

APPLICATION NO.	P16/V2717/FUL
SITE	Little Dene, Yarnells Hill, North Hinksey, Oxford OX2 9BG
PARISH	North Hinksey
PROPOSAL	Variation of Conditions 2 - amended plans and Condition 11 - kitchen windows on first and second floors to be glazed with obscured glass with restricted opening, of P14/V0428/FUL (Retrospective) (as amended by plans and revised planning statement received 21 February 2017)
WARD MEMBER(S)	Debby Hallett Emily Smith
APPLICANT	I&O Ltd
OFFICER	Sarah Green

RECOMMENDATION

To grant planning permission subject to the following conditions:

Compliance

1. Time commencement as per the original permisison.
2. Approved plans.
3. Access, parking and turning as shown on plan.
4. Materials as approved.
5. Drainage details for foul water as approved by Thames Water.
6. Restriction on erecting gate on the access.
7. Boundary treatments.
8. Slab levels as approved.
9. Kitchen windows to be obscured glazed and restricted opening.
10. Obscure glazed bathroom windows.
11. Scheme for refuse vehicles, including signage, as approved.
12. Balcony screening as approved
13. Bin and cycle storage as approved
14. Landscaping scheme, including tree protection, to be implemented.
15. In accordance with ecology and badger reports.
16. Construction method statement as approved.
17. Rooflights on the west and east elevations of the building to have a sill height no lower than 1.7m.

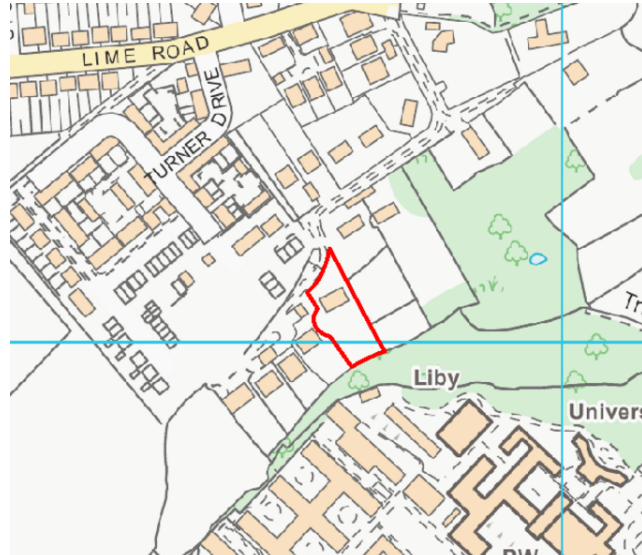
Details to be submitted pre-occupation

18. Submission of details of retaining and boundary walls to be approved.
19. Surface water drainage strategy detail to be approved.

1.0 INTRODUCTION AND PROPOSAL

1.1 The application is referred to planning committee at the request of ward member Councillor Debby Hallet.

1.2 The site is located on Yarnells Hill, as shown on the map below:



1.3 Planning permission was granted on 19 March 2015 for the demolition of the existing dwelling and the erection of a four storey building containing 8 flats. The development has commenced on site. There is a current discharge of condition application (ref P15/V/2485/DIS). All conditions have been discharged, apart from condition 3 (boundary wall – *details still awaited at time of writing*) and condition 7 (surface water drainage – *details being considered by drainage engineer*).

1.4 The building on site, however, does not accord with the approved plans. The application is therefore seeking permission to vary condition 2 to amend the approved plans to regularise the development. The changes include:

- raising the hipped front projection by 0.4 metres to match the main ridge
- changes to the rear slope of the main roof
- the slight reduction in the height of the eaves of the rear projections
- the addition of rooflights
- the incorporation of a lift shaft to the rear

1.5 It is also seeking to vary condition 11 to change the kitchen windows from high level to ones with lower sill heights and obscured glazing.

1.6 Copies of the proposed plans are **attached** at Appendix 1. For comparison a copy of the approved plans are **attached** at Appendix 2.

