

Application Number	16/2243/S73	Agenda Item	
Date Received	22nd December 2016	Officer	Mairead O'Sullivan
Target Date	17th February 2017		
Ward	Market		
Site	19 New Square Cambridge CB1 1EY		
Proposal	Section 73 application to vary condition 16 and 17 of planning permission 14/1248/FUL to allow the construction of a conservation rooflight in the rear roofscape and the window on the rear elevation at first floor level to be obscure glazed for the bottom 1.7m only.		
Applicant	Jesus College		

SUMMARY	<p>The development accords with the Development Plan for the following reasons:</p> <ul style="list-style-type: none"> - The timber screen is not considered to adversely impact on the character and appearance of the Conservation Area - The screen, restrictors and obscure glazing are considered to prevent overlooking of the courtyard of 10 Jesus Terrace - The screen is not considered to result in any significant enclosure or overshadowing of the courtyard of 10 Jesus Terrace
RECOMMENDATION	APPROVAL

1.0 SITE DESCRIPTION/AREA CONTEXT

1.1 The site is comprised of former garden land of 19 New Square. The consented new dwelling has been erected and is comprised of a two storey brick property.

- 1.2 The site falls within the Conservation Area and therefore the Kite Conservation Area Appraisal is relevant. No.19 New Square is a Grade II Listed Building. No. 10 Jesus Terrace is also a Grade II Listed Building. The site is close to the City Centre, The Grafton Centre, and to Christ's Piece. The area is predominantly residential in character.
- 1.3 The building approved under 14/1248/FUL has been substantially completed. The building is two storeys and finished in mystique brick. The dwelling addresses Elm Street and adjoins 9 Elm Street but projects further forward onto the street than no.9. 10 Jesus Terrace lies to the east of the site. This building turns the corner but principally addresses Jesus Terrace.

2.0 THE PROPOSAL

- 2.1 The application is made under section 73 of the Town and Country Planning Act 1990. The application seeks to amend conditions 16 and 17 of 14/1248/FUL. The application has been amended since submission.
- 2.2 The application seeks to allow the addition of a rooflight on the rear roof slope and amendments to the eastern window on the rear elevation. This window would be obscure glazed up to 1.7m above finished floor level to protect the privacy of no. 10 Jesus Terrace. A restrictor is to be installed to prevent the window from opening any further than 0.45m. A timber louvered screen is proposed to be attached to the roof to prevent any overlooking.
- 2.3 At the time of writing this report, the revised plans submitted require further revisions which have been agreed with the applicants. The plans as currently lodged indicate the obscure glazing is only up to 1.6m above the finished floor level. The plans are to be amended to show the glazing up to 1.7m above the finished floor level. A mock-up of the timber louvered screen was observed on site but what is shown on the current plans is longer than the mock-up. The plans are to be amended to reduce the length of the screen from the 2m shown on the plans to 1.6m. I have assessed the application on the basis of amended plans to be submitted and put before Planning Committee.

3.0 SITE HISTORY

Reference	Description	Outcome
16/2268/NMA	Non-material amendment on 14/1248/FUL to introduce a conservation style roof-light to bedroom 2	Pending consideration
15/2099/NMA	Non material amendment on application 14/1248/FUL for internal amendments to the approved plans to provide a two bedroom unit instead of three. Alterations to the existing front elevation to hand the ground floor window and front door to better utilise the space.	Approved
14/1248/FUL	Erection of 1No. 3 bedroom dwelling with associated landscaping and access, following part demolition of rear boundary wall fronting Elm Street and part demolition of side boundary wall fronting Jesus Terrace (forming the rear garden of No.20 New Square). To include a new pedestrian access via Jesus Terrace	Approved
11/1297/LBC	Phased installation of secondary glazing to existing sash and casement windows of properties 1-48 New Square (excluding properties 26, 35, 43 and 44).	Approved.

4.0 PUBLICITY

4.1	Advertisement:	Yes
	Adjoining Owners:	Yes
	Site Notice Displayed:	Yes

5.0 POLICY

5.1 See Appendix 1 for full details of Central Government Guidance, Cambridge Local Plan 2006 policies, Supplementary Planning Documents and Material Considerations.

