

Roselyn, School Lane, North Newington

12/01389/F

Ward: Sibford

District Councillor: Cllr Reynolds

Case Officer: Shona King

Recommendation: Approval

Applicant: Mr N D Price

Application Description: Removal of garage and erection of 1 No. dwelling

Committee Referral: Employee Application

1. Site Description and Proposed Development

- 1.1 The site is part of the rear garden of Roselyn, a chalet bungalow which has a dual frontage with School Lane and Park Lane in North Newington. The application site is to be accessed from an existing vehicular access off Park Lane and Roselyn is to retain the vehicular access off School Lane. It is bounded to the west by another garden and to the east by a stone wall and beyond a public footpath known as 'The Jitty'.
- 1.2 The site abuts the Conservation Area, the boundary of which runs along 'The Jitty' and the southern boundary of the site with Park Lane.
- 1.3 The proposal is to demolish an existing prefabricated single garage on the site and construct a two bedroom dwelling. It is to be constructed from natural stone and grey/brown plain tiles. Parking is to be provided within the site and the stone wall forming the boundary with 'The Jitty' is to remain.
- 1.4 A row of large conifers along the eastern boundary are to be felled along with a multi-stemmed cherry within the site. All other trees are to be retained.

2. Application Publicity

- 2.1 The application has been advertised by way of neighbour letters, site notice and press notice. The final date for comment was the 12th November 2012.

8 letters have been received. The following Issues were raised:

- Loss of existing parking
- Additional parking and congestion in Park Lane
- Reduction in emergency access and access for deliveries
- Impact on the Conservation Area and listed buildings
- Impact on the Jitty – public right of way
- Overdevelopment
- Loss of trees
- Loss of light to property
- Loss of views

- Not affordable housing
- Previous works carried out without planning permission
- Increase in risk of flooding
- Overlooking
- Loss of dry stone wall
- Loss of trees as habitat for wildlife
- Discrepancies between plans and statements
- Out of character with Park Lane
- Highway safety/safety of school children using Park Lane and The Jitty
- Precedent for further development
- Impact on residents during construction works

3. Consultations

- 3.1 **North Newington Parish Council:** The Parish Council is supportive of this application but is mindful of the parking issues in Park Lane. This application does have access already though and should not add to the problem.

Cherwell District Council Consultees

- 3.2 **Head of Strategic Planning and the Economy - Conservation Officer:** The application looks to remove a garage and erect a dwelling within the grounds of Roselyn house, School Lane. The property sits just outside the current conservation area, near listed buildings and within the centre of this historic hamlet. School Lane runs almost in parallel to Park Lane, both of which run along the contours of the valley.

It is believed that the former manor house (now part of Manor Farm) was located at the end of Park Lane, with the formal gardens located behind the low level boundary stone wall. This park (formal garden) ran down to School Lane. The cottages in the surrounding location confirm this layout. The current infill development has taken into account both the historic trees and the views from Park Lane over the park. The houses are set low and at present, the current historical interpretation can just about be identified and read.

The proposed application looks to remove more of this historic and important stone boundary wall and increase the development within this historic park. The location and scale of the property will start to block the important vistas across the former park land. This is deemed to have significant impact on the character of the area and on the setting of the neighbouring listed/ historic buildings.

It is acknowledged that the design of the property has taken into account the local vernacular design and massing, but I feel that the further encroachment to this historic park land does not preserve or enhance the area.

Recommendation – Refuse. The applicant has taken into account the close location of the conservation area, but has not taken into account the archaeological evidence and heritage around the area. There is particular concern over the loss of the boundary wall which is included within the conservation area. The loss of this wall does not comply with C22 & C23 of the Cherwell Local Plan (1996) It is deemed that the further infilling along Park

Lane will cause harm to the setting of the listed buildings, including Park Farm (as the manor would have a more formal entrance) which would include open views to the surrounding area. - C18/ C20. With this in mind, it is deemed under NPPF (para 129) that the impact of the proposal on the heritage assets - the park, boundary wall and the adjacent listed buildings, would be detrimental.

- 3.3 **Head of Urban and Rural Services - Landscape Officer:** It is proposed that seven conifer trees and one multi-stemmed cherry are removed. These are not significant specimens.