2.0 SUMMARY OF CONSULTATIONS & REPRESENTATIONS

2.1 North Hinksey Parish Council	Object <ul style="list-style-type: none"> • Window size agreed in original approval should remain as this would limit Overlooking
Ward Councillor Debby Hallet	<ul style="list-style-type: none"> • Condition unclear • Overlooking • Obscure glazing/restriction condition unenforceable • Design/placement of rooflights
Neighbour Object (3)	<ul style="list-style-type: none"> • Change to larger roof design at front • Change to kitchen windows not enforceable • Excessive number of velux windows – impact on privacy • Boundary wall details • Installed windows showing disregard for planning process • Overlooking

3.0 RELEVANT PLANNING HISTORY

3.1 [P16/V1206/FUL](#) - withdrawn (21/06/2016)

Variation of condition 2 on application P14/V0428/FUL

"Demolition of existing dwelling. Erection of four-storey building containing 8 x 2 bed flats. Improved access from Yarnell's Hill including a turning area for service vehicles, parking for 12 cars, covered cycle storage and enclosed bin store.

[P15/V2485/DIS](#) – partially discharged

Discharge of conditions 3, 4, 5, 6, 9, 10, 13, 14, 15, 18 & 19 on application P14/V0428/FUL (26 January 2016 Additional Information received) (25

February 2016 Amended plan received_signage) (16 November 2016

Amended information received_construction management plan) (3 March 2017 Additional information received_drainage)

[P14/V0428/FUL](#) - Approved (19/03/2015)

Demolition of existing dwelling. Erection of four-storey building containing 8 x 2 bed flats. Improved access from Yarnell's Hill including a turning area for service vehicles, parking for 12 cars, covered cycle storage and enclosed bin store. Planning Application History

4.0 ENVIRONMENTAL IMPACT ASSESSMENT

4.1 The site area is less than 5ha, fewer than 150 dwellings are proposed and the site is not in a 'sensitive area'. The proposal is not therefore, EIA development.

5.0 MAIN ISSUES

5.1 The relevant considerations for this application relate only to matters concerning the conditions for which variation is sought. These are:

- Condition 2 - Design of the scheme
- Condition 11 – Neighbour impact of windows
- Other matters

5.2 **Design of the scheme**

The submitted plans now reflect the building that is currently under construction on site. The overall maximum depth and height of the building is the same as that approved. Officers acknowledge the steeper rear pitch of the main gable is unusual and does result in different pitches. However it has resulted in reducing the amount of side wall on these elevations and therefore has reduced the overall upper bulk of the building. The slight lowering in the eaves height also helps to reduce the massing of the rear of the building. The incorporation of the lift shaft is a new element to the scheme, and requires a certain level of head room for winch gear. Officers consider that incorporating this to reflect a chimney stack is appropriate for the traditional design approach for this building and helps to ensure that it does not appear out of keeping.

5.3 The hipped gable projection on the front elevation has been raised 0.4metres such that it is now the same height as the main roof. This does increase the bulk of this element when compared to the permitted scheme. However the degree of change is relatively small and it is not considered harmful to the overall appearance of the building and would not justify a refusal.

5.4 Turning to the rooflights, the permitted scheme had a small pair of rooflights on the west elevation serving a kitchen in the top flat. This scheme now has 4 rooflights evenly spaced and sized on each elevation. The lower rooflights would have a sill level of 1.7m above the floor level. An additional larger rooflight would be added on the inside pitch of the western top floor flat. The kitchen windows would match the bathroom windows in terms of size. In design terms the rooflights and windows would not be harmful to the overall appearance of the building.

5.5 **Neighbour Impact**

Condition 11 of the original permission stated the following:

“The kitchen windows on the first floor, second floor and third floor of the new dwellings shall be installed with a sill height of not less than 1.7 metres above the finished floor level of the room(s) in which they are fitted and shall be retained as such. Notwithstanding the provisions of Class A 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), the window sill height(s) shall not be lowered without the prior grant of planning permission.

Reason: To protect the privacy of adjacent dwellings (Policy DC9 of the adopted Local Plan).”

5.6 This condition was imposed to ensure that the kitchen windows shown on the first and second floors, and the small pair of rooflights to the kitchen on the third floor had sill levels of at least 1.7m to prevent overlooking to neighbouring properties. There was no restriction on the type of glazing for these windows. This scheme now proposes kitchen windows with lower sill levels to match the other windows but with obscured glazed and very restricted opening, and

additional rooflights in the roof with a sill level of at least 1.7m.

