11-23cm). There is therefore no real evidence to suggest that the overall height of the development has increased as a result of the construction of the basements.
- 5.6 The approved development is comprised of two detached dwellings on large plots of approximately 2000m² each (or 4000m² in total), having generous setbacks of approximately 16.5m to the road and 7.7m to side boundaries. In this context it is unlikely that the provision of the basements will give rise to any significant or perceptible change to the character or appearance of the development. Indeed the appearance of the dwellings above finished ground level will appear exactly the same as the already approved scheme.
- 5.7 The basements do not therefore result in any significant change to the scale, mass, height or detailing of the already approved development and are therefore compliant with policy DC1 of the local plan.

Amenity

- 5.8 Policy DC9 of the local plan states that development will not be permitted if it would unacceptably harm the amenities of neighbouring properties and the wider environment in terms of the loss of privacy, daylight, sunlight, dominance or visual intrusion.
- 5.9 As discussed above, the provision of the basements has not resulted in any change to the scale, mass, height or appearance of the development; nor will the proposed light wells give rise to any additional opportunities for overlooking or loss of privacy to any neighbouring property. The buildings themselves are therefore compliant with policy DC9 of the local plan.
- 5.10 However, concern has been raised with the applicant regarding a potential for a loss of privacy to the adjoining property to the south (known as 'Ardmore') if earth fill is permitted to be deposited right up to the edge of shared boundary. This would result in significant overlooking of the adjoining property by a person standing in the garden of plot A. In order to address this concern the applicant has submitted an amended landscape concept, which provides for landscaping tiers, which progressively rise with increasing distance from the fence. This will also facilitate the retention of existing trees adjacent to the boundary and the provision of soft landscaping to provide additional screening. A scheme for the provision of soft landscaping should be required as a condition of any planning permission. This condition should also provide for the retention of existing trees adjacent to the southern boundary, where possible, as part of the approved landscape scheme.
- 5.11 The excavation of the basements has also resulted in a considerable quantity of fill, which is currently being stored on the site. Unless the fill can be effectively incorporated

into the landscape it has the potential to raise the levels of the site with possible implications for the visual amenity and privacy of neighbouring occupiers. A condition should therefore be imposed upon any planning permission to require the removal of any surplus fill above the heights, levels, areas and volumes depicted on the landscaping plans submitted in support of the application.

- 5.12 Concern has also been raised with the applicant regarding a close boarded fence which has been erected along the southern boundary in conjunction with the current development. The fence has been raised by as much as 0.5m above ground level, giving it an overall height of approximately 2.5m, which is considered un-neighbourly. The applicant has addressed this concern on the submitted landscape plans by showing a reduction in the height of the fence to no more than 2m above the existing boundary level. A condition should be attached to any planning permission requiring the implementation of these works prior to the first occupation of the dwellings.
- 5.13 Objectors have pointed out that the basements exceed the footprints of the approved buildings and therefore extending a considerable distance (approx 6.3m) into the back gardens of their respective plots. It is the concern of neighbouring objectors that the resulting concrete slabs may themselves constitute foundations for building extensions in the future. Given the location of the slabs relative to the back gardens of neighbouring properties it is the objector's concern that this may have privacy implications. Although the planning committee can only deal with the current proposal, it would not be unreasonable in the circumstances of the present case to remove permitted development rights relating to alterations, extensions and out buildings.

Other Material Considerations

- 5.14 The drainage engineer has raised no objection to the development subject to the submission of an amended drainage scheme to agree on the specifications and the location of deep soakaways to drain the basement areas. Provision should also be made for the drainage of patio areas to the rear of the houses. This can be made conditional to any planning permission, subject to which the development complies with policy DC14 of the local plan.

Other Issues Raised by Objectors

- 5.15 Common to most of the objections received is a concern that the construction of the basements does not constitute a minor amendment to the original development and the matter should be dealt with as an entirely new development. On the other hand, the applicant in support of the current application has cited various examples where other authorities have accepted basements as minor material amendments. This is a question of fact and degree, however, which falls to the local planning authority to determine on the merits of the case. Whether this proposal is dealt with as an amendment to an already approved scheme or a fresh application for an entirely new proposal is a moot point, however, given that the development proposal is the same in either event and must be assessed against the same planning policies. The principle of the development approved by planning permission P11/V2894 would also be a material consideration in either event. The current application has been registered as a valid application by the council and must therefore be determined accordingly.
- 5.16 Objectors express concern that the additional floor space contained within the basements will result in an intensification in the use of the buildings, which will generate the need for additional parking and will be contrary to the character of the area. In response to this concern, however, it should be noted that surrounding area is generally characterised by large detached dwellings, on large plots of land, set well back from the road. The dwellings proposed by the current application are entirely consistent with these aspects of local distinctiveness and character. The buildings enjoy

generous setbacks from the road (approx 16.5m) with ample room for the parking needs of large dwellings of the size proposed. Accordingly, there is no basis for the imposition of a condition restricting the use of the basements to storage only, or otherwise preventing their use for any purpose normally ancillary to a residential dwelling, as suggested by objectors.