Two trees are to be retained, a eucalyptus and a holly. The proposed building will not have an impact on either tree as the footprint falls outside the root protection zones for both trees. The root protection zone for the eucalyptus tree is approximately equivalent to a circle with a radius of 2.70m. The root protection zone for the holly tree is approximately equivalent to a circle with a radius of 1.5m.

There is some groundwork proposed within the root protection zone of the eucalyptus tree: including the bin store, part of the patio and the northern corner of the northern most parking space. In order to maintain the eucalyptus tree in good health this work, where possible, should be carried out using no dig construction techniques. In addition, to prevent incursion into the root protection zone during the construction of the building, it would be good practice to erect protective fencing around the root protection zones of both trees.

Recommendation - The Applicant should provide details of protective fencing around the trees to be retained. This should be in accordance with BS5837: Trees in relation to construction 2012. Proposed groundworks within the root protection zone of the Eucalyptus tree where possible should be carried out using no dig techniques.

- 3.4 **Head of Urban and Rural Services - Rights of Way Officer:** North Newington Footpath No. 20 (315/20/10) runs along the eastern boundary of the site but it is not affected by the proposed development.

- 3.5 **Head of Urban and Rural Services - Ecologist:** The garage and nearby trees/bushes which would need to be removed to implement this permission are not suitable for use by bats but may be used by nesting birds, therefore the following informative should be attached to any permission:

Birds and their nests are fully protected under the Wildlife and Countryside Act 1981 (as amended), which makes it an offence to intentionally take, damage or destroy the eggs, young or nest of a bird whilst it is being built or in use. Disturbance to nesting birds should be avoided by carrying out vegetation removal outside the nesting season, which is March to August inclusive.

Oxfordshire County Council Consultees

- 3.6 **Highways Liaison Officer:** No objections subject to access to specification and retention of parking and manoeuvring areas. NB The access to Park Lane exists as does the parking and garage.

- 3.7 **Drainage Officer:** The developer should be made aware of the requirements of the Flood and water Management Act 2010. Suds will be required on this development. Roof water should outfall into a suitably designed and effective soakaway. Any new hard standing area should be permeable or drain to an effective soakaway. Construction details of the vehicle standing will be required prior to construction.
- 3.8 **Archaeologist:** The proposal does not appear to have an invasive impact upon any known archaeological sites or features. As such there are no archaeological constraints to this scheme.

Other Consultees

- 3.9 **Thames Water:** Surface Water Drainage - With regard to surface water drainage it is the responsibility of a developer to make proper provision for drainage to ground, water courses or a suitable sewer. In respect of surface water it is recommended that the applicant should ensure that storm flows are attenuated or regulated into the receiving public network through on or off site storage. When it is proposed to connect to a combined public sewer, the site drainage should be separate and combined at the final manhole nearest the boundary. Connections are not permitted for the removal of Ground Water. Where the developer proposes to discharge to a public sewer, prior approval from Thames Water Developer Services will be required. Reason - to ensure that the surface water discharge from the site shall not be detrimental to the existing sewerage system.

Thames Water would advise that with regard to sewerage infrastructure we would not have any objection to the above planning application.

Water Comments - On the basis of information provided, Thames Water would advise that with regard to water infrastructure we would not have any objection to the above planning application.

- 3.10 **Environment Agency:** We have assessed this application as having a low environmental risk and we have no objection to the above proposal

4. Relevant National and Local Policy and Guidance

4.1 Development Plan Policy

Adopted Cherwell Local Plan (Saved Policies)

H14 : Category 2 Settlements

C13: Area of High Landscape Value

C23: Retention of features which contribute positively to a Conservation Area

C27: Development in villages to respect historic settlement pattern

C28: Layout, design and external appearance of new development

C30: Design of new residential development

C33: Protection of important gaps of undeveloped land

South East Plan 2009

CC1: Sustainable development
CC6: Sustainable Communities & Character of the Environment
BE6: Management of the historic environment

4.2 Other Material Policy and Guidance

National Planning Policy Framework

Cherwell Local Plan - Proposed Submission Draft (May 2012)