5.2 Relevant Development Plan policies

PLAN	POLICY NUMBER
Cambridge Local Plan 2006	3/1 3/4 3/7 3/10 3/11 3/12 4/10 4/11 4/12 4/13 5/1 5/14 8/2 8/6 10/1

5.3 Relevant Central Government Guidance, Supplementary Planning Documents and Material Considerations

Central Government Guidance	National Planning Policy Framework March 2012 National Planning Policy Framework – Planning Practice Guidance March 2014 Circular 11/95
Supplementary Planning Guidance	Sustainable Design and Construction (May 2007) Cambridgeshire and Peterborough Waste Partnership (RECAP): Waste Management Design Guide Supplementary Planning Document (February 2012) Planning Obligation Strategy (March 2010)
	<u>City Wide Guidance</u> Cycle Parking Guide for New Residential Developments (2010)

	<u>Area Guidelines</u> Kite Area Conservation Area Appraisal (1996)
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5.4 Status of Proposed Submission – Cambridge Local Plan

Planning applications should be determined in accordance with policies in the adopted Development Plan and advice set out in the NPPF. However, after consideration of adopted plans and the NPPF, policies in emerging plans can also be given some weight when determining applications. For Cambridge, therefore, the emerging revised Local Plan as published for consultation on 19 July 2013 can be taken into account, especially those policies where there are no or limited objections to it. However it is likely, in the vast majority of instances, that the adopted development plan and the NPPF will have considerably more weight than emerging policies in the revised Local Plan.

For the application considered in this report, there are no policies in the emerging Local Plan are of relevance

6.0 CONSULTATIONS

Urban Design and Conservation Team

First comment

6.1 No material conservation issues.

Second comment

6.2 It is unfortunate that due to internal reconfigurations, there is an overlooking issue. This results in the need for some form of screen. This will affect the crisp lines of the property which will have a small negative impact on the character of the building. It would have been preferable if the interior reconfigurations were considered at the application stage. As the screen will not impact greatly on the character or appearance of the conservation area due to its location, on balance, the application is considered to be acceptable.

6.3 The above responses are a summary of the comments that have been received. Full details of the consultation responses can be inspected on the application file.

7.0 REPRESENTATIONS

7.1 The owners/occupiers of the following addresses have made representations:

- 9 Elm Street x2
- 10 Jesus Terrace x2

7.2 The representations can be summarised as follows:

- Window installed in breach of condition which overlooks kitchen of 10 Jesus Terrace. This is being dealt with by planning enforcement.
- A spiral staircase has been installed in the light well which will result in inter-looking with bathroom at 9 Elm Street. Request that glazing is obscured.
- Concerned that the height of cycle store to rear has increased.
- Addition of louvered screen will result in further loss of light to 10 Jesus Terrace and will impact on the appearance of the Conservation Area.

7.3 The occupier of 9 Elm Street has also sent in photographs of the staircase and the re-built outbuilding to the rear. These can be viewed on the application file.

7.4 The above representations are a summary of the comments that have been received. Full details of the representations can be inspected on the application file.

8.0 ASSESSMENT

8.1 From the consultation responses and representations received and from my inspection of the site and the surroundings, I consider that the main issues are:

1. Background
2. Context of site, design and external spaces and impact on heritage assets
3. Residential amenity
4. Third party representations

Background

- 8.2 The new dwelling was approved at Planning Committee on 5th November 2014 (14/1248/FUL). Following this approval a Non-Material Amendment application (15/2099/NMA) was granted by officers. This permitted some minor fenestration changes, a reduction in the number of bedrooms from 3 to 2 and subsequent alterations to the floor plans.
- 8.3 The revised floor plans, subsequent to the loss of one bedroom, result in the window on the rear elevation adjacent to 10 Jesus Terrace serving a bedroom rather than a bathroom, as was originally permitted. Condition 17 of 14/1248/FUL states that this window will be obscure glazed and fixed shut in perpetuity. The condition was imposed to protect the privacy of the occupier of 10 Jesus Terrace as the window directly overlooks the small courtyard which serves as the only outdoor amenity space for this property. A clear open-able window was installed here which was reported to our enforcement team.
- 8.4 Subsequent to an investigation by planning enforcement, this section 73 application was submitted. Originally the application proposed to partially obscure glaze the window and include over-ridable restrictors. As this window is now proposed to serve a bedroom, the window needs to open to comply with building regulations. The proposed restrictors could be easily overridden by pushing hard on the window. As a result we did not feel that this solution was enforceable as occupiers could easily open the window to its full extent which would result in the ability to look directly into the garden of 10 Jesus Terrace.
- 8.5 The applicant then suggested that rather than have the windows on over-ridable restrictors the window could be on fixed restrictors. To comply with building regulations the windows need to be able to open a minimum of 0.45m to meet with the requirements for means of escape. The restricted windows would allow a very small gap which results in some ability to see into the neighbouring courtyard. Whilst this would be very limited, given the presence of the condition requiring the window to be fixed shut in perpetuity, it was not considered to adequately prevent overlooking. As a result the applicant has proposed a small timber louvered screen which would infill this gap and prevent any ability to look into the courtyard of 10

Jesus Terrace. A mock-up of the screen was installed and viewed on site prior to the submission of the revised plans.

