

**Site Address: Land south and adjacent
to Cedar House, Souldern**

13/00984/F

Ward: The Astons and Heyfords

District Councillor: Cllrs Macnamara and Kerford-Byrnes

Case Officer: Laura Bailey

Recommendation: Refusal

Applicant: Mr and Mrs I Porteus

Application Description: 1 no. stone dwelling with parking area

Committee Referral: Called in by Cllr Macnamara

Committee date: 3 October 2013

1. Site Description and Proposed Development

- 1.1 The site is located on land to the south of the garden associated with Cedar House. It is located within the Souldern Conservation Area and in proximity to several Grade II listed buildings (Souldern House, Tudor Cottage and The Barn House). The site is located within an area of high archaeological interest, being situated within the historic core of the settlement. Cedar House is currently accessed via a private access road running from the road serving the small group of dwellings to the south west of the site (Souldern House and Souldern Cottage), which in turn connects onto the High Street.
- 1.2 It is asserted that the site forms part of the curtilage of Cedar House, although there is a very distinct boundary formed by a line of mature trees, running between the garden area of Cedar House and the site. It is unclear whether this land was originally included as part of the residential curtilage of Cedar House, but it would seem that the land has been maintained as such for a long period of time, such that a certificate of lawful use may be difficult to resist. The site is fairly well contained by large trees, hedgerows and walls around the perimeter.
- 1.3 The proposal seeks full permission for the erection of 1, one and a half storey, detached dwelling, with the formation of a separate parking and turning area from the access road currently serving Cedar House. The dwelling would be constructed from natural stone with a slate roof and timber fenestration.
- 1.4 Members will recall that a formal site visit was recommended at the 5 September committee which was held on the 3 October. At that Committee Members resolved to refuse the application, however, due to a procedural error at the last committee, Members are now requested to reconsider the application.

2. Application Publicity

- 2.1 The application has been advertised by way of neighbour letter, site notice and press notice. The final date for comment was the 22nd August 2013.

6 letters of objection have been received and in summary, raise the following issues:

- Highway safety and access problems
- Unsustainable location for further development
- Construction traffic
- Overlooking
- Loss of rural view

- Detrimental impact on the setting of a Grade II listed building

2 letters received, neither objecting or supporting, raising the following issues in summary:

- Trees along the boundary should be retained
- Excavation works may affect the stability of wall
- Concern regarding general infill in the village and increase in traffic

1 letter of support, raising the following points in summary:

- Tastefully designed
- Would enhance the local environment

3. Consultations

3.1 Souldern Parish Council: No objections, but raises the following points in summary:

- Each case is considered on its merits and should not set a precedent
- The Parish will protect, as far as possible, the Conservation Area
- Dwelling should be sited further back
- Concerns over access
- Concern over use of access during construction and stone wall close to it

Cherwell District Council Consultees (in summary)

3.2 Conservation Officer: Objects to the proposal.

3.3 Tree Officer: No objection, subject to conditions.

Oxfordshire County Council Consultees

3.4 Highways Officer: No objection, subject to the imposition of a condition requiring the submission and approval of a parking and manoeuvring area specification and retention of those areas.

3.5 OCC Archaeologist: No archaeological constraints to this scheme.

Other Consultees

3.6 None.

4. Relevant National and Local Policy and Guidance

4.1 Development Plan Policy

Adopted Cherwell Local Plan (Saved Policies)

- H14: New residential development in category 2 settlements
- C1: Nature Conservation
- C2: Protected Species
- C7: Topography and character of landscape
- C14: Trees and landscaping

- C28: Layout, design and external appearance of new development
- C30: Design of new residential development
- C33: Settlement pattern
- ENV1: Environmental protection

4.2 Other Material Policy and Guidance

National Planning Policy Framework

Cherwell Local Plan – Proposed Submission Local Plan Incorporating Proposed Changes (March 2013)

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 policies listed below are considered to be material to this case and are not replicated by saved Development Plan policy:

- ESD10: Biodiversity and the natural environment
- ESD13: Local landscape protection and enhancement
- ESD16: Character of the built and historic environment

- Policy Villages 1: Village Categorisation
- Policy Villages 2: Distributing Growth Across the Rural Areas

5. Appraisal

5.1 The key issues for consideration in this application are:

- Relevant planning history
- Principle of the development
- Character and appearance of the Souldern Conservation Area
- Setting of listed buildings
- Highway safety
- Neighbour amenity
- Trees

Relevant planning history

5.2 There has been one application relating to the erection of a dwelling on this site (03/02641/F refers), which is identical to this current submission. The application was refused as the site does not constitute an infill plot, contrary to Policy H14 of the Adopted Cherwell Local Plan, would fail to preserve or enhance the character and appearance of the Conservation Area and would be cumulatively harmful, due to the precedent it would set for development of similar, unsatisfactory large gardens sites.

