

Site: Garage Block Adjacent 29 Westbeech Court, Banbury

15/00300/F

Ward: Banbury Easington **District Councillor:** Cllrs Blackwell, Mallon, Morris

Case Officer: Aitchison Raffety **Recommendation:** Refusal

Applicant: Mr Norman White

Application Description: Construction of 4 new houses and associated parking with access from Westbeech Court and The Shades

Committee Referral: Member Request **Committee Date:** 21 May 2015

1. Site Description and Proposed Development

- 1.1 The site includes the rearmost part of a private car park, plus a garage, associated with 36 and 38 West Bar Street, Banbury. Extending to 0.05 ha, this L-shape parcel of land adjoins Westbeech Court to the north-west and The Shades to the east. Adjacent to the site, part of Westbeech Court is a public highway, whilst the eastern section is privately owned and forms a garage forecourt. This part of the application site is roughly level and visually segregated from Westbeech Court by a high brick wall. The Shades is a single lane public highway, which provides access to the existing garage on the application site, a dwelling (1 The Shades) and a bowls club, as well as acting as a pedestrian link between West Bar Street and People's Park. The only access onto the surrounding highway network from The Shades is onto West Bar Street, which is approximately 60 metres to the south-east of the application site. The north-eastern part of the application site is set up marginally above The Shades and enclosed by brick walls along the north-west and south-eastern boundaries.
- 1.2 There is a range of uses within the local context, including residential, office, commercial and recreational, creating a mixed appearance to the area. The properties along Westbeech Court (north, west and south-west of the site) consist of two storey hipped roof maisonettes. These provide wide fronted buildings, constructed from yellow brick and tile. Limited private parking is available beyond the garage forecourts to these dwellings. To the south, are 36 and 38 West Bar Street. These are larger buildings which were both in use as offices until recently. Number 38 has now been converted into eight flats. These buildings are larger two and three storey structures, with associated private parking areas. Number 36 is a 1970 building constructed from red brick with a mansard roof incorporating the third floor. Number 38 is an older, traditionally styled building that has been clad in smooth render. To the south-east is another car park and outdoor seating area, both used in association with the Banbury Trades and Labour Club and Institute (32 West Bar Street). The parking areas are separated by a mesh fence, whilst the club building is located on the opposite side of The Shades. This forms a composite one and two storey structure that has been extensively extended. It is finished with light coloured render and is largely flat roofed. Number 1 The Shades is located to the east of the application site and is a modest sized detached brick bungalow. To the north of this property is the bowls club, a composite single storey

structure with the front section largely constructed from brick with a tiled, hipped roof.

- 1.3 The proposal is seeking to construct four dwellings, following demolition of the existing garage. The existing parking associated with number 36 on the site, will be reconfigured on the retained area to the south (beyond the application site) to continue to provide 21 spaces.
- 1.4 Plots 1 – 3 are proposed as a terrace row of three storey properties fronting north-west onto Westbeech Court. These provide a stepped front building line, with two parking spaces for each property between the dwellings and the highway. Designed with gables towards the highway, they will be constructed from yellow brick with a projecting first floor section finished in render. A second floor balcony is provided above the front projections. Modest gardens are provided to the rear.
- 1.5 Plot 4 is set perpendicularly to plots 1 – 3 and extends across the width of the eastern part of the site. It is set side-on to the private garage forecourt on Westbeech Court with the front door facing towards the other proposed dwellings. Proposed to be constructed from brick at ground floor and rendered at first floor, this two storey property is topped by a pitched roof. A modest garden is provided to the north-east of the building, along with two parking spaces. Access to these spaces will be taken off The Shades.

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 30 March 2014. 19 responses have been received from 18 different residences. 16 of these are objecting to the proposal, whilst two support it. A petition has also been submitted. The following issues were raised -

Material planning comments:

- Highway safety
- Parking issues exacerbated on public highway; loss of private parking in Westbeech Court
- Loss of historic wall
- Impact upon residential amenity: loss of light; privacy; security
- Overdevelopment
- Three storey out of character
- Japanese knotweed present on site
- Asbestos within garage roof on site
- Tenants of parking area on site/Party wall owners not informed

Non material comments:

- Consultation end date compared to newspaper advisement date
- Disruption from building works
- Suggestions on how to redesign the scheme
- Insertion of footpath link between The Shades and Westbeech Court will make the cul de sac a through flow for pedestrians (incorrect understanding of proposal)
- Ownership of grass verge to Westbeech Court
- Loss of property value

3. Consultations

- 3.1 **Banbury Town Council:** No objections.

