

43/15/0082

MR R BIRD

VARIATION OF CONDITION No 2 (APPROVED PLANS) OF APPLICATION 43/12/0081 ON LAND TO THE REAR OF 39A MANTLE STREET, WELLINGTON AS AMENDED

Location: 39A-A MANTLE STREET, WELLINGTON, TA21 8AX

Grid Reference: 313556.120366

Removal or Variation of Condition(s)

Recommendation

Recommended decision: Conditional Approval

Recommended Condition(s) (if applicable)

1. The development hereby permitted shall be carried out in accordance with the following approved plans:

(A3) DrNo MS.2 Elevations
(A3) Block Plan & Floor Plan

Reason: For the avoidance of doubt and in the interests of proper planning.

2. Prior to the occupation of the dwellings hereby permitted, full details of the proposed bin storage facilities, shall be submitted to and approved in writing by the Local Planning Authority. Such facilities shall be provided prior to the occupation of any dwelling to which it relates and shall thereafter be retained for those purposes.

Reason: To ensure that adequate facilities exist for the future residents of the site, and are provided in a manner that does not harm the character and appearance of the area.

3. Prior to the occupation of the dwellings hereby permitted covered and secure spaces for no less than 4 bicycles shall be provided in accordance with further details that shall first have been submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented and available for use prior to the occupation of the dwelling to which they relate and shall thereafter be retained as such.

Reason: To ensure that adequate facilities are included for the storage of

cycles.

4. The 'parking bollard' indicated on the drawing hereby permitted shall be fully provided prior to the occupation of any of the dwellings on the site in accordance with details that shall previously have been submitted to and approved in writing by the Local Planning Authority and shall thereafter be retained as such unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that the garden area is not given over to additional car parking, to restrict the traffic attracted to the site, in the interests of highway safety.

5. Prior to the occupation of the dwellings hereby permitted the windows installed in the first floor of the dwellings shall be obscured glazed and fitted with restrictive opening stays. The type of obscure glazing and details of the restrictive stays shall be submitted to and agreed in writing by the Local Planning Authority prior to its installation and shall thereafter be so retained.

Reason: To protect the amenities of nearby dwellings.

Notes to Applicant

Proposal

This application seeks full planning permission for the erection of two dwellings. It is a retrospective application seeking to retain a development that has been carried out not in accordance with the approved plans. The application proposes to retain the dwellings as built, but to install obscure glazing in the first floor windows.

Site Description

The site is the former Ship Inn and land to the rear. The former pub building is a mid-terrace building and stands directly on the rear of the footway of Mantle Street. It has now been converted into two dwellings. At the right hand (east) side, vehicular access exists through a narrow tunnel under part of the first floor, which gives access to the rear of the site, and the current application site.

In the past, a two-storey function room and single storey skittle alley occupied the site. This has now been demolished to allow for the construction of the two dwellings subject to this application and single dwelling subject to application 43/15/0083. Overall, three dwellings are being constructed on the site in a terraced mews.

Neighbouring gardens adjoin the site on either side. There are high walls along the

east and west boundaries, although the ground level of the garden to the east (37 Mantle Street) is significantly raised up above the application site at its northern end.

At the northern end of the application site, the site widens out to incorporate a raised garden area. This area is surrounded by bungalows.

Relevant Planning History

Since 2012, there have been a number of applications on the site seeking to redevelop the site for residential use.

Initially, permission was granted for the conversion of the pub to 2 dwellings and conversion of outbuildings at the rear to a further two dwellings under application number 43/12/0016. Only the conversion of the main pub building directly fronting Mantle Street has taken place.

Subsequently, permission was granted (43/12/0081) for the demolition of the outbuildings – the function room and skittle alley – and the erection of two 2 bedroom dwellings.

An application for a further dwelling (43/13/0093) was withdrawn following concerns expressed by planning officers that the proposed dwelling would have an unacceptable overbearing impact on the bungalow to the north. That dwelling was proposed to be sited on the higher ground at the northern end of the site. However, an additional dwelling, attached to the northern end of those permitted under application 43/12/0081 was subsequently permitted.