5.3 Pertinent to this reason for refusal, it is important to note that since this decision, an application for the erection of 1 dwelling on land adjacent to the Hermitage (Souldern) was approved by Members in August 2012. Their recommendation was contrary to Officer advice, which recommended that the application be refused for the following reason:

Souldern is a Category 2 village as defined in the adopted Cherwell Local Plan. Within such villages new residential development is restricted to conversions, infilling and small-scale development which can be shown to secure significant environmental improvements. It is the opinion of the Local Planning Authority that the proposed development does not accord with these provisions. Furthermore, the proposed

dwelling, by virtue of its siting would connect Manor Farm with High Street and unacceptably threaten the long term future of trees in a Conservation Area and trees protected by a Tree Preservation Order as the level of shading, leaf drop and fruit fall affecting the dwelling and private garden, and the proximity of trees to the dwelling and private garden, would be likely to lead to pressure from the future occupants of the dwelling to undertake works to the trees that would cause detriment to their appearance, health and long-term survival, consequentially causing substantial harm to the character and appearance of the designated Conservation Area and the visual amenity of the locality, whilst failing to respect the historic settlement pattern of Souldern. In addition, by virtue of its elevated positioning and proximity to Grade II listed building Manor Barn the proposed dwelling would detract from the setting of this designated heritage asset, causing substantial harm to its significance. The proposal is therefore contrary to Government guidance contained within the National Planning Policy Framework – Delivering a wide choice of high quality homes, Requiring good design and Conserving and enhancing the historic environment, Policies H5, BE1, BE6 and CC6 of the South East Plan 2009 and saved Policies H14, C23, C27, C28, C30 and C33 of the adopted Cherwell Local Plan 1996.*

5.4 Indeed, the Inspector's decision relating to a previous refusal of planning permission for a dwelling on land adjacent to The Hermitage noted that there could be other sites where development may be proposed and where permission on this site (The Hermitage) might be used as support for the other development, thereby concluding that a precedent being set could be a material matter.

5.5 Members' rationale for the overturn in recommendation was based on the premise that the site could constitute an infill plot, on the basis that the site has a frontage (the track running from the High Street into the Manor Farm site).

5.6 Also of significance is a recently refused application (13/00597/F refers) for the erection of one dwelling on land to the rear of The Wall House (Souldern). The application was refused for the following reason:

Souldern is a Category 2 Village as defined in the Adopted Cherwell Local Plan 1996. Within such villages new residential development is restricted to conversion, infilling and small-scale development which can be shown to secure significant environmental improvements. It is the opinion of the Local Planning Authority that the proposed development does not accord with these provisions. Furthermore, the development of the site would erode the environmental quality of the area and fail to preserve or enhance the Conservation Area as this undeveloped gap is an important contribution to the loose knit character of this part of the Souldern Conservation Area which should be preserved. The proposal is therefore contrary to Government guidance contained within the National Planning Policy Framework and saved policies H14, C23, C28 and C33 of the adopted Cherwell Local Plan 1996.

5.7 Whilst each application must be considered on its own merits, there are clearly similarities with the aforementioned sites and the current application, in that all of the sites comprise land which forms part of a large garden area associated with the main dwelling and debate has been had as to whether these sites constitute infill plots, in accordance with the requirements of H14. The original refusal of planning permission in 2003 (on this site) sought to avoid a proliferation of the very applications noted above, as the scope for precedent is patent.

Principle

5.8 In establishing the acceptability of the principle of the erection of a dwelling in this location regard should be paid to Government guidance contained within the National Planning Policy Framework and saved Policy H14 of the adopted Cherwell Local Plan.