Cherwell District Council Consultees

- 3.2 **Conservation Officer:** The area surrounding Aplins (number 36) and 38 West Bar Street Banbury is a rather degraded urban space which would benefit from a more comprehensive scheme for the area generally. Unfortunately this scheme does not address that need. Currently bounding this site is tall C19 red brick wall in somewhat poor state of repair. The traditional character and appearance of this part of Banbury is of locally-produced red brick town houses. The character and appearance of the area is strong, despite the use of yellow brick to construct the C20 semi-detached housing on Westbeech Court. My view is that yellow brick should not be used in this development. Red brick to match the 'banbury brick' of the neighbouring building only should be used. I am also concerned that the proposed town houses at 3 floors will be too tall for this location. Recommend that the scheme is withdrawn or refused. ESD 16 - lack of local distinctiveness.

Oxfordshire County Council Consultees

- 3.3 **Highways Liaison Officer:** Sufficient parking is provided for the proposed dwellings, with no loss of designated on-street parking. No concerns over loss of private parking to 36/38 West Bar Street. No issue regarding access arrangements. A condition would need to be attached to any approval to ensure pedestrian visibility splays are provided and maintained.

Other Consultees

- 3.4 **Natural England:** The proposal is unlikely to affect any statutorily protected sites or landscapes. No assessment of protected species has been undertaken, but the Council should refer to Natural England's Standing Advice for detail on this matter.

4. Relevant National and Local Policy and Guidance

4.1 Development Plan Policy

Adopted Cherwell Local Plan (Saved Policies)

C23: Retention of features contributing to character or appearance of a conservation area

C28: Layout, design and external appearance of new development

C30: Design of new residential development

ENV12: Contaminated land

4.2 Other Material Policy and Guidance

National Planning Policy Framework

Planning Practice Guidance

Submission Cherwell Local Plan (January 2014)

The Proposed Submission Local Plan was published for public consultation in August 2012. A further consultation on Proposed Changes to the draft plan was undertaken from March to May 2013. On 7 October 2013, the Draft Submission Plan was approved by the Council's Executive. The Plan was endorsed at Full Council on 21 October 2013 as the Submission Local Plan.

The Plan has now been formally 'Submitted' to the Secretary of State for Communities and Local Government for Examination, with the latest update published in February 2015. This document carries more weight than has been previously attributed that can be attached to the Plan will increase. However, it will not form part of the statutory Development Plan until the Examination process is complete and the Plan is formally adopted by the Council. The following Policies are considered to be relevant:

PSD1: Presumption in favour of sustainable development
BSC1: District wide housing distribution
ESD16: The character of the built and historic environment

Non-Statutory Cherwell Local Plan 2011

In December 2004 the Council resolved that all work to proceed towards the statutory adoption of a draft Cherwell Local Plan 2011 be discontinued. However, on 13 December 2004 the Council approved the Non-Statutory Cherwell Local Plan 2011 as interim planning policy for development control purposes. Therefore this plan does not have Development Plan status, but it can be considered as a material planning consideration. The policies listed below are considered to be material to this case and are not replicated by saved Development Plan policy:

TR5: Road Safety
TR11: Parking
Appendix B: Parking Standards

5. Appraisal

5.1 The key issues for consideration in this application are:

- Relevant Planning History
- Principle of Development
- Amount of Development
- Design of the Proposal
- Impact upon the Street Scene and setting of the Conservation Area
- Residential Amenity
- Highways and Parking
- Other Matters

Relevant Planning History

5.2 Prior approval for the change of use of Beechfield House, 38 West Bar Street was granted on 23 May 2014 (14/00525/CPA), making use of the relatively new permitted development right for such conversions. This enabled the creation of eight, one and two bedroom apartments, with the rear part of the parking area

incorporated within the proposed application site. As part of the information submitted with this prior approval, provision of 16 car parking spaces in association with the apartments would be provided.