The Local Plan (August 2012) has recently completed the period of public consultation. Although this plan does not have Development Plan status, it can be considered as a material planning consideration. The plan sets out the Council's strategy for the District to 2031. The policy listed below is considered to be material to this case and is not replicated by saved Development Plan policy:

Policy Villages 1: Village Categorisation

5. Appraisal

5.1 The key issues for consideration in this application are:

- Policy
- Impact on the visual amenities of the area and on the setting of the of the Conservation Area and nearby listed buildings
- Impact on neighbour amenities
- Impact on highway safety

Policy considerations

- 5.2 Policy H14 of the adopted Cherwell Local Plan is relevant in the determination of the application. This policy covers new residential development in category 2 settlements which includes North Newington. New development in North Newington is restricted to conversions, infilling and other small scale development that can be shown to secure significant environmental improvement within the settlement.
- 5.3 Whilst the development of the application site does not strictly comply with Policy H14 in that it could be argued that it does not comprise infilling. The adopted Cherwell Local Plan regards infilling to be the development of a small gap in an otherwise continuous built up frontage suitable for one or two dwellings. School Lane and Park Lane run roughly parallel to each other with dwellings fronting onto and accessed from School Lane with their rear gardens onto Park Lane. The application site sits adjacent to other dwellings which form a continuous built-up frontage with Park Lane, and due to the layout of the dwellings accessed from School Lane it also forms a continuous line of dwellings with those dwellings to the west of the site.
- 5.4 The Proposed Submission Draft Local Plan is more strict with regards to residential development in small villages such as North Newington. This Plan states that such development is to be restricted to conversions only. Whilst this is a material consideration the Plan does not have Development Plan status but

it shows the Council's intended direction of travel for development and currently carries little weight in the determination of this application.

Impact on the visual amenities of the area and on the setting of the of the Conservation Area and nearby listed buildings

- 5.5 The development is considered to be of an acceptable design which is in keeping with other properties in Park Lane. It is to be constructed from natural stone and is of a scale compatible with other dwellings in the immediate vicinity.
- 5.6 The proposed dwelling is located immediately adjacent to the boundary of the Conservation Area and will therefore have an impact on its character. However in the HPPDM's opinion due to the scale, positioning within the site, design and proposed materials it will preserve the character and appearance of the Conservation Area. Concerns have been expressed by the Conservation Officer that the dwelling will encroach further into the historic park land/formal garden associated with the former manor house (now Park Farm), located to the north of Park Lane, and will harm the heritage assets of the Conservation Area and listed buildings, including Park Farm which would have had a more formal entrance. However the park land/formal garden has already been developed and whilst the dwellings are set at a much lower level than that now proposed they are still visible from Park Lane and the historic vista, from Park Lane, is no longer very evident. The dwelling is sited close to The Gables on the eastern side of 'The Jitty' and the dwelling will not obstruct to any great extent the views gained from Park Lane towards School Lane. Therefore the additional impact on the archaeological evidence and heritage around the area will not be significant.
- 5.7 It is considered that there are no further plots to the west of the application site between School Lane and Park Lane that could feasibly be developed with additional dwellings due to their size and the potential impact on the living amenities of the adjacent dwellings. Therefore the development of the application site as proposed is unlikely to set a precedent for further development in this area.
- 5.8 The stone boundary wall is considered to be an important feature within this part of the Conservation Area and part of it is to be removed to facilitate the relocation of the access. The wall does not currently benefit from any protection and can be removed without planning permission/conservation area consent. The sense of enclosure that it creates along Park Lane is to be maintained on the whole with the position of the dwelling. The wall along the length of the site with 'The Jitty' is to be retained.
- 5.9 The setting of the nearby listed buildings, Hillside (opposite the site), Grafton and Grafton House, will not be adversely affected by the proposed development due to the scale and massing of the dwelling, its design and use of natural stone.
- 5.10 The development is considered to comply with the saved Policies relating to Conservation Areas and design considerations (C23, C28, C30 and C33) within the adopted Cherwell Local Plan and will not result in any significant harm to the heritage assets in the immediate vicinity.

