

**Site Address: 55-57 Park Road, Banbury
OX16 0DH**

14/01901/F

Ward: Banbury Neithrop

District Councillor: Cllr Surinder Dhese

Case Officer: Emily Shaw

Recommendation: Approval

Applicant: Mr Mohammed Hanif

Application Description: Change of use from domestic outbuilding to D1 Madrassa with prayer facilities at 57 Park Road. Proposed retention of existing classroom with the addition of prayer facilities and opening hours at 55 Park Road.

Committee Referral:

Member Request

Committee Date:

16 April

1. Site Description and Proposed Development

- 1.1 55-57 Park Road are a pair of two storey semi-detached dwellings located within a modern estate layout to the west of the town centre of Banbury. To the west/rear of the site is the Woodgreen Leisure Centre complex, the car park of which immediately abuts the rear of 55/57 Park Road.
- 1.2 The site comprises one pair of two-storey semi-detached properties which are currently occupied as residential properties. Number 55 has planning history relating to the use of one room in the building for the education of up to 12 children between the hours of 16:00 and 17:00 on Mondays to Fridays only. Each property comprises hard-standing to the front currently used for the parking of private motor vehicles. The rear of the two properties is also laid to hard standing. A large single storey outbuilding is sited to the rear of 55 and 57 Park Road.
- 1.3 This application seeks planning permission for the change of use of the single storey building to the rear from ancillary residential use to use as D1, Madrassa with prayer facilities to be used between 11am and 1pm everyday. The application also seeks the retention of the existing classroom facility at number 55 with the addition of prayer facilities and extension to hours of use at 55 Park Road. The hours of use for the classroom inside the dwelling is proposed between 16:30 and 18:30 everyday.

2. Application Publicity

- 2.1 The application has been advertised by way of neighbour letter and site notice. The final date for comment was 12 February 2015. No correspondence third party responses have been received as a result of this consultation process.

3. Consultations

- 3.1 Banbury Town Council: No Objections - but has some concerns over traffic & pedestrian movement.

Councillor Surinder Dheshi: Raised concerns about this application for the following reasons:- residents of the area are concerned about the current use of the site and parking cars in and around the site which is impacting on highway safety. The site is on a busy and well used bus route. There is a purpose built Mosque only 20mins in Merton Street and has recently been extended and has sufficient car parking.

Oxfordshire County Council Consultees

- 3.7 Highways Liaison Officer: No objection to the proposal
The proposal seeks the change of use of an existing outbuilding into a D1 Madrassa with prayer facilities, furthermore, the proposed retention of an existing classroom with the addition of prayer facilities and opening hours at no.55 Park Road.

Given the characteristics of the carriageway, vehicular traffic and speeds are likely to be low.

It is my opinion that the vehicle movements associated with the proposal does not present "severe harm" as required in the recent Government guidelines in the Nation Planning Policy Framework to warrant a recommendation for refusal on highways grounds.

After reviewing the supplied plans and documentation, the Highway Authority has No Objection to the proposal on the basis of Highway Safety.

4. Relevant National and Local Policy and Guidance

4.1 Development Plan Policy

Adopted Cherwell Local Plan (Saved Policies)

- C28: Layout, design and external appearance of new development
C30: Design of new residential development

4.2 Other Material Policy and Guidance

National Planning Policy Framework

Submission Local Plan (January 2014)

Submission Local Plan (October 2014) (SLP) has been through public consultation and was submitted to the Secretary of State for examination in January 2014, with the examination beginning in June 2014. The Examination was suspended by the Inspector to allow further work to be undertaken by the Council to propose modifications to the plan in light of the higher level of housing need identified through the Oxfordshire Strategic Housing Market Assessment (SHMA), which is an objective assessment of need. Proposed modifications (August 2014) to meet the Objectively Assessed Need were subject to public consultation, from 22nd August to 3rd October 2014. Although this plan does not have Development Plan status, it can be considered as a material planning consideration. The examination reconvened and closed in December 2014 and the Inspectors report is likely to be published in March 2015.

