

Friends & Residents of Orville Gardens (FROG)

The Tudor Cottage Saga

The long-running planning saga of Tudor Cottage (5 Orville Gardens) eventually reached a highly successful conclusion at the end of May. Things started over a year ago when First City Rentals, who had bought the property following the death of the previous long-term owner, applied to demolish it and build a pair of totally inappropriate semis which could have accommodated 18 students. This application was withdrawn after vigorous opposition from the newly-formed FROG group, along with local councillors and others, and actually can never have had a serious chance of being approved.

Then in September a new application was submitted, to add a large extension to the existing house as well as convert an outbuilding. This time the application was submitted as a householder application in the name of one of the directors of the company. FROG again objected strongly but the application was clearly a harder one to fight as on the whole it would, with minor amendments, comply with the physical planning requirements for the conservation area. Our objections of course related mainly to its potential future use, but as it was presented as a householder application we were at that stage advised by all parties (including Cllr Martin Hamilton, who was nevertheless extremely supportive throughout the process, and David Jones, the CIT Planning Officer) that we would not succeed in making an issue of potential use, even though it was still owned by First City Rentals, who are in that line of business. Nevertheless we pursued our objections on that basis, and the application was not taken to the Planning Panel in December as had originally been expected.

There then followed a lengthy delay, during which things gradually moved in our favour. Firstly, we learned that the Council was asking the owner to enter into a unilateral legal undertaking that the property would only be used for single family occupation, and then that the owner had agreed to this; the undertaking was drafted by their solicitors and approved by the Council's Legal Department. The application missed a couple more panels, which caused us some concern, before finally being scheduled for the end of May. Matters suddenly took on greater urgency when the property was put up to be auctioned on 3rd June, and it became vital that the planning position was resolved before that so that prospective purchasers were under no illusions as to what they could do with the property. In correspondence (all by e-mail) with the Planning Officer and with further input from Cllr Hamilton we had sight of the proposed conditions and were able to comment on these and put forward some suggestions for strengthening them, and when the Panel report became available we found that most of our concerns had been addressed.

Nevertheless we took up our right to speak to the Panel meeting in late May, and I presented our objections. This proved to be highly effective – not least because before this application was considered, Madeline Joy was discussed. After listening to that discussion, I amended my prepared statement and requested a couple of additional conditions. The Panel were very supportive of our views and were extremely concerned about the way in which the

property had been advertised for auction, which gave a very misleading impression of the planning position, and they fully appreciated the urgency of the situation. They delegated the final wording of the conditions to the officers; the Chair explicitly stated that the matter was to be finalised before the auction, and that the outcome they were looking for was that it would be impossible for the property ever to be used as student housing.

There then followed final consultation with the local councillors about the wording of the conditions, and again as a result of Cllr Hamilton's help FROG was also able to have some significant input here. For example, the Planning Officer suggested to the Councillors that there were two alternative conditions relating to future use, and our comment was, why can't we have both of them? And that's what was decided! We were also even able to get a further condition added in at this late stage, although it hadn't been raised before, regarding the retention of a boundary wall (to make it impossible to create multiple parking spaces).

So, what was the final outcome? Apart from conditions relating to the physical aspects of the development, there were three significant ones relating to future use, which say that (these are not the precise wordings):

- ? the extension and the outbuilding can only be occupied by people who are related to the owner or principal tenant of the existing property
- ? the property cannot be occupied by full-time students unless living with their parents
- ? the property (including the outbuilding) is limited to a maximum of six bedrooms.

So the first one of these effectively rules out multi-occupancy by non-students, while the second one explicitly rules out student use (even by a particularly large family group of students!), apart from students living in the family home – this second one is the one that we “borrowed” from Madeline Joy, i.e. it wasn't in the report that went to the Panel.

In addition, there is the voluntary legal undertaking. The value of this, as we understand it, is that it applies to the whole property, whereas planning conditions can only apply to the development (i.e. the new parts). That's what we were told anyway, although interestingly the second and third of the conditions above do actually apply to the whole property. The legal undertaking has been registered against the property, is binding on all future owners (unless and until released by LCC) and can be enforced through the courts, and essentially adds additional protection against student/multiple use.

So overall, we ended up with a planning outcome that was far more favourable to local residents than we had been told would be possible only a few months earlier – apparently these are the most restrictive conditions yet applied to a grant of permission in the area. As a result of our opposition, First City Rentals have given up and tried to sell it – the only problem now is that it's no longer of any interest to landlords and developers, but First City Rentals had already gutted the house in expectation of being able to go

ahead, and the price they are asking now is excessive for the property in its current condition, so it failed to sell at auction and as far as we know remains unsold!

There are some valuable lessons here for other residents who want to fight applications:

- ? use your local group/association, and if there isn't already a relevant group, form one!
- ? make sure that your objections (group and as many individual as possible) are logged on time, to ensure that the planners know there are objections – these can then be developed and added to as matters progress
- ? get your local councillors on board – this was very useful for us, both for gaining an initial wider understanding of many of the issues, and later as a source of information about progress, and to help put pressure (when necessary) on the planners
- ? establish a good relationship with the planning officer(s) dealing with the case; we found that they were essentially very supportive of us, and were more than happy to take on our suggestions about possible conditions and detailed wordings. We were also able to give them information (e.g. about the auction) that they were not aware of, but which strengthened their views on the matter. Initially they did seem to feel quite constrained by what they considered the law allowed them to do, but over the months that this case dragged on they really strengthened their position, and hopefully this will have set something of a benchmark for dealing with future applications
- ? make use of the CIT Planning Officer
- ? use ASHORE – as this has not been formally adopted yet, we had been concerned that we would not be able to use it, but in fact both officers and Panel councillors seemed to proceed as though it was already in place
- ? ask (and get your councillor to ask) that the application goes to Panel; if it does, take up the right to speak to them, and don't be afraid to ask for more than the officers might have proposed in their report. We had a very sympathetic hearing, and as we discovered, it's possible to get conditions significantly strengthened even at that late stage (and indeed afterwards!)
- ? consider using the media (we did at an early stage, and later the YEP reported the panel decision on this case even though we hadn't asked them to).

We would be more than happy to share our experience further with any other local residents/groups who want to fight a planning application – please contact me by e-mail:

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Chair, FROG
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