Impact on neighbour amenities

- 5.11 The proposed dwelling is sited so that it will not have a significant adverse impact on the living amenities of neighbouring properties by way of loss of light, overshadowing and due to its position, scale and height it will not be overbearing on the outlook from any of the surrounding dwellings.
- 5.12 The dwelling is sited to the north of Park Lane and therefore will not result in any significant loss of light to properties in Park Lane. It will not result in any direct overlooking of habitable room windows in neighbouring properties nor will it overlook private garden areas of neighbouring properties. The distance to the nearest habitable room window is approximately 13m (Yew Tree House on the southern side of Park Lane) however this is at an angle to the proposed dwelling and on the opposite side of Park Lane. There is tall vegetation to the front boundary which obscures views from Park Lane into the windows of the property. Therefore it is considered that the level of overlooking will not be so significant as to warrant refusal of the application. There is an area of garden directly opposite the proposed dwelling, belonging to Hillside, which is bounded by a high hedge along Park Lane and whilst views into this garden may be gained from the first floor bedroom window the garden to that property is relatively large and other areas of private space available.

Impact on highway safety

- 5.13 The Highway Authority is satisfied that the development will not result in any significant detriment to highway safety. There is already a vehicular access into the site from Park Lane, which would have been permitted development as Park Lane is not a classified road. The proposed access is to be located approximately 2m to the west of the existing access. The width of the access is to remain at approximately 4m.
- 5.14 The concerns expressed regarding parking and congestion along with access for emergency and service vehicles have been taken into account however the construction of a dwelling on a site which is already served by a vehicular access and which has on-site parking to standard is not considered to significantly increase congestion to such a degree to warrant refusal of the application.
- 5.15 It is recommended that the construction of the access and the retention of the parking area are the subject of conditions.

Other matters

- 5.16 Other matters have been raised by third parties in respect of the application.
- 5.17 The line of the footpath known as 'The Jitty' is not affected by the development of the site. Any obstruction of the footpath is covered by separate legislation.
- 5.18 The application has been considered by the Environment Agency, Thames Water and Oxfordshire County Council (as the Sustainable Drainage Systems Adopting Authority) and it is not considered that the development will increase the risk of flooding in this part of North Newington.
- 5.19 The loss of a view is not a planning matter and cannot be taken into account in determining planning applications. However the visual appearance of the dwelling and the impact that the development will have on the character and

appearance of the Conservation Area and setting of the nearby listed building have been taken into account and this is discussed above.

- 5.20 The impact on residents during construction by way of noise, disturbance, smells, dust or inconvenience during deliveries is covered by separate legislation but it is recommended that a planning note is attached to the decision notice advising the developers of their duties in this regard.
- 5.21 Concern has been expressed that if the current application is approved further applications for similar development will be submitted. Each site and application are looked on their own merits and other sites may not be suitable in planning terms for such development.
- 5.22 From researching the planning history on the site it has not been possible to locate any planning applications for the prefabricated garage on the site. Planning permission would have been required for such a building but it has been on the site for some time and as such the Council cannot take enforcement action to seek to regularise the matter. For development within domestic curtilages the Council only has four years in which to take action.
- 5.23 A comment has been made that the dwelling is not an affordable dwelling. It is not an affordable dwelling in the strict planning sense however the design and access statement submitted with the application states that the dwelling is at a "more 'affordable' level for retired couples or young families...".

Conclusion

- 5.24 It is considered that the proposed development will not adversely affect the visual amenities of the area nor the living amenities of the neighbouring properties. Also the setting of the nearby listed buildings and character and appearance of the adjacent Conservation Area will be preserved.

6. Recommendation

Approval, subject to the following conditions:

1. That the works to which this consent relates shall be begun not later than the expiration of three years beginning with the date of this consent.

Reason - To comply with the provisions of Section 18 of the Planning (Listed Buildings and Conservation Areas) Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the following plans and documents: Application Form, site plan and drawing nos. 5110.01 and 02.

Reason – For the avoidance of doubt, to ensure that the development is carried out only as approved by the Local Planning Authority and comply with

Government guidance contained within the National Planning Policy Framework.