- 5.7 The impact on neighbouring properties in terms of overlooking is a material consideration. Members are also familiar that the planning assessment has to be reasonable in determining what weight to apply to a consideration. A certain level of overlooking can normally be expected within a residential environment and it is not unusual for there to be oblique views between properties. What is important is that any overlooking is not unreasonable, such that it would cause harm.
- 5.8 In taking into account the level of overlooking that will occur to a neighbour, the location of the neighbouring property in relation to the development is relevant, as well as its position of windows and main external sitting out areas
- 5.9 To the east of this site, Wycliffe Lodge is situated forward of the development by over 35 metres. The main sitting out area of Wycliffe Lodge is near the back of the dwelling, with the rear garden sloping down to the rear. The kitchen windows in the development are over 45 metres from the rear elevation of the house and are at the same or lower level than Wycliffe Lodge. They are also in effect tucked behind the side projection on the development. Members are familiar that the design guide advises that principal room windows which directly face each other between neighbours should be at least 21metres apart. This is considered, in planning terms, a reasonable distance that prevents harmful overlooking between rooms. Given the significant distance between the kitchen windows and the rear of Wycliffe Lodge and its immediate sitting out area, and that they would also be obscured glazed and restricted in their opening, officers consider that there would not be any harmful overlooking. The rooflights would have a sill height of 1.7m, which is equivalent to a high level window and therefore overlooking would be prevented. The only rooflight with a lower sill level is the one on the inside slope of the development. This would be over 13m from the boundary with Wycliffe Lodge and only likely to have very oblique views of the end of the garden through existing boundary screening. It would not cause a level of overlooking that would justify a refusal.
- 5.10 Obscured glazing and restrictions to the openings are generally considered as reasonable planning conditions that meet the six condition tests, including enforceability.
- 5.11 To the west of the site, Appleton Dene is sited closer to the development and does have side windows which serve bathrooms. Given that the kitchen windows will be obscured glazed and restricted, and the rooflights will have a sill level of 1.7m, it is considered that there will not be any harmful overlooking between the properties.
- 5.12 **Other matters**
Objectors argue the development is not being built in accordance with its approved plans and it should not be allowed to change. Government advice and the council's own enforcement statement, state that any enforcement action should be proportionate to the breach of planning control to which it relates and should only be taken when it is expedient to do so. It is important to

understand that the aim of enforcement is ‘to remedy planning harm not to punish people who have not obeyed the rules’ (para 3.1 enforcement statement).

- 5.13 A Government statement of 31 August 2015 introduced the concept of ‘intentional unauthorised development’ as a material consideration that should be weighed in the balance by decision makers when determining planning applications and appeals. Officers understanding is that this measure was particularly to target the deliberate concealment of new development. Officers recommend that this concept should be given very limited weight in the planning balance for this application because the application can be assessed on its own merits and the council’s ability to either grant or refuse planning permission, or to mitigate any unauthorised development, has not been fettered by the carrying out of unauthorised development (carried out intentionally or otherwise).
- 5.14 This application has been assessed against the relevant material planning considerations. In officers opinion the proposed scheme is acceptable and will not lead to planning harm.
- 5.15 This application only relates to two of the conditions and will sit alongside the original permission. Therefore all other conditions on the original permission still apply to this application, unless they have been discharged, in which case the condition wording for that particular condition will be reworded to ensure the development is in accordance with the details agreed by discharge.
- 5.16 The only outstanding conditions requiring discharging are the details of the boundary wall with Wycliffe Lodge and the surface water drainage. These conditions were pre- commencement conditions. However in line with the council’s enforcement policy, officers consider that, as the agent is actively co-operating in addressing these matters, it is not expedient to take enforcement action at this time.

6.0 **CONCLUSION**

- 6.1 The proposed variations sought have been considered in light of the relevant planning considerations. Officers consider the changes to be acceptable in terms of design in this instance, and that they would not result in harm to the amenity of neighbouring occupiers. The officer recommendation is therefore for approval.

The following planning policies have been taken into account:
Vale of White Horse Local Plan 2031 Part1 policies;

- CP01 - Presumption in Favour of Sustainable Development
- CP03 - Settlement Hierarchy
- CP04 - Meeting Our Housing Needs
- CP35 - Promoting Public Transport, Cycling and Walking
- CP37 - Design and Local Distinctiveness
- CP42 - Flood Risk
- CP44 - Landscape

Vale of White Horse Local Plan 2011 policies

DC5 - Access

DC6 - Landscaping

DC7 - Waste Collection and Recycling

DC8 - The Provision of Infrastructure and Services

DC9 - The Impact of Development on Neighbouring Uses

Design Guide 2015

National Planning Policy Framework 2012

Planning Enforcement Statement

Equalities Act – Section 149 public sector equality duty

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