

HAR/1123/10 – Mr M Evans

Retrospective application for the construction of timber decking across stream and erection of close boarded fencing.

Bumble Barn, Church Lane, Harwell, OX11 0EZ

1.0 The Proposal

1.1 This application seeks retrospective planning permission for the construction of timber decking across a small stream which runs along the south-eastern boundary of the site, together with close board fencing on the south-east end of the decking. The decking itself measures 5.2 metres wide by 21.2 metres long, and is positioned 1.2 metres above the soil bank on the opposite side of the stream. The close board fencing measures 1.8 metres high. The site is located within Harwell Conservation Area. A copy of the site plan and application drawings are at **Appendix 1**, with a copy of Harwell Conservation Area at **Appendix 2**.

1.2 The application was originally presented to Committee on 17 December 2007, where it was recommended that planning permission be granted. Committee, however, resolved to refuse planning permission, with reasons to be agreed at a future meeting. A copy of the minutes of this meeting is at **Appendix 3**.

1.3 The application was subsequently presented to Committee on 30 January 2008, with the following reason for refusal suggested;

“In the opinion of the District Planning Authority the construction of the decking across the stream inhibits the necessary future maintenance of the watercourse, which would have consequential flooding implications within the vicinity of the site. As such, the construction of the decking is contrary to Policy DC13 of the adopted Vale of White Horse Local Plan 2011”.

At this meeting Committee did not feel able to endorse this reason for refusal. It was agreed that a further report would be presented to Committee seeking authority to either approve another reason for refusal, or to seek to revoke the earlier decision to refuse permission and approve the application. A copy of the minutes of this meeting is at **Appendix 4**.

2.0 Planning History

2.1 Permission was granted in 1987 for the ‘Conversion of existing barn into two residential units’ (application HAR/1123/5). Subsequently, permission was granted in 1988 under application HAR/1123/7 for the ‘Rebuilding of sub-standard existing walls of barns and conversion of barn into two dwellings. (Amendment to approval HAR/1123/5)’.

2.2 Application HAR/1123/8-CA for the ‘Demolition of existing sub-standard walling’ was approved in 1988.

2.3 Application HAR/1123/9 for the ‘Erection of a double garage’ was approved in 1989.

3.0 Planning Policies

3.1 Policy H24 of the adopted Vale of White Horse Local Plan allows for the erection of

ancillary buildings and structures within the curtilage of a dwelling provided various criteria are acceptable including; i) the impact on the character and appearance of the area as a whole, and ii) the impact on the amenities of neighbouring properties in terms of privacy, overlooking and overshadowing.

- 3.2 Policy DC9 of the Local Plan refers to the impact of new development on the amenities of neighbouring properties and the wider environment in terms of, among other things, loss of privacy, daylight or sunlight, and dominance or visual intrusion.
- 3.3 Policy DC13 of the Local Plan seeks to ensure that flood risk to a development, and possible effects on flood risks elsewhere in terms of flood flows, flood storage capacity and run-off implications are acceptable.
- 3.4 Policy HE1 of the Local Plan relates to development within or affecting the setting of a Conservation Area, and seeks to ensure that any such development preserves or enhances the established character or appearance of the area.

4.0 **Consultations**

- 4.1 Harwell Parish Council objects to the proposal stating “The Council believes the decking has already been enlarged since being first erected, but basically objects to the decking as it may restrict the free flowing of the stream underneath during times of high water, thereby creating a risk of flooding. As the Environment Agency has strict rules about building over water courses, the Council requests that planners consult an EA representative if clarification is needed”. An additional comment was subsequently received stating “[Harwell Parish Council] Reiterates its former objections to this application, on the basis that it may cause obstructions in the stream. Please confirm that permission has now been sought from St Matthews Church for the decking to stand on church land”.
- 4.2 The Council’s Principal Engineer has commented twice on the application, stating that “Provision should be provided to allow access to maintain the watercourse beneath the decking” and “...providing that the decking has a clear span across the ditch and access provision was provided for the maintenance, then there is no evidence to suggest that the decking proposal would increase the risk of flooding”. Discussions with the Principal Engineer and subsequent searches regarding previous flooding within the vicinity have yielded no historic flooding reported, no reported flooding during the severe weather conditions in July 2007, and no complaints have been received.
- 4.3 The Conservation Officer has stated “Although the fence and decking has a very urban appearance in the rural part of Harwell Conservation Area, it is not visible from any public vantage point. Accordingly it is not felt that the application can be refused on the grounds it does not preserve or enhance the Conservation Area”.
- 4.4 The Arboricultural Officer has stated “No particular arboricultural issues with this decking”.
- 4.5 The Environment Agency has raised no objections to the application, their comments stating:

“The construction of decking over a watercourse is something which we would not encourage. While there are no formal constraints at the site, we would be concerned about future maintenance of the watercourse and the potential effect on the conservation values of the stream. Given our previous written advice to the Applicant and as the works are to a non-critical ordinary watercourse over which we have no control, we have no grounds to object to the development. Although the structure is clear spanning it will be difficult to clear out any debris. From a best practice point of view we would advise that abutments are set back from the top of bank and that the deck height is raised to facilitate safe passage of flood flows and debris.”