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

- Policy PSD1: Presumption in favour of Sustainable Development
BSC12: Indoor sport, recreation and community facilities
ESD 16: The character of the built and historic environment

5. Appraisal

5.1 The key issues for consideration in this application are:

- Relevant Planning History
- Principle of the proposed change of use
- Highway safety

Relevant Planning History

5.2 **55 Park Road relevant Planning History:**

98/01799/F – Change of use from residential dwelling to use for supplementary education of up to 12 no. children. Approved. Condition 2 – personal to Mr Mumtaz Ahmed and condition 3 – between 16:00 and 17:00 Monday to Friday.

05/00189/F – Part retrospective. Erection of outbuilding in rear garden for ancillary use of school. Approved. Condition 2 – Max 12 children between 16:00 and 17:00 Monday to Friday.

57 Park Road relevant Planning History:

13/01865/CLUP – single storey outbuilding. Approved.

14/00685/F – change flat roof to pitched roof. Approved.

5.3 The erection of a single storey outbuilding to the rear of 55 and 57 has been considered and approved as part of 05/00189/F for a building at 55 Park Road and 13/01865/CLUP and 14/00685/F for a building at 57 Park Road. Therefore the principle of a building for residential use in this location has been established.

The current outbuilding is now being used as one single building across the rear of both 55 and 57. The current use of the building is as a single building for D1 Madrassa with prayer facilities at 55 and 57 Park Road. This use does not benefit from planning permission and this application seeks to regularise this use.

5.4 Previous planning history in 1998 as set out above considered and approved the change of use of part of the dwelling at 55 Park Road to a for the education of up to 12 children between 16:00 and 17:00 Monday to Friday.

The current pending application seeks to retain this existing classroom use within 55 Park Road and in addition seeks to introduce a prayer facility into the classroom within 55 Park Road and to extend the hours the use can take place.

Principle of the proposed change of use

5.12 Paragraph 14 of the National Planning Policy Framework (NPPF) states that a presumption of sustainable development should be seen as a golden thread running through decision taking. It goes on to say that where the development plan is absent, silent or relevant policies are out of date, planning permission should be granted, unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole, or if specific policies in the Framework indicate that development should be restricted (e.g. Green Belt, AONB's, SSSI's etc).

5.13 There are three dimensions to sustainable development, as defined in the NPPF, which require the planning system to perform economic, social and environmental roles. These roles should be sought jointly and simultaneously through the planning system.

Policy PSD1 contained within the Submission Local Plan 2013 echoes the NPPF's requirements for 'sustainable development' and where there are no policies relevant to the application, LPA's should grant permission, subject to the caveats set out in paragraph 5.3 above.

- 5.14 The NPPF promotes sustainable transport and at paragraph 34, states that decisions should ensure that developments that generate significant movement are located where the need to travel will be minimised and the use of sustainable transport modes can be maximised. In this case, the site is situated within the built up area of Banbury and close to the Town Centre. The site benefits from good footway and cycle provision, with good connections to the wider town pedestrian and cycle network. The site is also located close to a bus stop, on a local bus route, operating regularly and within walking distance of the town centre and other options for sustainable transport options such as the train. The site is therefore considered to be in a sustainable location, in terms of its accessibility to public transport and proximity to the town centre.
- 5.16 Paragraph 6 of the Framework sets out the Government's view of what sustainable development means in practice for the planning system. It is clear from this that sustainability concerns more than just proximity to facilities, it clearly also relates to ensuring the physical and natural environment is conserved and enhanced as well as contributing to building a community by improving the conditions in which people live, work, travel and take leisure.
- 5.17 The building which is proposed to be used for a D1 use as a Madrassa with prayer facilities is located close to Banbury Town centre and has good transport links by a variety of sustainable modes of transport. The proposed use is therefore considered to be a sustainable form of development in accordance with the National Planning Policy Statement and policies PSD1 and BSC12 of the Submission Cherwell Local Plan.