- 5.17 Common to a number of the objections received is a concern that the buildings may be used as houses in multiple occupation or subdivided into residential flats. However, the planning committee can only deal with the proposal that is currently before it, which is for two dwellinghouses. The use of a dwelling by a group of up to 6 unrelated people living together as a single household is permitted without the need for planning permission under the General Permitted Development Order. This is a right enjoyed by every house in the district and there is nothing uniquely different about the proposed dwellings that would warrant the removal of such rights in their case alone. The use of a dwellinghouse by more than 6 unrelated persons constitutes a house in multiple occupation for which separate planning permission would be required. Similarly the subdivision of the buildings into flats would also require separate planning permission. Accordingly, there is no reason to impose a condition prohibiting such development, as suggested by objectors.
- 5.18 Objector's concerns regarding the collection of leaves in light wells is a maintenance issue for the occupiers of the proposed dwellings, but it is not a relevant basis upon which to refuse planning permission. Similarly, the retrospective nature of the application is not relevant to the assessment of the current application.
- 5.19 There is also no planning basis for the imposition of a condition preventing external access to the basement via the light wells, as suggested by objectors. Although it does not form part of the current application, if such access was provided in the future, it is unlikely that it would result in any greater loss of amenity to neighbouring occupier, than the normal use of surrounding patio area. In any event it is unlikely that this could be done without changing the external appearance of the development, in which case separate planning permission would be required.

7.0 CONCLUSION

7.1 In accordance with paragraphs 186 and 187 of the NPPF the Council takes a positive and proactive approach to development proposals. The Planning Service works with applicants/agents in a positive and proactive manner by advising applicants/agents of issues that arise during the processing of their application and where possible suggesting solutions to problems.

7.2 Subject to the imposition appropriate conditions, the proposed incorporation of basements in connection with the dwellings approved by planning permission P11/V2894 will not result in any significant change to the scale, mass, height or character of the already approved development; and will not give rise to any loss of amenity to neighbouring occupiers.

8.0 RECOMMENDATION

8.1 Planning Permission

1. That the development hereby approved shall be carried out in accordance with the details shown on the following approved plans, Site Plan HA-SL-001; Ground Floor Plan 0G-001 rev 3; First Floor Plan 01-001 rev 1; Basement Floor Plan OB-001 rev 3; Front Elevations EL-001 rev 1; Rear Elevations EL-002 rev 3; Plot A Side Elevations EL-003 rev 3; Plot B Side Elevations EL-004 rev 3; Landscape Plans View 1-rev 2, View 2- rev 2 and View 4 – rev 2, except as controlled or modified by conditions of this permission.

Reason: To secure the proper planning of the area in accordance with Development Plan policies.

- 2. Prior to undertaking any site works an amended scheme containing details of both hard and soft landscaping works shall be submitted to approved in writing by the local planning authority and these works shall be carried out as approved. These details shall include, notwithstanding the details shown on drawing no. HA-SL-001: car parking layouts; other vehicle and pedestrian access and circulation areas; retaining walls and boundary treatment; and any other hard surfacing materials, which shall be constructed so as to prevent surface water discharging onto the highway and retained thereafter. The scheme shall be consistent with Landscape Plans View 1-rev 2, View 2-rev 2 and View 4-rev 2. Soft landscape works shall include: planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant size and proposed numbers/densities and where appropriate an implementation programme. Existing trees adjacent to the southern boundary shall be retained within the proposed scheme, where possible.**

Reason: To ensure the implementation of appropriate landscaping which will improve the environmental quality of the development, better assimilate the development into its surroundings and preserve the visual amenity and privacy of neighbouring occupiers(Policies DC6 and DC9 of the adopted Local Plan).

- 3. All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any dwelling or in accordance with a programme agreed with the local planning authority. If within a period of five years from the date of the planting any trees or shrub that tree or shrub, or any tree or shrub planted in replacement of it, is removed, uprooted or destroyed or dies, or becomes, in the opinion of the local planning authority, seriously injured or defective, any tree or shrub of the same species and size as that originally planted shall be planted at the same place, unless the local planning authority gives written approval to any variation.**

Reason: To ensure the implementation of appropriate landscaping which will improve the environmental quality of the development, better assimilate the development into its surroundings and preserve the visual amenity and privacy of neighbouring occupiers(Policies DC6 and DC9 of the adopted Local Plan).

- 4. No dwelling shall be occupied until the car parking area, vehicular and pedestrian access and circulation areas for that dwelling have been constructed in accordance with the detail approved under condition 2. The vehicular access, parking and turning areas shall thereafter be kept free of any obstruction to such use**

Reason: In the interest of highway safety Policies DC5 of the adopted Local Plan).

- 5. No dwelling shall be occupied until the existing garage/site shed to the front of Plot B is demolished and removed from the land.**

Reason: In the interest of good design and visual amenity; to better assimilate the new development into its surroundings; and to ensure the development avoids an overdeveloped or cluttered appearance (Policy DC1 of the adopted Local Plan).

- 6. A scheme for the drainage (both surface water and sewage) of the development shall be submitted to, and approved in writing by the District Planning Authority. The approved scheme shall be implemented prior to the occupation of any dwelling to which the scheme relates.**

Reason: To ensure the effective drainage of the site and to avoid flooding (Policy DC14 of the adopted Local Plan).

- 7. Notwithstanding the provisions of Classes A, B, C, D and E of Part 1 Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 (or the equivalent provisions of any order revoking and re-enacting that Order), there shall be no alterations or extension to any of the dwellings hereby permitted and no ancillary buildings or structures shall be erected within the curtilage of any dwelling without the prior grant of planning permission.**

Reason: In the interest of visual amenity and to ensure the development avoids an overdeveloped or cluttered appearance (Policies DC1 and DC9 of the adopted Local Plan).

- 8. No dwelling shall be occupied until the close boarded fence along the southern boundary is reduced in height so as not to exceed 2.0m above the natural ground level; all retaining walls are constructed; and earth works completed in accordance with Landscape Plans View 1-rev 2, View 2-rev 2 and View 4- rev 2. This shall include the removal of any surplus spoil exceeding the heights, levels, areas and/or volumes depicted on the above landscape drawings.**

Reason: In the interests of the visual amenity and privacy of neighbouring occupiers(Policies DC1 and DC9 of the adopted Local Plan).

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