Principle of Development

- 5.3 The application site is located within Banbury, close to the town centre, employment opportunities and public transport. It represents a sustainably located site within the most sustainable settlement in Cherwell District. It is towards such locations that residential development is directed within the Development Plan and the Framework.
- 5.4 The site forms part of an open area of land that extends between West Bar Street and Westbeech Court to the west of The Shades. This land is hard standing used largely for car parking in association with the surrounding uses. There are numerous owners of this undeveloped land and subject to ensuring sufficient parking is retained for the various uses, there is scope for redevelopment of this space. This position is highlighted in the Conservation Officer's comments, and supported by the land fronting West Bar Street being identified as 'vacant land' within the Banbury Conservation Area Appraisal. Whilst this proposal only incorporates part of this undeveloped land, it does not undermine the redevelopment potential of adjoining land parcels, should they come forward. The scheme also maintains sufficient facilities for 36 and 38 West Bar Street (see Highways and Parking section below).
- 5.5 The principle of development is therefore considered to be in accordance with Policies PSD1 and BSC1 of the Submission Cherwell Local Plan and the Framework, subject to consideration against other relevant Development Plan policies.

Amount of Development

- 5.6 The proposal is seeking construction of four properties. The L-shaped site presents constraints to the layout, with limited options for the orientation and arrangement of the development at this scale. Three properties are designed to face towards Westbeech Court, whilst the fourth is set perpendicularly to the others, which also fronts both Westbeech Court but with vehicular access from The Shades.
- 5.7 In order to accommodate plots 1 – 3, these dwellings are comparatively narrow at 5.2 metres, with a footprint depth of 8.6 metres. As part of a terrace, the buildings do not look proportionally unbalanced, but they are in direct contrast to the wide, relatively shallow design of the maisonettes along Westbeech Court. The footprint of the buildings generates concern over the quantity of remaining land to support these dwellings. To the front, two parking spaces are required for each, in line with policy. However, one of these spaces for each dwelling is in front of the door, with a depth of 5.0 – 5.5 metres between the building and rear of the highway. This leaves no space for a soft landscaping strip, so the vehicles will be parked tight to the building, restricting access into the properties. This is likely to lead to vehicles within these spaces overhanging the pavement in order to enable ease of access into the dwellings, a position that could be reinforced by the spaces extending under the first floor overhang to the buildings. This arrangement will also provide a relatively poor outlook from the ground floor windows, whilst a lack of any soft landscaping to the front of the dwellings is contrary to the approach along the whole highway in which they will front.

- 5.8 To the rear, amenity areas between 30 and 40 sq m are provided. This is small for family homes. The usability is also constrained due to its split level design, necessary in order to create access to these spaces. Small second floor balconies are incorporated, but these offer limited usable space at just 2.3 sq m. The depth of the rear gardens does not create an issue in respect of relationship to neighbouring buildings, but it emphasises the uncharacteristically small amenity areas for these dwellings.
- 5.9 The three dwellings also occupy the majority of the width of this part of the site. Whilst this is not necessarily inappropriate, the tight nature of the site and the dwellings upon it means that this arrangement only seeks to augment the appearance of a dense development, which is in contrast to the immediate setting. It also generates an awkward relationship with plot 4. There is a gap of just 1.1 metres between the dwellings and part of the 'front' elevation to plot 4 faces the side elevation of plot 3. Plot 4 then extends across the full width of this part of the site. The overall arrangement of the dwellings combine to present a development that appears too cramped.
- 5.10 The provision of parking and an amenity area between the dwelling forming plot 4 and The Shades is considered to offer an appropriate arrangement, but the garden at 35 sq m is again small for the family home it will serve.
- 5.11 The proposal is considered to represent an overdevelopment of the site, resulting in a cramped appearance and substandard private amenity areas to support family homes. It is therefore contrary to Policies C28 and C30 of the Adopted Cherwell Local Plan, Policy ESD16 of the Submission Cherwell Local Plan and the good design ethos of the Framework.

