

**Former Rosemary  
Main Street  
Fringford**

**13/00097/F**

**Ward:** Fringford

**District Councillor:** Cllr B. Wood

**Case Officer:** Graham Wyatt

**Recommendation:** Refusal

**Applicant:** Mr & Mrs R Ward

**Application Description:** Retrospective: Variation of condition 2 of 11/01160/F

**Committee Referral:** Previously contentious enforcement case and application

**1. Site Description and Proposed Development**

- 1.1 The site is situated central to the village of Fringford. The proposal is for the redevelopment of a single dwelling that was replaced by 2 detached dwellings. The previously demolished dwelling was not a listed building although a Grade II listed building, The Forge, is situated directly opposite the site to the south-east beyond a grass verge. The site is not in a Conservation Area although it is within an Area of High Landscape Value. The site is an Area of Archaeological Interest as part of the historic village core. There are no other relevant site constraints.
- 1.2 The detached dwelling that was demolished was set forward of its neighbours to either side (Kohanka to the southwest and The Gables to the northeast). Vehicular access to the site was gained via a gated driveway, leading to a detached garage and an outbuilding stood adjacent to the south-western boundary of the curtilage. A low hedgerow marked the front boundary. A conifer hedgerow runs along the rear boundary of the curtilage, with stone built boundary walls to the side boundaries.
- 1.3 The approved development under application 11/01160/F involved the complete clearance of the site and replacement with 2 no. detached three bedroom dwellings. The front elevation of each dwelling comprises two mid-eaves height dormer windows, single integral garage and entrance doorway with kitchen window. The dwellings would appear 'mirrored', both being of identical appearance. The depth of the dwellings would be formed using a gable feature upon the rear elevation, providing two-storey accommodation, with a ridge height that appears subservient to the front-most element of the dwellings. Two off-street parking spaces are provided to the front of the dwellings, The existing hedgerow is removed and access to the dwellings centralised within the curtilage and 1 metre tall dry stone walls are to be erected to either side of the access.
- 1.4 During the erection of the new dwellings concerns were raised that the position of the buildings within the site was incorrect. Site measurements were taken by the Enforcement Team which confirmed that the buildings were incorrectly sited. However, exact detailed measurements were difficult to ascertain and were subsequently verified following an independent assessment by ON Centre Surveys that the buildings had been erected some 1.2m forward of the approved siting.
- 1.5 This application seeks to regularise the siting of the buildings by varying condition 2 of the original permission 11/01160/F. Condition 2 of this permission required the development to be carried out in accordance with the approved plans submitted in support of the application.

- 1.6 This application was deferred at the last meeting at the applicants request to allow them further time to make further representations in the light of the recommendation of refusal. At the time of writing (8<sup>th</sup> April) no representations have yet been received

## **2. Application Publicity**

- 2.1 The application has been advertised by way of neighbour letter and a site notice. The final date for comment was the 28<sup>th</sup> February 2013. Three letters of objection have been received as a result of the consultation process commenting on the following matters:

- Impact on the character and appearance of the area;
- Impact on the setting of the listed building opposite;
- Overlooking from side windows that serve en-suite bathrooms;
- Enforcement action should be taken to remove the buildings;
- Out of keeping with the area.

## **3. Consultations**

- 3.1 **Fringford Parish Council:** The visual impact of the development, being much further forward in relation to the neighbouring houses, impairs the view down through the village to the detriment of the overall street scene and the village's historic setting, particularly with regard to the Grade II listed building opposite the development.

There is supposed to be enough car parking for four cars, but the Parish Council has grave doubts whether four family-size cars would be able to fit on the drive. This too will have an impact on the street scene of the village.

### **Cherwell District Council Consultees**

- 3.2 Arboriculturalist: No objections

### **Oxfordshire County Council Consultees**

- 3.3 **Highways Liaison Officer:** No objection

## **4. Relevant National and Local Policy and Guidance**

- 4.1 Development Plan Policy

Adopted Cherwell Local Plan (Saved Policies)

- C13: Areas of High Landscape Value
- C28: Development Control - Design
- C30: Development Control – Amenity
- H13: Category-1 Settlements

- 4.2 Other Material Policy and Guidance

National Planning Policy Framework

## **5. Appraisal**

- 5.1 The key issues for consideration in this application are:

- Relevant Planning History
- Impact on visual and residential amenities

- Impact on highway safety
- Impact on listed buildings

### **Relevant Planning History**

- 5.2 A planning application was submitted for '*Demolition of existing dwelling and replace with 2 No. new dwellings*' on 25<sup>th</sup> July 2011 and approved on 15<sup>th</sup> September 2011 (Ref: 11/01160/F). The application was approved under delegated authority as it was considered that the development was acceptable on its planning merits given that the principle of the replacement dwellings was acceptable in this location and the dwellings were of a design, size and style that is appropriate in their context and would not cause detriment to the setting of the nearby listed building, highway safety, neighbouring properties or the visual amenity of the wider locality. Further, the development would preserve the character and appearance of the Area of High Landscape Value. An application to discharge conditions was submitted on 1<sup>st</sup> November 2011 and approved 9<sup>th</sup> December 2011. (Ref: 11/00298/DISC)
- 5.3 A complaint was received in May 2012 alleging the new dwellings may not have been built in accordance with the approved plans. Following the site visit the case was discussed amongst the enforcement team and it was concluded that the neighbouring properties should be measured to see how they were positioned in relation to the approved plans. This was carried out on 6<sup>th</sup> July. It was difficult to confirm from this visit where the boundaries were in relation to the plan as all boundary walls to the front of the site had been demolished with building materials and Heras fencing obscuring some of the site. The visit did however confirm that the neighbouring properties were roughly in the correct location.
- 5.4 Given the complicated and unprecedented nature of this case, an independent full survey of the site was commissioned. ON Centre Surveys Ltd carried out a full survey on 28<sup>th</sup> November 2012. The independent survey concluded that the dwellings have been set out and built 1 - 1.2m further forward than as the approved plans showed. The survey indicates that this may be partially due to mapping intolerances from the Ordnance Survey based site plan. However, it is the independent surveyors opinion that had the original proposed site plan been based on an accurate topographical survey, prior to design, some of the problems may have been avoided, i.e. the size and shape of the site are not consistent with the Ordnance base plan.
- 5.5 A report was presented to Members on 21<sup>st</sup> January 2013 by the Enforcement Team. The recommendation of the report was take formal enforcement action to rectify the current position.

### **Impact on visual and neighbour amenities**

- 5.6 In assessing the agreed siting of the proposed dwellings under application 11/01106/F, it was acknowledged that the proposed dwellings would sit forward of the general building line along the north-western side of Main Street, although the existing building line is not rigid as the original dwelling at Rosemary sat further forward than its immediate neighbours. It was accepted that the siting would respect the current form of development in the vicinity and would not harm the character and appearance of the area nor the amenities of the adjoining occupiers to a significant degree.
- 5.7

It is acknowledged that the approved siting of the dwellings did allow the dwellings to project by 3.5m of Kohanka and 3m forward of The Gables. However, the current siting of the dwellings is considered a material deviation from the approved plans.

The increased projection of 1.2m significantly increases the impact of the new dwellings on the streetscene and represents an incongruous and discordant feature that fails to respect the prevailing character and appearance of the area and the outlook of the adjoining occupiers at Kohanka and The Gables. The development as amended is therefore an unacceptable feature on the streetscene as it would have an unacceptable impact on the character of the area and would have a significant detrimental impact on the amenities of neighbouring properties, contrary to policy C28 and C30 of the adopted Cherwell Local Plan.

### **Impact on Highway Safety**

- 5.8 Oxfordshire County Council Highway Authority have raised no objection to the application on the grounds of highway safety as sufficient parking to serve the dwelling would be retained on site. I see no reason to disagree with this assessment and consider the proposal to accord with Government guidance contained within the NPPF and Policy T1 of the South East Plan 2009.

### **Impact on the setting of the listed building**

- 5.9 The original application (11/01106/F) considered the impact the development would have on The Forge, a grade II listed building opposite the site. In determining the application, it was considered that the development would not result in substantial harm to the significance of the listed building.

The development has been brought forward but still maintains a large gap between developments. I am satisfied that the development would not harm the significance of the listed building opposite.

### **Engagement**

- 5.10 Paragraphs 186 and 187 of the NPPF places a duty on the Local Authority to be positive in its decision taking. In this case the applicant met with Officers to discuss the application. Unfortunately on this occasion it has not been possible to make a positive recommendation and the application was not determined within its eight weeks.

### **Conclusion**

- 5.11 For the reasons as set out above, the application is considered unacceptable and is recommended for refusal.

## **6. Recommendation**

Subject to the receipt of the further comments of the applicant

**Refusal**, for the following reason:

The increased projection of the dwellings significantly increases the impact on the streetscene and represents an incongruous and discordant feature that fails to respect the prevailing character and appearance of the area and significantly impacts on the outlook of the adjoining occupiers at Kohanka and The Gables contrary to saved policies C28 and C30 of the adopted Cherwell Local Plan 1996 and the advice within the National Planning Policy Framework March 2012.

### **STATEMENT OF ENGAGEMENT**

In accordance with the Town and Country Planning (Development Management

Procedure) (England) (Amendment No 2) Order 2012 and paragraphs 186 and 187 of the National Planning Policy Framework (March 2012), this decision has been taken by the Council having worked with the applicant/agent in a positive and proactive way as set out in the application report.