8.6 During the consideration of the section 73 application and additional application for a Non-Material Amendment (16/2268/NMA) to allow an additional rooflight in the rear roof slope was submitted. As condition 16 does not allow any new windows to be constructed without consent from the planning authority it was not possible to deal with this addition via a non-material amendment application as in this instance the additional roof window was considered to be a material change. As a result this additional window is to be considered as part of this application.

8.7 Conditions 16 and 17 are proposed to be amalgamated and the new condition would read:

Notwithstanding the provisions of Classes A, B and C of the Town and Country Planning (General Permitted Development) Order 2015 (or within any order revoking and re-enacting that Order with or without modifications) no windows or dormer windows shall be constructed at or above first floor level in the dwelling unless non-opening and fitted with obscure glass (to a minimum level of obscurity to conform to Pilkington Glass level 3 or equivalent) to a minimum height of 1.7 metres above the internal finished first floor level.

Reason: To protect the amenity of adjoining properties. (Cambridge Local Plan 2006 policies 3/4 and 3/14)

Context of site, design and external spaces and impact on heritage assets

8.8 The proposed louvered screen would be visible from Jesus Terrace. However the structure is small and the material palette would complement the existing building. The Conservation Officer has not raised an objection to the proposal although she does note that the screen will have a small negative impact on the new building as it will add clutter and detract from its clean lines. I accept that the screen would detract from the appearance of the building but as this is limited and as the screen would protect the privacy of the adjoining courtyard, I consider this element to be acceptable.

- 8.9 The proposed additional rooflight would not be highly visible from the public realm and would not have an adverse impact on the character and appearance of the Conservation Area or adjacent heritage assets.
- 8.10 In my opinion the proposal is compliant with Cambridge Local Plan (2006) policies 3/4, 3/7, 3/11, 3/12, 4/11 and 4/12.

Residential Amenity

Impact on amenity of neighbouring occupiers

- 8.11 The primary concern is the impact of the proposed amendments to the rear window on the privacy of 10 Jesus Terrace. The eastern-most window on the rear elevation looks directly towards the courtyard of 10 Jesus Terrace which is an enclosed, well-used space that provides the only private outdoor amenity to this occupier. The importance of protecting the privacy of this space was recognised by the case officer on the original consent and as a result condition 17 requiring this window to be obscure glazed and fixed shut was imposed to prevent any overlooking from this window.
- 8.12 As noted above, the proposal to have the window on over-ridable restrictors was not considered to adequately respect the privacy of this space. As the window could easily be pushed open and then returned to the restricted position if an enforcement officer came to investigate.
- 8.13 The proposal to have the window on fixed restrictors, which would only allow the window to open 0.45m was considered to be an improvement as this would only allow limited views of the courtyard. However, as condition 17 sought to ensure that this window was fixed shut and obscure glazed to prevent any overlooking of this space, the limited views possible under this arrangement were not considered acceptable.
- 8.14 The applicant has considered this issue and submitted a proposal for a timber louvered screen which would be attached to the flat single storey roof of the building. This screen is shown on the plans to measure 2m x 0.4m. The screen observed on site was 1.6m in length and this was considered to adequately screen views of the courtyard. As a result the applicant has stated their intention to provide revised plans prior

to committee showing the screen length at 1.6m. The application has been assessed on the basis that the screen length is to be 1.6m in length by 0.4m in height. I will report the submission of the revised plan via the amendment sheet.

- 8.15 As noted above, a mock-up of the proposed timber screen was viewed on site. The timber screen would block off the gap created when the window is opened which allows views into the courtyard. This screen accompanied by the obscure glazing, and restrictors is considered to prevent any views to the courtyard and adequately respect the privacy of 10 Jesus Terrace.
- 8.16 I have visited the courtyard of 10 Jesus Terrace and note that it is a small enclosed space but clearly well used. The occupier of 10 Jesus Terrace has objected to the proposal for the screen as they consider the screen would result in further loss of light to their courtyard. I accept that it is not ideal to have to attach additional bulk to the flat roof to protect the privacy of this occupier, however given the minimal scale of the screen, I do not consider it would result in any significant further loss of light to this occupier.
- 8.17 The occupier of 9 Elm Street has also objected to the proposals. Their main concern relates to loss of privacy from the positioning of the spiral staircase behind the large window in the projecting side element to the front of the property. The nearest first floor window of 9 Elm Street, perpendicular to the glazing on the application site, serves a bathroom window. The occupier is concerned that users of the stairs would be able to look directly into the bathroom.
- 8.18 Originally, on the plans approved as part of 14/1248/FUL, the stairs were proposed to be positioned in the middle of the building with a wall separating the glazed front wall. The revised layout moving the stair to the new location inside the light well was approved as part of 15/2099/NMA. I have visited the application site and 9 Elm Street. I note the concerns of the applicant however I do not consider that occupiers of the new building will have views into this bathroom. The views possible when moving up the stairs are very limited given the floor levels of 9 Elm Street. Users of the stairs will only be passing along this space and it will not be a window where occupants would stop and look out. Whilst I understand the concerns and