Design of the Proposal

- 5.12 Reflecting the site's relatively central location within Banbury, there are a mix of uses and property types within the immediate vicinity. This includes high and low quality buildings of various scales and designs within which the new dwellings will be seen. Principally though, due to their close proximity, they will be viewed as part of Westbeech Court. It was indicated through pre-application that the design does not need to simply follow that of the dwellings along this highway, but instead take cues from the buildings along West Bar Street.
- 5.13 Plots 1 – 3 form a group of three storey terraced dwellings, with front and rear gables. These dwellings incorporate a staggered building line, with the ridge and valley approach subdividing the building into smaller sections. The articulation of the front façade with a projecting box, with differing finishing material, Juliet balconies and balustrade railings to enclose the second floor balcony creates an interesting elevation with a clearly modern design approach. Whilst it could be argued that the projecting first floor element is oversized, it is considered on balance that the use of contrast materials and additional cill and lintel detailing creates an attractive façade.
- 5.14 The rear facades to plots 1 – 3 incorporate centrally located glazing, which reduce in scale on the upper floors. This provides a balanced, proportioned design, with the cill and lintel detailing replicating that on the front façade. The use of a curved window at second floor offers an attractive addition, as well as reducing the quantity of brickwork between this aperture and the top of the gable. The design of plots 1 – 3 is considered to offer attractive dwellings, albeit not following the pattern established in Westbeech Court.

- 5.15 Plot 4 offers a more traditional appearance, with the use of red brick and render. This is in contrast to the yellow brick of plots 1 – 3. This property provides an attractive elevation towards The Shades, with a main ridge, projecting gable and partial dormer window to appropriately articulate it. Sympathetically scaled windows and doors then complete this elevation.
- 5.16 In contrast, the façade facing along Westbeech Court has little design detailing. Set up 1.4 metres from the adjoining land, in part reflecting the reduction in ground level for plots 1 – 3, this building will appear dominant, with a large roof section and only limited apertures to break up its mass. The ad hoc position of the apertures does not generate the quality of façade necessary for a building in this location. The arrangement of the building on site means that it needs to act as a dual fronted dwelling. The façade towards Westbeech Court fails to provide sufficient quality to fulfil this function.
- 5.17 The design of the proposed development, by virtue of plot 4 is considered contrary to Policies C28 and C30 of the Adopted Cherwell Local Plan, Policy ESD16 of the Submission Cherwell Local Plan and the good design ethos of the Framework.

Impact upon the street scene and setting of the Conservation Area

- 5.18 The location of the site and the arrangement of the buildings around it results in public views from Westbeech Court to the west, West Bar Street to the south-east and The Shades to the east and north-east. This includes key views out of the Banbury Conservation Area from West Bar Street. The site is adjacent to but outside of the conservation area.
- 5.19 The views from West Bar Street and The Shades are currently of low quality, with the site seen in the context of the other surrounding parking areas, with fencings and poorly maintained walls. High quality buildings have the potential to improve these views, to the betterment of the setting of the conservation area.
- 5.20 The high quality rear facades of plots 1 – 3 will improve this relationship, and given the distance from which these views would occur, an appropriate relationship would be created with the existing dwellings on Westbeech Court when viewed from West Bar Street. It has been commented that construction of these dwellings from red rather than yellow brick by the Conservation Officer would be more appropriate. Both bricks are in use within the area, and either could be used. However, given the more intimate context of the buildings from Westbeech Court, matching the materials used in these dwellings (yellow brick), would appear the more logical approach.
- 5.21 Plot 4 offers a blander façade from West Bar Street, with a simple side gable present. This is not materially different to that present elsewhere when side elevations face towards the highway. Whilst not adding a building of note, this structure will still represent an improvement compared to the prefabricated garage to be removed and is not out of scale to other buildings within its context. The view out of the conservation area from West Bar Street is therefore considered to be appropriately protected, if not enhanced.
- 5.22 From The Shades, the rear elevation of plot 4 will be visible. Suitable boundary treatment would be required in order to prevent unnecessary screening from this highway, given it forms a link to People's Park. This could be secured via

condition. Plots 1 and 3 would be partially visible beyond plot 4. The blank façade would present an acceptable appearance, with the ridge heights not appearing to be materially higher than plot 4, as they will be seen in the background. These plots will also appear smaller than the other buildings visible in the background (36 and 38 West Bar Street). Views of the development from The Shades are therefore considered acceptable.

