

Site Address:
55 Winchelsea Close, Banbury

15/00628/F

Ward: Banbury Hardwick

District Councillor(s): John Donaldson, Tony Ilott and Nicholas Turner

Case Officer: Matthew Parry

Recommendation: Approval

Applicant: Mr Ryan Jarvis

Application Description: Change of use of land to residential garden curtilage and erection of a 1.8m fence

Committee Referral: Applicant is a relative of a Council employee

Committee Date: 11th June 2015

1. Site Description and Proposed Development

1.1 The application site relates to part of a corner of grassland set in between houses in a cul-de-sac of a modern suburban residential area of North Banbury. The site lies within the ownership of its adjoining property, 55 Winchelsea Close, but it does not form part of its residential curtilage despite it occasionally being used for the storage of domestic paraphernalia.

1.2 The application seeks consent for the change of use of part of the land to a residential garden in connection with 55 Winchelsea Close. A 1.8m high close boarded fence is proposed around the land. As part of the application process amended plans have been submitted that reduce the area of land for which the change of use is sought so that it does not include the land immediately adjacent to the estate road. These amendments reduced the impact of the development and so were not subject to separate public consultation.

2. Application Publicity

2.1 Neighbour notification letters have been sent out and a site notice displayed near to the land allowing at least 21 days for public comments. One third party objection received from No. 57 Winchelsea Close citing the following concerns:

- Elimination of open space environment of the estate;
- Would create "Box Type" environment with a danger of precedent being set changing the appearance of the road;
- Restrict views from neighbouring property.

3. Consultation Responses

3.1 Banbury Town Council – Support the proposals

3.2 Local Highway Authority (Oxfordshire County Council) – No objection

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4. Relevant National and Local Policy and Guidance

4.1 Development Plan Policies

Adopted Cherwell Local Plan (LP) (Saved Policies)

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

4.2 Other Material Planning Considerations:

Cherwell Submission Local Plan (SLP)

The Cherwell Submission Local Plan (February 2015) (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 SLP 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. The examination reconvened and closed in December 2014. A schedule of minor modifications and other documents arising from the hearings were submitted to the Inspector on 6th February 2015 and the Inspector's report is due to be published in June 2015. Although the SLP does not have Development Plan status, it is a material planning consideration which gains in weight as it advances through the preparation process. The following policy in the SLP is considered to be relevant to this application:

ESD16: Character of the built environment

National Planning Policy Framework (NPPF) - National Planning Policy Framework sets out the Government's planning policies for England and how these are expected to be applied.

Planning Practice Guidance (PPG) – This sets out regularly updated guidance from central Government to provide assistance in interpreting national planning policy and relevant legislation.

5. Appraisal

5.1 Officers' consider the key issues for consideration in this application to be:

- Effect on the Character and Appearance of the Area;
- Impact on Neighbouring Amenity.

Effect on the Character and Appearance of the Area

5.2 Policies C28 and C30 of the Adopted Cherwell Local Plan (LP) require new housing development to be compatible with the appearance, character and layout of the surrounding residential area. Emerging Policy ESD16 of the SLP has similar requirements and states that development of all scales should be designed to improve the quality and appearance of an area and the way it functions. Both adopted and emerging policies are consistent with national policy set out in the NPPF.

5.3 The suburban character of the housing development results from, in part, the gaps between and around houses. Whilst houses generally features typical close boarded fences between their gardens this is not replicated along the street frontage where houses tend to be set back within their plots to allow for off-street car parking and small gardens.

- 5.4 Within Winchelsea Close the density of development increases a little though there is a small open area of grassland to the side of the application property which softens the transition around the curved turning head. This land abuts the front garden of 57 Winchelsea Close. Whilst the land is within the ownership of residents of 55 Winchelsea Close it does not form part of their enclosed garden and is not bounded by a fence for privacy.
- 5.5 The formal change of use of the land would not in itself necessarily have an effect on its appearance, but a 1.8m high close boarded fence is also proposed around it. However, the application only seeks the change of use of part of this land so the fence is shown to be erected approximately half-way back into the site. This ensures that a meaningful grass covered gap would remain such that the proposals would not unduly detract from the contribution that the open corner makes to the suburban character of the cul-de-sac. In any event, a similar fence could be erected at any time without the benefit of planning permission and weight should be given to this possibility.
- 5.6 Having said that, conversion to residential use would bring eligibility for permitted development rights to construct potentially significant sized garden buildings which, as a result of the site's corner location, could make them quite prominent. To ensure that control is retained over such buildings a condition is recommended to be imposed removing permitted development rights to construct incidental outbuildings on the land.
- 5.7 Subject to this condition, officers are satisfied that the proposed development would be visually appropriate to the site's suburban context in accordance with the requirements of the aforementioned planning policies.

Impact on Neighbouring Amenity

- 5.8 Policy C30 of the LP requires acceptable standards of residential amenity to be provided as part of new development which is consistent with the core principles of the NPPF. Whilst some concern has been raised by an occupier of a neighbouring property that the erection of a fence could detract from the outlook from the front of No. 57 Winchelsea Close, now that the position of the fence has been set back significantly from the road frontage it would not result in an undue feeling of enclosure for the neighbouring dwelling that would be out of character with the typical density and layout of the estate. As set out previously, it should also be recognised that a similar fence could be erected at any time without being subject to planning control and weight should be afforded to this potential fallback position. For these reasons officers are therefore satisfied that the proposals would not have a significant adverse effect on neighbouring living conditions.

Conclusion

- 5.9 The proposals would not have a material adverse effect on the suburban character of the area and similarly would not cause significant harm to neighbouring living conditions. As a result the proposals are considered to accord with the requirements of all relevant development plan policies and Government guidance such that officers recommended approval accordingly.

6. Recommendation

Approval, subject to the following conditions:

- 1 The development to which this permission relates shall be begun not later than the

expiration of three years beginning with the date of this permission.

Reason - To comply with the provisions of Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2 Except where otherwise stipulated by condition, the development shall be carried out strictly in accordance with the following plans and documents: Plan 1.1.

Reason - For the avoidance of doubt, to ensure that the development is carried out only as approved by the Local Planning Authority and to comply with Government guidance contained within the National Planning Policy Framework.

3 Notwithstanding the provisions of Class E of Part 1, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 and its subsequent amendments, no structure shall be erected on the land without the prior express planning consent of the Local Planning Authority.

To ensure and retain the satisfactory appearance of the completed development and to comply with Policy C28 of the adopted Cherwell Local Plan 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) Order 2015 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 the decision has been made in an efficient and timely way.

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