perception of being overlooked, I am satisfied that any inter-looking would be very limited and that the staircase location accepted under 15/2099/NMA is considered acceptable.

- 8.19 The occupier of 9 Elm Street has also raised concerns regarding the height of the rebuilt outbuilding to the rear of the new building. This outbuilding was existing and was restored as part of the application. I note that the height of the building appears to have increased. However, I believe that this is due to the fact that the building has been in disrepair with a sagging roof. I have examined the photographs submitted by the occupier of 9 Elm Street and inspected the outbuilding on site. I am satisfied that any increase to the outbuilding height is as a result of the repair works and the repaired building is not significantly taller than the unrepaired building.
- 8.20 In my opinion the proposal adequately respects the residential amenity of its neighbours and the constraints of the site and I consider that it is compliant with Cambridge Local Plan (2006) policies 3/4 and 3/7.

Amenity for future occupiers of the site

- 8.21 The obscure glazing and restricted window opening for this bedroom would reduce light to this room. However, an additional rooflight is proposed to serve this room. As a result I am satisfied that the proposed alterations would not harm the amenity of future occupiers and the proposal is considered acceptable in this respect.
- 8.22 In my opinion the proposal provides a high-quality living environment and an appropriate standard of residential amenity for future occupiers, and I consider that in this respect it is compliant with Cambridge Local Plan (2006) policies 3/7 and 3/12.

Third Party Representations

- 8.23 I have addressed the third party representations within the body of my report.

9.0 CONCLUSION

- 9.1 I consider that the combination of the louvered screen, obscure glazing to the lower part of the window and the restrictor, will prevent overlooking of the courtyard of no. 10 Jesus Terrace. The louvered screen is minimal and is not considered to result in any significant further enclosure or loss of light to the courtyard of 10 Jesus Terrace. The screen would be visible from the street but its impact would be minimal on the character and appearance of the Conservation Area and adjacent heritage assets.

10.0 RECOMMENDATION

APPROVE subject to the following conditions:

1. The development hereby permitted shall be carried out in accordance with the approved plans as listed on this decision notice.

Reason: In the interests of good planning, for the avoidance of doubt and to facilitate any future application to the Local Planning Authority under Section 73 of the Town and Country Planning Act 1990.

2. The Landscaping and boundary treatments agreed under 14/1248/COND7, 14/1248/COND8 and 14/1248/COND9 shall be implemented and maintained in accordance with the approved details.

Reason: In the interest of visual amenity and to ensure that suitable landscaping and boundary treatment are provided and maintained as part of the development (Cambridge Local Plan 2006 policies 3/4, 3/11 and 3/12).

3. Notwithstanding the provisions of Classes A, B and C of the Town and Country Planning (General Permitted Development) Order 2015 (or within any order revoking and re-enacting that Order with or without modifications) no windows or dormer windows shall be constructed at or above first floor level in the dwelling unless non-opening and fitted with obscure glass (to a minimum level of obscurity to conform to Pilkington Glass level 3 or equivalent) to a minimum height of 1.7 metres above the internal finished first floor level.

Reason: To protect the amenity of adjoining properties.
(Cambridge Local Plan 2006 policies 3/4 and 3/14)

4. Prior to the occupation of the dwelling the louvered screen, obscure glazing and restrictors, as detailed in drawing no. PL (21)03 (to be updated following revised plan), shall be installed and thereafter maintained in place in accordance with the approved details.

Reason: In the interests of residential amenity (Cambridge Local Plan 2006 policies 3/4 and 3/12).

5. Prior to the installation of the louvered screen, a sample of the materials to be used in the screen shall be submitted to and approved in writing by the Local Planning Authority. The screen shall be installed in accordance with the approved details and thereafter maintained.

Reason: In the interest of visual amenity (Cambridge Local Plan 2006 policies 3/4, 3/11, 3/12 and 4/11).