3. Prior to the commencement of the development hereby approved, a stone sample panel (minimum 1m² in size) shall be constructed on site in natural ironstone, which shall be inspected and approved in writing by the Local Planning Authority. Thereafter, the external walls of the development shall be laid, dressed, coursed and pointed in strict accordance with the approved stone sample panel.

Reason - To ensure that the development is constructed and finished in materials which are in harmony with the building materials used in the locality and to comply with Policy BE1 of the South East Plan 2009, Policy C28 of the adopted Cherwell Local Plan and to comply with Government guidance contained within the National Planning Policy Framework.

4. Prior to the commencement of the development hereby approved, a sample of the tile to be used in the construction of the roof of the development shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the samples so approved.

Reason - To ensure the satisfactory appearance of the completed development and to comply with Policy BE1 of the South East Plan 2009, Policy C28 of the adopted Cherwell Local Plan and to comply with Government guidance contained within the National Planning Policy Framework.

5. Prior to the commencement of the development hereby approved, a plan showing the details of the finished floor levels of the proposed dwelling in relation to existing ground levels on the site shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved finished floor levels plan.

Reason – To ensure that the proposed development is in scale and harmony with its neighbours and surroundings and to comply with Policy BE1 of the South East Plan 2009, Policy C28 of the adopted Cherwell Local Plan and to comply with Government guidance contained within the National Planning Policy Framework.

6. That the boundary wall to the eastern and southern boundaries shall be retained and maintained except to allow for the means of access hereby approved and that all works of making good the existing boundary wall shall be carried out in materials and detailed to match the existing wall unless otherwise approved in writing by the Local Planning Authority.

Reason - In the interests of the visual amenities of the area, to ensure the

creation of a pleasant environment for the development and to comply with Policy C4 of the South East Plan 2009, Policy C28 of the adopted Cherwell Local Plan and to comply with Government guidance contained within the National Planning Policy Framework

7. Prior to the commencement of the development full design details of the windows and external doors shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall be carried out in accordance with the approved details.

Reason - To ensure the satisfactory appearance of the completed development and to comply with Policy BE1 of the South East Plan 2009, Policy C28 of the adopted Cherwell Local Plan and to comply with Government guidance contained within the National Planning Policy Framework.

8. Prior to the commencement of the development hereby approved, a detailed scheme for the surface water and foul sewage drainage of the development shall be submitted to, and approved in writing by, the Local Planning Authority. Thereafter, and prior to the commencement of any building works on the site the approved surface water drainage scheme shall be carried out and prior to the first occupation of any building to which the scheme relates the approved foul sewage drainage scheme shall be implemented. All drainage works shall be laid out and constructed in accordance with the Water Authorities Association's current edition "Sewers for Adoption".

Reason - To ensure satisfactory drainage of the site in the interests of public health, to avoid flooding of adjacent land and property and to comply with Government guidance contained within the National Planning Policy Framework, Policy NRM4 of the South East Plan 2009 and Policy ENV1 of the adopted Cherwell Local Plan

9. Prior to the construction of the dwelling hereby approved, the existing means of access between the land and the highway shall be improved, laid out and constructed strictly in accordance with the specification of the means of access attached hereto, and all ancillary works therein specified shall be undertaken in accordance with the said specification.

Reason - In the interests of highway safety and to comply with Government guidance contained within the National Planning Policy Framework

10. Prior to the commencement of the development hereby approved, full specification details (including construction, layout, surfacing and drainage) of the parking and manoeuvring areas shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, and prior to the first occupation of the development, the parking and manoeuvring areas shall be provided on the site in accordance with the approved details and shall be retained unobstructed except for the parking and manoeuvring of vehicles at

all times thereafter.

Reason - In the interests of highway safety and to comply with Government guidance contained within the National Planning Policy Framework

11. No works or development shall take place until a scheme for the protection of the retained trees (section 7, BS59837, the Tree Protection Plan) has been agreed in writing with the Local Planning Authority. This scheme shall include the details and positions of the Tree Protection Barriers and the Tree Protection Barriers must be erected prior to the commencement of the development and remain in place and undamaged for the duration of the development works and that all proposed groundworks within the root protection zone of the Eucalyptus tree should be carried out using 'no dig' techniques.