Subsequent discussions with the Environment Agency since the July 2007 floods have confirmed their original comments on the application, and their stance has not changed in light of the floods.

4.6 Three letters of objection have been received, which raise the following points:

- To maintain the flow of the stream it is necessary to clean out the debris and mud that flows down quite frequently.
- The stream is a feature not only of the gardens, but also of all the houses which border it.
- Building a deck has altered the use of the land, and although this has been done, it will set a precedent and spoil the peace and beauty of the area.
- The boundary between the properties lies in the middle of the stream. The decking is very extensive, and the close board fencing tall and dominating.
- The decking stretches across the stream and onto adjoining land.
- If the application is allowed it will set a precedent.
- Decking has created a lack of privacy, with adjacent back gardens being overlooked.
- The design of the decking, with rope fencing, appears very dangerous.
- How will future maintenance be carried out, with the decking restricting access to the stream via Bumble Barn?
- Covering the stream with decking has done little to maintain the rural feeling of this part of Harwell.

5.0 **Officer Comments**

5.1 The main issues in determining this application are the impact on neighbouring properties, the impact on the character and appearance of Harwell Conservation Area, and the impact on the stream itself.

5.2 Comments have been made referring to the fact that the applicant has trespassed onto land owned by the Oxford Diocesan Board of Finance in order to construct the decking. However, this is not a material planning consideration.

5.3 Regarding the impact on the structure on neighbouring properties, your Officers consider that the amenities of the dwellings which adjoin the site have not been compromised. The projection of the decking across the stream onto land to the south-east does not impact on ‘The Vicarage’ directly as it projects onto scrub land, which is not directly visible from the private garden of ‘The Vicarage’ given the existence of thick vegetation between the dwelling and the scrub land. In terms of potential overlooking of the

neighbouring garden to the north from the decking, it is possible to stand on the decking and overlook the south-eastern end of this garden. However, any views over the private amenity space next to the dwelling itself (which is located approximately 40 metres away) are extremely limited. It is consequently considered that the development is not refusable on the grounds of harmful impact on the amenities of adjoining properties.

- 5.4 When assessing development within Conservation Areas consideration needs to be given as to whether the character or appearance of the area would be preserved or enhanced. To that end consideration needs to be given to how visible a particular development is. In this instance the decking and fence are not visible from any public vantage points, even from the church grounds to the south and south-east. As views within the Conservation Area have not been affected by the development it is consequently considered that the impact on the character or appearance of the area is not harmful.
- 5.5 The watercourse over which the decking spans has been described by the Environment Agency as a 'non-critical ordinary watercourse', which by definition means it is a stretch of non-main watercourse which has not been defined as critical in terms of flood risk. In light of this fact the Environment Agency has no control over the watercourse, and whilst decking over a watercourse is not something that is encouraged, the Agency has stated that they have no grounds to object to the decking at Bumble Barn. This stance was confirmed by the Environment Agency after the July 2007 floods. As stated above, Council records also show no historic flooding reported in this area, and no reported flooding during the July 2007 floods. In addition the decking is clear span and would not restrict or inhibit passing debris in times of heavy flow.
- 5.6 Given the comments from both the Environment Agency and the Council's Principal Drainage Engineer, Officers do not consider that the application can be reasonably refused on the grounds of potential flooding implications. Concerns over the future maintenance of the watercourse can be overcome by the implementation of a condition requiring access to be provided for maintenance purposes.

6.0 **Recommendation**

- 6.1 That the Development Control Committee revokes the earlier decision to refuse permission, and grants planning permission, subject to the following conditions:-
- 1. Notwithstanding any details shown on the approved plans, a scheme for the provision of access to the watercourse for future maintenance shall be submitted to, and approved in writing by, the District Planning Authority within 3 months of the date of this permission. The approved scheme shall be implemented within 6 months of the date of this permission and shall be subsequently maintained and not altered without the prior grant of planning permission.*
 - 2. MC20 Amended Plans.*