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Date: 14th July 2011
Our Ref: 11/02513/COND

Ms J Wilson
4 Portland Place
Bath
BA1 2RU

Dear Ms Wilson

**Ref The Shrubbery, Portland Place, Bath
11/02513/COND**

I have now had the opportunity to visit the site following our meeting on 6th July 2011. I will not deal with your complaint about how this case has been handled in this correspondence as this will be subject to a reply under separate cover through the Council's Corporate Complaints Procedure. Here I will only deal with the planning and highway merits of what has been built on site.

I appreciate that you have experienced some difficulties in attempting to deal with the situation but the following views are based upon the planning merits of what exists on site when compared with the approved details. I have made some suggestions in terms how you could consider regularising the situation.

It is not possible for us to discharge condition number 10 of application reference 09/00367/FUL under the application 11/02513/COND. This is because the work that has taken place on site is, as a matter of fact, different, from that shown on the approved plans. The approved plans indicate two wooden gates to form the access with a relatively wide section of wall between the wooden gates and the footpath along side the electricity substation.

There are two issue to consider here. Whether the development, as it has been built on site, is acceptable in highway safety and appearance terms; and what to do in relation to the application to discharge the condition that is with us.

My view is that it would not be safe to drive a vehicle over the shrubbery. You say you do not want to do this but the wooden gates as built would allow this to happen if opened, although in my view the steepness of the camber from the parking space to the footpath would make it difficult to cross the footway without damaging the front of any car. I do not think it would be possible for any emergency vehicle to drive through the parking space onto the Shrubbery and have been advised

that the fire service would not attempt to drive a vehicle through the parking space but would approach the house on foot. There is no justification (and no additional risk to your wellbeing as a result) for any vehicular access through the parking space.

The loose surface used for the surface of the parking space is unacceptable and contravenes the requirements of condition 10 of permission 09/00367/FUL. The surface needs to be of a bound material. You will need to ensure that water does not run off the site onto the public footpath where it would create a nuisance and hazard, especially in freezing weather.

The appearance of the wooden doors as built is acceptable (I will comment on the stone used below).

I suggest that you withdraw the current application (11/02513/COND) and resubmit an application to vary condition 10 of permission 09/00367/FUL. You should seek to vary the condition to allow the retention of the three wooden gates. You were unhappy with my suggestion to place a bollard in front of the parking space to preclude vehicular access across The Shrubbery, when we spoke on Tuesday, unless you also had a key. As I explained this would preclude the point of locking the bollard as any occupier of the house could remove it at will and therefore drive across The Shrubbery. I therefore suggest that you indicate on the revised plans that the two wooden gates to the left of the pedestrian gate (when viewed from The Shrubbery) are revised to make them a non opening wooden fence panel. There is no safe way to drive across the footpath because of potential danger to pedestrians, potential damage to any car and because the emergency services would not be able to drive through the parking space in any case.

I can see no reason why you would not consider revisions in light of your clear statement that you do not wish to drive over the footpath. This measure would also preclude any future occupier from attempting to drive across the path.

You need to ensure that the correct surface is used for the parking space and ensure that water does not drain onto the footway.

I would be grateful if you would confirm your views in relation to these suggestions within 21 days of the date of this letter.

Turning to the stone that has been used for the house and boundary wall.

As a matter of fact, the stone that has been used does not match the stone that formed the sample panel that was viewed on site prior to the relevant condition being discharged. We have a photographic record of this sample panel and any reasonable person would, in my view, agree that the stone that has actually been used is far more orange than the approved sample.

So we need now to consider whether the alternative stone is acceptable in terms of the location of the site within the World Heritage Site, Conservation Area and in close proximity to several listed buildings.

In my view it is not. The colour jars with the natural Bath stone surrounding the site and is harmful to the character and appearance of this part of the Conservation Area and World Heritage Site. I do not believe that it will fade to Bath stone shades as you suggest. It is necessary for the Local

Planning Authority to consider whether it would be expedient to take enforcement action in relation to such a breach. In my opinion, since there are no clear public views of the house and because of the specific design which incorporates large glazed sections and single storey elements, I do not think it would be expedient to seek the replacement of the stone on the house. However, if this matter is considered by the Development Control Committee the Members may reach a different conclusion.

I do not have the same view in relation to the boundary wall which runs, for some length, along a busy public footpath.

My suggestion is that you consider discussing further with us how the prominence of the orange stone can be reduced in order to ensure an appropriate match with the surrounding stone.

In this regard, I invite you to submit some informal proposals to us for further consideration. You may wish to obtain some planning advice from a heritage expert in this regard.

Please confirm whether this would be your intention within 21 days of the date of this letter.

If you do not wish to consider my suggestions, I will prepare a report for the Council's Development Control Committee to address not only the concerns regarding the stone but also the parking space. The report will include any comments that you may wish to submit to the Planning Authority although we will only be able to consider material planning comments and not concerns raised in relation to how you consider the case has been dealt with. In the event that such a report is necessary you will also have the opportunity to attend the relevant committee meeting and make a statement to Members before they debate the issues.

I very much hope that this will not be necessary as I believe that with some amendments you should be able to regularise the scheme which will satisfy concerns relating the harm being caused in relation to the detrimental impact upon highway safety and the character and appearance of the Conservation Area, World Heritage Site and nearby listed buildings

Please respond to Victor Oyewole, Senior Enforcement Officer at this office by 4th August 2011.

Yours sincerely

Lisa Bartlett
Development Manager

Cc Victor Oyewole