Since construction of the three new-build dwellings has reached first floor level, concerns have been received from neighbouring residents regarding the height of the development and the overlooking that has occurred. Examination of the site by the Council's Enforcement Officer revealed that the dwellings had not been built in the correct locations, albeit that their height and first floor window positions was broadly correct. However, the incorrect siting of the dwellings means that they are unauthorised and do not currently benefit from planning permission.

The investigations also revealed that the boundary wall between the site and 37 Mantle Street was incorrectly surveyed and detailed on the earlier planning applications. In considering application 43/12/0081, officers were concerned about the potential to overlook the neighbouring properties to the east, but drawings were provided indicating that the wall would 'remain at 4.3m high', indicating that no such concern would actually exist. It is now apparent that the eastern boundary wall was only ever a little over 3m at the northern end of 37 Mantle Street's garden. The decision to grant planning permission was, therefore, based upon incorrect information supplied by the applicant.

Consultation Responses

WELLINGTON TOWN COUNCIL – It was not clear from the application or the submitted plans exactly what this proposed variation involved. In view of the lack of sufficient information it was felt that no comment or recommendation could be made

in respect of this proposal

SCC - TRANSPORT DEVELOPMENT GROUP – No observations to make on this application.

HERITAGE – No comments received.

Representations Received

The following letters have been received in respect applications 43/15/0082 and 43/15/0083. Most do not distinguish between the two applications, so for the purposes of considering these proposals, they have been amalgamated.

7 letters of **objection** from 5 different people raising the following points:

- The developer knew the extent of the cellars before commencing construction.
- The development seriously overlooks 3 Tottles Court.
- The site is currently under investigation by the Council and it would be inappropriate to grant planning permission.
- Previous concerns regarding the overbearing nature of the development are reiterated.
- A heritage statement should have been previously produced as the site is in a conservation area.
- The erected dwellings have no sympathy with the surrounding dwellings in terms of materials and have a very cheap appearance.
- Query why the neighbouring property ground levels were never checked – if they had, the application would never have been approved.
- The footings for the western boundary wall could have been disturbed and it may collapse.
- It is not correct that windows of the former function room looked into neighbouring properties – they looked north and south, the proposed look east.
- 35 and 33 Mantle Street are now overlooked.
- The properties should never have been built, the positioning too far north has exacerbated the problem.
- The development is now 3.8m closer to 2 The Gardens and the kitchen is now overlooked from the first floor.
- No additional parking facilities are proposed, Mantle Street is already crowded and this will be exacerbated.

1 letter of **Comment** raising the following points

- 39a, 39b and 41 Mantle Street are the most affected and do not have an objection.
- The properties have been finished to a high standard and the mews houses will be an asset to Wellington.

Planning Policy Context

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications are determined in accordance with the development plan unless material considerations indicate otherwise.

The development plan for Taunton Deane comprises the Taunton Deane Core Strategy (2012), saved policies of the Taunton Deane Local Plan (2004), the Taunton Town Centre Area Action Plan (2008), Somerset Minerals Local Plan (2015), and Somerset Waste Core Strategy (2013).

Relevant policies of the development plan are listed below. Policies from emerging plans are also listed; these are a material consideration.

DM1 - TD CORE STRATEGY - GENERAL REQUIREMENTS,

Local finance considerations

Community Infrastructure Levy

The application is for residential development within the settlement limit of Wellington where the Community Infrastructure Levy (CIL) is £0 per square metre. Based on current rates, there would not be a CIL receipt for this development.

New Homes Bonus

The development of this site would result in payment to the Council of the New Homes Bonus.

1 Year Payment

Taunton Deane Borough Council (Lower Tier Authority)	£2,158
Somerset County Council (Upper Tier Authority)	£540

6 Year Payment

Taunton Deane Borough Council (Lower Tier Authority)	£12,949
Somerset County Council (Upper Tier Authority)	£3,237

Determining issues and considerations

The main issue in the consideration of this application is the impact of the development on neighbouring property, particularly those dwellings adjoining the site to the east, however, the site is surrounded by residential dwellings on all sides so all relationships should be considered.

