

Cherwell District Council

Planning Committee

9 June 2016

Rosemary, Main Street, Fringford

Report of Head of Development Management

This report is public

Purpose of report

The purpose of the report is to notify members of an issue relating to the conditions imposed in respect of on-going remedial works to a dwelling constructed on a plot of land in Fringford.

1.0 Recommendations

- 1.1 The meeting is recommended to:
- 1.2 Note the decision to allow the owners of the site to carry out the approved remedial works in accordance with approved plan P11/055/003 Rev F.

2.0 Report Details

- 2.1 In 2011 approval (our reference 11/01160/F) was given for two detached dwellings sited on a plot in Fringford which was formerly occupied by a property known as Rosemary. During construction it was discovered that the development was being built in the wrong position (just over 1 metre closer to the road than had been approved). Whilst the finished dwellings were unauthorised as built, a scheme was approved, at appeal in 2014 (our reference 13/00718/F), to resolve the identified harm to the street scene and neighbouring residential amenity. This decision allowed for the retention of the dwellings providing that the modifications to one of the two dwellings were made within 6 months of the date of decision.
- 2.2 The owners of the site decided not to implement this approved scheme, but rather, submitted three alternative proposals for consideration. All three applications were refused. Earlier this year the Planning Inspectorate resolved to allow one of the subsequent appeals (our reference 15/01190/F).
- 2.3 Building works are now under way to carry out these approved modifications. However, recently it became evident that the Inspector had imposed two conditions which were in conflict with each other.

- 2.4 Condition 1 of the permission requires that the remedial works be carried out in accordance with the approved plans. Plan P11/055/003 Rev F shows the approved floor plans and elevations. There is an annotation on this plan which states that the reworked first floor side elevation shall have a *“Stone return with rendered flank wall”*.
- 2.5 As the two dwellings have been constructed out of stone with no other examples of render on the finished building, the aforementioned annotation contradicts condition 3 of the permission which states: *The materials to be used in the reconstruction of the walls and roof of Plot 1 shall match in terms of colour, type, and texture those used on the existing dwelling.*
- 2.6 Officers consulted the Council’s Legal Team who concluded that, in this instance, condition 1 should take precedence. There is no existing render on the dwelling to match the new render. The Inspector considered the approved plans that show the render and clearly considered this was acceptable. The Council would be acting unreasonably if it sought to require the owners to construct the flank wall out of stone and in contradiction with the approved plans.”
- 2.7 On the basis of this advice, Officers have advised the owners that works can continue in accordance with the approved plan.

3.0 Consultation

- 3.1 None

4.0 Alternative Options and Reasons for Rejection

- 4.1 The following alternative option have been identified and rejected for the reasons as set out below:

Option 1: To note the decision made in respect of the conditions

Option 2: Not to accept the Officers’ decision. This is not recommended as the report is submitted for Members’ information only

7.0 Implications

Financial and Resource Implications

- 7.1 There are no additional financial implications arising for the Council from this report.

Comments checked by:
Denise Taylor, Group Accountant, 01327 322188,
denise.taylor@cherwelladnsouthnorthants.gov.uk

Legal Implications

- 7.2 There are no additional legal implications arising for the Council from this report.

Comments checked by:

Nigel Bell, Team Leader – Planning and Litigation, 01295 221687,
nigel.bell@cherwell-dc.gov.uk

8.0 Decision Information

Wards Affected: All

Lead Councillor: Cllr Clarke, Lead Member for Planning

Document Information

Background Papers	
None	
Report Author	Paul Ihringer (Team Leader – Enforcement)
Contact Information	01295 221817 paul.ihringer@cherwell-dc.gov.uk