Impact on residential amenity

- 5.18 The proposed use of the building to the rear could accommodate 40 people at any one time and the proposal is for its use between 11am and 1pm every day. There is already a lawful within part of the outbuilding for the education of up to 12 children between 16:00 and 17:00. The extent of the proposed would in my opinion cause some noise and disturbance generated by the arrival and departure of people to and from the site. However, the proposed use is to take place between the hours of 11am and 1pm every day. The use of the building for two hours per day would generate activity at the site in the form of people arriving at the site in motor vehicles, on foot and by other modes of transport and access to the building to the rear which would lead to some external disturbance and noise generation within the vicinity of the site. The prayer use will take place within the building and therefore the period of time affected by disturbance and noise from people arriving at the site will be a short period of time until the people enter the building. It is considered that the period of use and type of use of the outbuilding would not give rise to an adverse impact on the residential amenity of neighbouring residential properties.
- 5.19 The education and prayer use within number 55 Park Road could accommodate up to 20 people between 16:30 and 18:30 every day. There is already a lawful use within number 55 for the education of up to 12 children between 17:00 and 18:00. The use within number 55 would generate activity at the site caused by the arrival and departure of people to and from the site. The use of the building for 2 hours during the afternoon every day would not be considered to significantly increase noise and disturbance in addition to the existing use at the site and would not be considered to

adversely affect the residential amenity of neighbouring occupiers.

Impact on the Visual amenities of the area

- 5.20 This application is considering the change of use of an existing building to the rear of 55 and 57 Park Road, Banbury. The single storey building benefits from planning permission for use in relation to 55 Park Road for education of children and for use ancillary to the dwelling at 57 Park Road.

The proposal includes a new porch entrance on the building and a ramped access to the east elevation. The alterations to the external appearance of the building would be located to the rear of the existing two storey dwelling. From Park Road a restricted view of the southern end of the building and the ramped access can be visible. The building is not visible as a prominent feature within the street scene and is therefore considered to have a minor impact on the visual amenities of the locality.

Highway Safety

- 5.20 The proposal includes 6 on site car parking spaces to the front of the dwellings for the proposed use. The Local Highway Authority have raised no objection to the proposal and state that, given the characteristics of the carriageway, vehicular traffic and speeds are likely to be low within the vicinity of the site. The use is located in a sustainable location with opportunity for users to access a range of modes of transport, such as walking, cycling, public transport, which will reduce the number of trips to the site by motor vehicles. Furthermore, users are likely to travel short distances from within the local community which can be taken on foot. The use will not generate levels of traffic that would adversely affect highway safety in this location.

Engagement

- 5.17 With regard to the duty set out in paragraphs 186 and 187 of the Framework, contact was made with the agent/applicant during the course of the application to discuss issues and agree amendments leading to an acceptable scheme. It is considered that the duty to be positive and proactive has been discharged through discussions had with the applicant/agent during the course of the application.

Conclusion

- 5.19 The proposed use is considered to be a sustainable form of development which will provide a community facility within Banbury and will not cause adverse harm on the residential amenity of neighbouring occupiers, to the visual amenities of the area, or on highway safety, the use is therefore in accordance with Government Guidance within the National Planning Policy Framework, policies PSD1, BSC12 and ESD16 of the Submission Cherwell Local Plan and policies C28 and C30 of the adopted Cherwell Local Plan.

6. Recommendation

Approval, subject to:

the following conditions:

1. The operation hours of the prayer premises located within the building to the rear of 55 and 57 Park Road shall be restricted to the following times:-

Monday-Friday – 11:00 to 13:00

Saturday – 11:00 to 13:00

Sunday and Public Holidays 11:00 to 13:00

Reason: In order to safeguard the amenities of the area and to comply with Policies C31 and ENV1 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

2. The operation hours of the class room/prayer facility on the ground floor on 55 Park Road shall be restricted to the following times:

Monday – Friday – 16:30 to 18:30

Saturday – 16:30 to 18:30

Sunday – 16:30 to 18:30

Reason: In order to safeguard the amenities of the area and to comply with Policies C31 and ENV1 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

3. The outbuilding to the rear of number 55 and 57 shall be used only for the purpose of a Madrassa with prayer facilities and for no other purpose within Class D1 of the Schedule to the Town and Country Planning (Use Classes) (Amendment) (England) Order 2005.

Reason - In order to maintain the character of the area and safeguard the amenities of the occupants of the adjoining premises in accordance with Policies C28 and C31 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

STATEMENT OF ENGAGEMENT

With regard to the duty set out in paragraphs 186 and 187 of the Framework, contact was made with the agent/applicant during the course of the application to discuss issues and agree amendments leading to an acceptable scheme. It is considered that the duty to be positive and proactive has been discharged through discussions had with the applicant/agent during the course of the application.