- 5.23 The site is currently screened from Westbeech Court by a high brick wall. This 19th Century wall is considered to be of some historic importance, but is in a poor state of repair. Whilst its loss is unfortunate, it is not considered sufficient to refuse the scheme, given that its demolition enables the new dwellings to better interact with the street scene.
- 5.24 The proposed dwellings are of a different design to the existing maisonettes on Westbeech Court. Whilst this is not in itself considered inappropriate, concern is raised in respect of the interaction of the proposed dwellings to the street scene. They are set in front of numbers 29 – 32, with eaves and ridges above the existing dwellings. Coupled with the slight reduction in ground level proposed, it generates an imposing form for these properties. The elevation treatment assists in part to reduce its impact, but the combined scale, coupled with their position creates an overbearing appearance for the dwellings. The position and design of plot 4 adds to the unbroken infill development from the west, with the overbearing impression from this two storey property continued, due to the elevation of the finished floor level 1.4 metres above Westbeech Court.
- 5.25 The proposed development is considered to protect the character and appearance of the Conservation Area and views more generally from West Bar Street and The Shades. However, it is detrimental to the character and appearance of Westbeech Court. It thus conflicts with Policies C28 and C30 of the Adopted Cherwell Local Plan, Policy ESD16 of the Submission Cherwell Local Plan and the good design ethos of the Framework.

Residential Amenity

- 5.26 The proposed dwellings are orientated to face towards the highway and their own rear gardens. The upper floor windows to the rear of plots 1 – 3 will provide some views over the neighbouring gardens of 29 and 30 Westbeech Court. However, the buildings and all windows are orientated to minimise overlooking, ensuring an acceptable relationship is created. Additionally, the internal arrangement of the new houses ensures that an acceptable relationship is created between the windows in plots 3 and 4, despite their close arrangement.
- 5.27 Plots 1 – 3 are aligned to the north-east of numbers 29 and 30 but are set further forward. The alignment does not exceed the 45 degree rule from any existing window, and likewise an acceptable arrangement to the rear for plot 1's windows is also created. This offset is also insufficient to result in the proposed dwellings being overly dominant from views of the adjoining properties.
- 5.28 Directly opposite Plots 1 – 3 is a grassed area, with 11 and 12 Westbeech Court to the west of it. The orientation between these dwellings and the application buildings means that some morning sunlight will be obscured by the new dwellings. However, this arrangement is not materially different to that created between other properties on this and other streets.

- 5.29 Plot 4 will provide an acceptable arrangement in terms of protecting privacy, sunlight and outlook to all properties.
- 5.30 The arrangement between the existing and proposed dwellings is therefore considered to protect residential amenity, in accordance with Policy C30 of the Adopted Cherwell Local Plan. However, as noted above, the scale of the private amenity areas proposed for the new dwellings are considered insufficient to meet the needs of the dwellings and thus this aspect contravenes Policy C30 of the Adopted Cherwell Local Plan.