- 5.9 Government guidance requires housing applications to be considered in the context of sustainable development. Sustainable development has three dimensions: economic, social and environmental. Development should contribute to building a strong responsive and competitive economy, support strong, vibrant and healthy communities through the creation of a high quality built environment and contribute to protecting and enhancing the natural, built and historic environment.
- 5.10 Saved Policy H14 of the adopted Cherwell Local Plan concerns residential development within Category 2 Settlements such as Souldern. In Category 2 settlements, residential development will be restricted to conversions, infilling or other small scale development that can be shown to secure significant environmental improvement within the settlement.
- 5.11 Category 2 settlements are generally the smaller villages with a lesser range of services available, although some potential still exists within them for limited residential growth. Infilling is defined as a small gap in an otherwise continuous built up frontage that is suitable for one or two dwellings. Saved Policy H14 will therefore permit the construction of houses in small gaps in a village street where acceptable in all other regards. However, the intention behind saved Policy H14 is not to permit the erosion of all gaps within a settlement as many spaces in village streets are important to their character and cannot be filled without detriment to their environmental quality. This is particularly the case in a loose-knit settlement pattern where spaces can be as important as the buildings.
- 5.12 The Proposed Submission Local Plan (Incorporating Proposed Changes) seeks to designate Souldern as a category C village, which would restrict new residential development in Souldern to conversions only. This is on the basis that the level of community facilities in or around the village is not substantial enough to sustain a higher level of growth. This is important insofar as it demonstrates that Souldern is not the most sustainable location for additional growth moving forward.
- 5.13 Turning to the site itself, the site is situated in a 'backland' position, i.e. to the rear of the row of properties fronting the High Street. It would be accessed via a spur off a narrow, private access road, which currently serves Cedar House. The 'gap' between the rear elevation of Cedar House and the rear boundaries of the properties fronting the High Street spans approximately 70 metres. In this regard, I do not consider that the site complies with the definition of infill as it does not have a continuous built up frontage, nor could it be described as a 'small gap'.
- 5.14 It is therefore still considered that the proposed development would not constitute infilling. The existing site is not considered to detract from the environment within the settlement and it is therefore not considered that the erection of a dwelling in this location would secure significant environmental improvements. The principle of the erection of a dwelling in this location is not considered to accord with the requirements of saved Policy H14 of the adopted Cherwell Local Plan.

Character and appearance of the Souldern Conservation Area

- 5.15 Policies C28 and C30 seek to control all new development to ensure layout, design and external appearance are sympathetic to the character of the area and that they should be compatible with the appearance, character, layout, scale and density of existing dwellings in the vicinity with acceptable standards of amenity and privacy.
- 5.16 Policy C33 seeks to retain undeveloped gaps of land which are important in preserving the character of a loose knit settlement structure, or in maintaining the proper setting for a listed building/preserving a view of recognised amenity or historical value.

- 5.17 Government guidance contained within the NPPF – Conserving and enhancing the historic environment, states that in determining planning applications, local planning authorities should take account of the desirability of new development making a positive contribution to local character and distinctiveness. Paragraph 56 of the NPPF expressly states that the Government attaches great importance to the design of the built environment. Good design, (which includes siting) is a key aspect of sustainable development, is indivisible from good planning and should contribute positively to making places better for people.
- 5.18 Souldern was designated a Conservation Area in 1988 but unfortunately has no corresponding appraisal as yet. The form of the village has changed over its lifetime, with the centre moving from the church to its present location to avoid flooding. The site in question lies behind the High Street frontage with access through a small lane. To the west of the site is a small enclave of properties, but to the east is a large swathe of green land in various ownerships, effectively cutting off Cedar House and Manor Farm from the main village. By retaining this area of open land, it emphasises the 'ribbon-like' and loose-knit development of Souldern along the High Street. These gaps in development are characteristic of Souldern, and their cumulative loss would destroy its character.
- 5.19 It is considered that the development of this site would fail to respect the historic settlement pattern of the village by eroding the historic gap between the properties on the High Street and Cedar House, which is a key characteristic of the Souldern Conservation Area in this part of the village. This would be contrary to central Government guidance contained within the NPPF and Policies C28 and C33 of the Adopted Cherwell Local Plan.