Dwellings to the west – 37 Mantle Street, 3 Tottles Court and beyond

Clearly planning permission has been granted previously for the development of three dwellings on this site in broadly the same position and design. In such circumstances, it is usually held that there is a strong fallback position that the previously permitted development could occur, however, in this case the assessment of the relationship of the proposed dwellings with those dwellings to the east was based upon false information supplied by the applicant's agent. It is, therefore, considered that little weight should be given to the fallback position and the development should be considered on its own merits in respect of this particular issue.

The proposed development has a very intimate relationship with the rear garden of 37 Mantle Street. The dwellings are just 2m from the boundary at their closest, widening to 4m at the southern end of the site. The ground level of the northern section of the garden of 37 Mantle Street is considerably higher than the application site, such that it is possible to stand in the rear garden and look directly into the first floor windows of the new dwellings. Such is considered to be unacceptable.

Furthermore, the southernmost proposed dwelling is around 9.5m from the front elevation of 3 Tottles Court which faces directly towards the application site. 3 Tottles Court is at slightly higher ground level to the proposed dwelling and as such, there is direct intervisibility between this existing and the proposed dwelling at first floor level. This is also unacceptable.

There are further private gardens to the east of 37 Mantle Street which are similarly overlooked, although the degree of overlooking and associated harm reduces as the distance increases.

In response to these relationships, the applicant now proposes to install obscure glazing in the first floor windows of both proposed dwellings. This is considered to mitigate the overlooking concerns and will restore the privacy previously enjoyed by the neighbours' gardens and 3 Tottles Court.

It has been suggested in representations that the development is overbearing upon these neighbouring properties to the east. It is true that they are clearly visible from the rear garden areas and 3 Tottles Court. However, it is considered reasonable to have regard to the structures that were previously present on the application site: A former function room used to stand behind the main pub building, it was two-storey and built directly off the boundary wall. It faced north-south, with flat roof element to the north, so the gable end and side wall occupied a significant proportion of the boundary and, effectively, extended the southern part of the boundary wall height. This has now been removed and the wall is, more or less, level along the boundary.

The high section of the (now demolished) function room did not extend all the way along the eastern boundary. Therefore, the northern end of the garden of 37 Mantle Street was more open and received afternoon sun. It has been suggested that the development now blocks the sunlight and the garden is shady. This may be the case, however, in considering the lower height at the southern end to that which previously existed, on balance, it is not considered that the development is so

overbearing as to warrant the refusal of planning permission.

With the recommended obscure glazing condition attached, therefore, it is considered that the impact upon the neighbouring properties to the east is acceptable.

Dwellings to the west – 41 Mantle Street and beyond

In the case of dwellings to the west, it is considered reasonable to attach weight to the fallback position. The previous application proposed to build the development directly on the boundary wall separating the site from the neighbouring gardens. The as built development for which permission is now sought has actually been built entirely within the application site and the wall is unaffected.

No windows have ever been proposed facing the neighbours' gardens and none exist now. In light of the previous mass of the function room, it is not considered that the development would be unreasonably overbearing upon these neighbouring dwellings; it is certainly no more overbearing than the previously considered planning application.

Dwelling to the north – 1 and 2 The Gardens, Court Drive

These dwellings are affected by the single dwelling proposed under application 43/15/0083. It is not considered that the revised proposals subject to this application have an unreasonable impact upon these properties.

Other matters

It is considered reasonable to attach weight to the previous permissions in regard to their impact upon the wider highway network, parking and general design principles. The designated conservation area includes the main building fronting Mantle Street but not the developable part of the application site. It is not considered that the setting of the conservation area would be harmed by the development; in accordance with Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, it is considered that the character and appearance of the area would be preserved.

Conclusions

It is considered that the proposed development is acceptable in terms of its impact on properties to the west and north. With the imposition of a condition requiring the obscure glazing of first floor windows, it is also considered that the impact on the amenity of dwellings to the east is acceptable.

With regard to these matters, the proposal is considered to be acceptable and it is, therefore, recommended that planning permission is granted.

In preparing this report the planning officer has considered fully the implications and

requirements of the Human Rights Act 1998.

Contact Officer: Mr M Bale