Highways and Parking

- 5.31 Access for plots 1 – 3 is to be taken off Westbeech Court, whilst plot 4 will be accessed from The Shades. Access from Westbeech Court will be from the public section of this highway, with no interaction required with the private garage forecourt area in order to gain access or manoeuvre vehicles in association with the proposed parking. Whilst Westbeech Court is substandard in width compared to current requirements, it already serves 32 dwellings. The incorporation of traffic for three additional properties would not be an issue.
- 5.32 The Shades is a single width highway, which is predominantly used as a footpath. Access is currently provided to the application site from this highway to a double garage with additional parking in front of the garage. Its use in association with a single dwelling will not therefore increase traffic movements along this highway. The proposed arrangement is therefore considered acceptable, since vehicles would be able to enter and egress The Shades in a forward gear.
- 5.33 The proposal incorporates two parking spaces for each dwelling. This is in line with current policy and thus is considered acceptable and will protect the free movement of traffic along adopted highways. A condition will need to be attached to ensure pedestrian visibility splays are provided and retained, with the closest 2.0 metre section of the side boundary wall to numbers 29 and 30 reduced in height appropriately.
- 5.34 In order to create the access to the site for plots 1 – 3, parking for up to three vehicles on the highway would be lost. However, this part of the highway forms part of the turning area for the marked spaces on Westbeech Court. Any vehicle parallel parked adjacent to the proposed access for plots 1 – 3 prevents the ease of use of the designated on street parking spaces. The insertion of the access points to the new dwellings will therefore improve the ability to use the designated spaces. Whilst it is recognised that there is a shortfall of parking along Westbeech Court for the existing dwellings, this is not an issue that needs to be rectified by the proposed development and since it will not result in the loss of any designated parking spaces, it has been considered to have a neutral impact upon parking capacity within the public highway.
- 5.35 The application site is currently a car park used in conjunction with 36 West Bar Street, with the wider parking area also linked to number 38. 21 parking spaces are currently available for use in association with number 36. Reorganisation of the space will enable this number of spaces to be retained and used without undermining highway safety on the parking area retained beyond the application site. The Prior Approval Application for 38 West Bar Street to be used as flats noted 16 parking spaces would be provided. 11 have been marked out, some of which are substandard. No concern over this level of

provision has been raised by the Highway Officer, and as such the level of parking retained is considered acceptable in this instance.

- 5.36 Access and parking is considered to be in line with Policies TR5 and TR11 and Appendix B of the Non-Statutory Cherwell Local Plan.

Other Matters

- 5.37 Extensive concern has been raised by local residents and businesses in response to this application. Discussions, including a meeting with residents has been undertaken to ensure everyone understood the planning application process and how representations should be made. The majority of the material planning concerns highlighted, have been covered in the discussion above. However, a couple of additional points have also been raised.
- 5.38 Issues over ownership of the land, and in particular the boundary walls, has been highlighted. Any application or approval runs with the land, not the applicant, but all interested parties in the land (including leaseholders subject to certain criteria) should be correctly notified. This has been raised with the agent accordingly.
- 5.39 It has been highlighted that there is asbestos within the garage to be demolished, whilst Japanese knotweed has also been identified as being present on site recently. These are elements that could be conditioned, if considered necessary.

Consultation with applicant

- 5.40 Discussion with applicant's agent has been undertaken to highlight the concerns of the proposal. This has included how the issues with the current application could be resolved. These alterations were considered to exceed the scope of amendments that would be acceptable through this current application, and thus a new planning application would be required. The proposed recommendation for refusal, unless the application is withdrawn, has therefore been made aware to the applicant.

Conclusion

- 5.41 The principle of development of this land for residential purposes is considered acceptable. However, the detail of the scheme is considered to result in overdevelopment of the land, with the amount and scale of the proposed dwellings resulting in a proposal that will be detrimental to the character and appearance of Westbeech Court. The dwellings will also create a poor living environment for future occupants of the properties. Concern is also raised in respect of the design of plot 4, which presents poor fenestration detail to Westbeech Court.

6. Recommendation

Refusal, for the following reasons:

- 1 The proposal represents an overdevelopment of the site, resulting in a cramped layout which is to the detriment of the character and appearance of Westbeech Court, and the wellbeing of future occupiers through provision of insufficient private amenity space. The proposal contravenes

Policies C28 and C30 of the Adopted Cherwell Local Plan, Policy ESD16 of the Submission Cherwell Local Plan and the good design ethos of the Framework.

- 2 The scale of plots 1 – 3 by reason of their three storey form and fenestration detailing appear overdominant within the Westbeech Court street scene. This relationship is considered contrary to Policies C28 and C30 of the Adopted Cherwell Local Plan, Policy ESD16 of the Submission Cherwell Local Plan and the good design ethos of the Framework.
- 3 Plot 4 is in an elevated and prominent location on Westbeech Court. The design of this dwelling does not make a positive contribution to the street scene due to poor fenestration detailing, contrary to Policy C30 of the Adopted Cherwell Local Plan.

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.