

**OXFORD CITY COUNCIL PLANNING PERMISSION ref. 20/02631/FUL  
APPLICATION TO VARY CONDITION NO.7**

In order to comply with the planning officers' interpretation of OCC policy M3, during the planning negotiation process the site plan was amended to remove the parking space in front of one of the houses. This was the only way to make the design acceptable to the officers and secure planning permission. So on the approved site plan drawing ref.348.P.003D, one parking space is shown within the curtilage of house no.1, whereas house no.2 has no parking space within its curtilage.

The issue is that, if one house has no parking space, the development cannot comply with the accessibility requirements in the Building Regulations and so will not be able to be built and occupied. The need to stick with the approved site plan is laid down in planning condition no.7, which specifically requires the landscaping of the front gardens to be designed and built to prevent any further parking within the curtilage: that is why we are seeking to vary that condition.

Condition no.7 states:

***Notwithstanding the approved plans, prior to the occupation of the approved dwellinghouses, full details of the proposed layout of the front gardens, including boundary treatments shall be submitted to and approved in writing by the Local Planning Authority. Work shall then only be carried out in accordance with the approved details and the approved plans and the approved layout and boundary treatments shall be installed prior to the first occupation of the approved dwellinghouses. Notwithstanding the provisions of Part 2, Class A of Schedule 2 of the Town and Country (General Permitted Development) Order 2015 ( as amended) or any order amending or re-enacting those provisions the approved boundary treatments shall be retained and maintained at the approved height in perpetuity.***

***Reason: To ensure additional cars cannot be parked on the site and ensure the proposal is compliant with Policy M3 of the Oxford Local Plan 2036.***

Part M of the Building Regulations, Part M4(1) is the most basic provision required for visitable buildings. This starts with the requirement that:

***Reasonable provision should be made for people to a)gain access and b) use the dwelling and its facilities.***

It then requires that:

***a. Within the curtilage of the dwelling or the building containing the dwelling, it is possible to approach and gain access to the dwelling.***

***b. It is possible to gain access to the dwelling or the building containing the dwelling, from the most likely point of alighting from the car.***

And:

**1.2 Where parking is not provided within the curtilage, the provisions apply to the approach route between the dwelling and the nearest point at which a visitor, including a disabled person, would expect to get in and out of a car. This point of access may be within or outside the plot of the dwelling, or the building containing the dwelling (such as a block of flats). These provisions do not apply beyond the curtilage of the development.**

As was demonstrated within the planning application, the owners of the development site do not have control over the shared private drive or the area where the drive widens directly in front of house no.2, as shown hatched on the approved plan 348.P.001B. This has a covenant on it which means cars cannot be parked there with certainty. Any visitor to house no.2 cannot park on the lane or anywhere nearby; the closest available parking is located on Squitchey Lane approximately 100m from the development red line boundary. The private driveway itself is topped with loose gravel which is not a viable ground surface to enable wheelchair users to approach a dwelling. This means that unless the visitor can park within the development area, the house will not comply with Building Regulations and so is unbuildable.

This is obviously very serious, effectively rendering the permission null and void, and this is the issue we seek to remedy with this application for a variation of condition no.7. But we do not consider that allowing a parking space in front of house no.2 would contravene policy M3.

Policy M3 was interpreted by the planning officers to mean that, as a car-free development, the second house cannot have any on-site parking allocated to it. However, there is provision under Policy M3 to allow parking for the purposes of accessibility:

Supporting paragraph 7.27 for policy M3 defines car-free development as follows:

***Car-free development means that no car parking spaces are provided within the site other than those reserved for disabled people, car clubs and operational uses.***

Policy M3 states:

***The need for disabled parking must be considered in all residential developments in accordance with the standards set out in Appendix 7.3.***

Appendix 7.3 states:

***Provision for disabled parking will be considered on a case by case basis and be determined through pre-application meetings/planning applications... Where disabled parking is provided it should have level access to, and be within 50 metres of the building entrance which it is intended to serve.***

These provisions recognise the importance of accessibility, in line with the City Council's wishes as outlined in para. 3.49 of the Local Plan 2036: Achieving mixed and balanced communities requires the City Council to plan for people's different needs. The City Council wishes to see new homes built that are accessible to all who may wish to live in them, and visit them, including those with disabilities. This being the case, including a parking space on this site in order to comply with the Building Regulations on disabled access, does comply with Policy M3.

We recognise and support the City Council's commitment to reducing air pollution and congestion in the city and understand that car-free developments are one of the tools used to achieve these commendable aims. However, on this particular site, to provide no car parking spaces for a house directly conflicts with commitments to accessibility and legal requirements under the Building Regulations. This is due to the unusual nature of this site, being situated as it is down a long gravel driveway, with ownership and control of that driveway out of the control of the owner of the development site, and without any street parking within a distance of 50m. These exceptional circumstances mean that in this instance, provision of a single additional parking space for each house is necessary to achieve compliance with Requirement M4(1) of the Building Regulations, and thereby also comply with Policy M3 with its clear provisions for the consideration and inclusion of disabled parking.

On this basis, we are applying for the wording of condition no. 7 to be varied as follows or similar to be agreed:

***Notwithstanding the approved plans, prior to the occupation of the approved dwellinghouses full details of the proposed layout of the front gardens, including one disabled parking space for each dwellinghouse and the boundary treatments, shall be submitted to and approved in writing by the Local Planning Authority. Work shall then only be carried out in accordance with the approved details and the approved plans and the approved layout and boundary treatments shall be installed prior to the first occupation of the approved dwellinghouses. Notwithstanding the provisions of Part 2, Class A of Schedule 2 of the Town and Country (General Permitted Development) Order 2015 ( as amended) or any order amending or re-enacting those provisions the approved boundary treatments shall be retained and maintained at the approved height in perpetuity.***

***Reason: To ensure no additional parking is possible outside the necessary disabled parking spaces for each house and so ensure the proposal is compliant with Policy M3 of the Oxford Local Plan 2036.***