Reason - To ensure the continued health of retained trees/hedges and to ensure that they are not adversely affected by the construction works, in the interests of the visual amenity of the area, to ensure the integration of the development into the existing landscape and to comply with Policy C4 of the South East Plan 2009, Policy C28 of the adopted Cherwell Local Plan and to comply with Government guidance contained within the National Planning Policy Framework.

12. Notwithstanding the provisions of Classes A to E (inc.) of Part 1, Schedule 2 of the Town and Country Planning (General Permitted Development) (Amendment) (No. 2) (England) Order 2008 and its subsequent amendments, the approved dwelling shall not be extended (nor shall any structures be erected within the curtilage of the said dwelling without the prior express planning consent of the Local Planning Authority.

Reason - To ensure and retain the satisfactory appearance of the completed development and to comply with Policy BE1 of the South East Plan 2009 and Policy C28 of the adopted Cherwell Local Plan.

13. Notwithstanding the provisions of Classes A, B and C of Part 1, Schedule 2 of the Town and Country Planning (General Permitted Development) (Amendment) (No. 2) (England) Order 2008 and its subsequent amendments, no new window(s) or other openings, other than those shown on the approved plans, shall be inserted in the walls or roof of the dwelling without the prior express planning consent of the Local Planning Authority.

Reason - To enable the Local Planning Authority to retain planning control over the development of this site in order to safeguard the amenities of the occupants of the adjoining dwellings in accordance with Policies C28 and C30 of the adopted Cherwell Local Plan

Planning Notes

1. In accordance with the Town and Country Planning (Development Management Procedure) (England) (Amendment No 2) Order 2012 and paragraphs 186 and 187 of the National Planning Policy Framework (March 2012), this decision has been taken by the Council having worked with the applicant/agent in a positive and proactive way as set out in the application report.
2. The applicant's and/or the developer's attention is drawn to the requirements of the Control of Pollution Act 1974, the Environmental Protection Act 1990 and the Clean Air Act 1993, which relate to the control of any nuisance arising from construction sites. The applicant/developer is encouraged to undertake the proposed building operations in such a manner as to avoid causing any undue nuisance or disturbance to neighbouring residents. Under section 61 of the Control of Pollution Act 1974, contractors may apply to the Council for 'prior consent' to carry out works, which would establish hours of operation, noise levels and methods of working. Please contact the Council's Anti-Social behaviour Manager on 01295 221623 for further advice on this matter.
3. Birds and their nests are fully protected under the Wildlife and Countryside Act 1981 (as amended), which makes it an offence to intentionally take, damage or destroy the eggs, young or nest of a bird whilst it is being built or in use. Disturbance to nesting birds should be avoided by carrying out vegetation removal outside the nesting season, which is March to August inclusive.
4. You are advised that with regard to surface water drainage it is the responsibility of a developer to make proper provision for drainage to ground, water courses or a suitable sewer. In respect of surface water it is recommended that you ensure that storm flows are attenuated or regulated into the receiving public network through on or off site storage. When it is proposed to connect to a combined public sewer, the site drainage should be separate and combined at the final manhole nearest the boundary. Connections are not permitted for the removal of Ground Water. Where it is proposed to discharge to a public sewer, prior approval from Thames Water Developer Services will be required. They can be contacted on 0845 850 2777.
5. Suds will be required on this development. Roof water should outfall into a suitably designed and effective soakaway. Any new hard standing area should be permeable or drain to an effective soakaway. Construction details of the vehicle standing will be required prior to construction.

Summary of Reasons for the Grant of Planning Permission and Relevant Development Plan Policies

The Council, as Local Planning Authority, has determined this application in accordance with the development plan unless material considerations indicated

otherwise. The development is considered to be acceptable on its planning merits as the proposed dwelling is of a design, size and style that is appropriate and will not unduly impact on the neighbouring properties or compromise highway safety nor will it adversely affect the setting of the nearby listed building or character and appearance of the Conservation Area. As such the proposal is in accordance with Policies H14, BE1, BE6 and T4 of the South East Plan 2009, Policies C28 and C30 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework. For the reasons given above and having regard to all other matters raised, the Council considers that the application should be approved and planning permission granted subject to appropriate conditions, as set out above.