Setting of listed buildings

- 5.20 The site is close to several Grade II listed buildings (Souldern House ~40 metres to the south west, Tudor Cottage ~ 30 metres to the south east and The Barn House ~56 metres to the south east).
- 5.21 Paragraph 137 of the NPPF requires new development within the setting of heritage assets (including listed buildings) to preserve those elements of the setting that make a positive contribution to or better reveal the significance of the asset.
- 5.22 Due to the lower land levels within the application site and high boundary screening around the southern perimeter of the site, it is considered that the proposal would preserve those elements of the buildings' setting that make a positive contribution towards their significance.

Highway Safety

- 5.23 The application proposes to use the existing access serving Cedar House, creating a new courtyard to provide parking and turning to serve the proposed dwelling, by removing a section of stone wall adjacent to two small outbuildings on the boundary of the site. Due to the layout of the existing access, traffic speeds are likely to be very low. The splay around the junction with the High Street is considered to be adequate, with generally good visibility in both directions.
- 5.24 Several representations have been received raising concern in relation to the use of this access and detriment to highway safety. Many concerns relate to the use of the access during construction and the potential for damage to property, but this is not a material planning consideration. However, the Local Highway Authority has not raised an objection to the proposal, subject to a condition requiring the submission and approval of details relating to the surfacing and drainage of the parking and turning facility.

- 5.25 Consequently, it is considered that the proposed development would not cause detriment to highway safety and as such, accords with central Government advice contained within the NPPF.

Neighbour amenity

- 5.26 The dwelling is proposed to be sited in the southern portion of the land associated with Cedar House. The nearest neighbouring properties are those located on the High Street, directly to the south of the plot.
- 5.27 The dwelling is to be positioned ~ 2 metres off the southern rear boundary, which is screened by a ~ 3 metre high dense hedgerow, which is to be retained. It is also screened by stone boundary walls (up to 3 metres high) along the east and west boundaries. In this regard, it is not considered that the proposal would cause detriment to neighbour amenity by way of overlooking, over domination or loss of light.
- 5.28 Several representations raised concerns in relation to the intensified use of the access and potential for increased noise and disturbance. However, the erection of one additional dwelling is unlikely to be so detrimental as to warrant refusal of the application on this basis.
- 5.29 As such, it is not considered that the proposed development would cause detriment to proposed or existing occupant amenity by way of noise, disturbance, overlooking, overbearing or loss of light. The proposal would therefore comply with the requirements of Policy C30 of the Adopted Cherwell Local Plan and central Government guidance contained in the NPPF.

Trees

- 5.30 The application is supported by an Arboricultural survey containing a method statement. The Council's arboricultural Officer concurs with the findings, individual categorisations and recommendations for the identified trees and is satisfied with the protective measures stipulated for the retained trees and the trees identified for removal including T1, T5 and T2 (should it be desired).
- 5.31 The submitted Arboricultural Method Statement (AMS) remains appropriate for the protection of retained trees and all works should be undertaken in accordance with the recommendations within, including the details regarding site supervision and monitoring. These measures could be included by condition.
- 5.32 In conclusion, the proposal (subject to conditions) would not detrimentally affect trees worthy and suitable for retention.

Engagement

- 5.33 With regard to the duty set out in paragraphs 186 and 187 of the Framework, no problems or issues have arisen during the application. It is considered that the duty to be positive and proactive has been discharged through discussion with the applicant on site.

Conclusion

- 5.34 The erection of a dwelling in this location does not constitute infilling as defined by saved Policy H14 of the adopted Cherwell Local Plan thereby rendering the principle of the erection of a dwelling in this location unacceptable. Notwithstanding, whilst the proposed development is not considered to cause harm in terms of neighbour

amenity, highway safety or trees, this does not outweigh the harm that would be caused to the historic settlement pattern of the village of Souldern and the character and appearance of the designated Conservation Area. It is for these reasons that the application is recommended for refusal.

6. Recommendation

Refusal, for the following reason:

1. Souldern is a Category 2 settlement as defined in the Adopted Cherwell Local Plan 1996. Within such settlements, new residential development is restricted to conversions, infilling and small-scale development which can be shown to secure significant environmental improvements. It is the opinion of the Local Planning Authority that the proposed development does not accord with these provisions. Furthermore, the development of the site would fail to preserve or enhance the Conservation Area as this undeveloped gap is an important contribution to the loose knit character of this part of the Souldern Conservation Area which should be preserved. The proposal is therefore contrary to saved policies H14, C28 and C33 of the adopted Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

STATEMENT OF ENGAGEMENT

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.

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