

**Site Address: 21 Chetwode, Banbury**

**15/01136/F**

**Ward:** Banbury Neithrop

**District Councillor:** Cllr Dhesi and Cllr Johnstone

**Case Officer:** Gemma Magnuson

**Recommendation:** Refusal

**Applicant:** Mrs Dawn Brown

**Application Description:** Change of use of land to private garden

**Committee Referral:** Site owned by Cherwell District Council

**Committee date:** 03 September 2015

## **1. Site Description and Proposed Development**

- 1.1 The site consists of a parcel of land positioned to the north of the existing rear garden associated with 21 Chetwode. The land sits between the existing boundary fence and Longelandes Way, forming part of a residential estate north-west of Banbury town centre. The land is not covered by any designations. The Neithrop Fields Cutting Special Site of Scientific Interest (SSSI) is within 2km of the site. The land is potentially contaminated.
- 1.2 The proposed development would involve the change of use of the land to domestic curtilage. The land would be enclosed by a timber fence of an unspecified height.

## **2. Application Publicity**

- 2.1 The application has been advertised by way of neighbour letter and site notice. The final date for comment was 13 August 2015. No correspondence was received as a result of this consultation.

## **3. Consultations**

- 3.1 Banbury Town Council: no response at time of writing.

### **Cherwell District Council Consultees**

- 3.2 Landscape Officer: I would recommend a refusal on this one. The land must be kept as formal open space as part of the amenity, and open character of the area. The applicant should maintain the land as informal open space and it should remain unfenced.

### **Oxfordshire County Council Consultees**

- 3.3 Highways Officer: no response at time of writing.

## **4. Relevant National and Local Policy and Guidance**

### **4.1 Development Plan Policy**

Cherwell Local Plan (2011-2031 Part 1)

The Cherwell Local Plan 2011-2031 - Part 1 was formally adopted by Cherwell District Council on 20th July 2015.

The Plan was the subject of an independent examination conducted by an Inspector appointed by the Secretary of State. The Inspector's report was published on 12th June 2015 and the recommended main modifications required to make the Plan sound have been included in the adopted plan.

The Plan provides the strategic planning policy framework and sets out strategic site allocations for the District to 2031. Now adopted, the Plan forms part of the statutory development plan and provides the basis for decisions on land use planning affecting Cherwell District.

The Local Plan 2011-2031 – Part 1 replaces a number of the saved policies of the 1996 adopted Cherwell Local Plan. Those saved policies of the 1996 adopted Cherwell Local Plan which are retained remain part of the development plan. These are set out in Appendix 7 of the Local Plan 2011-2031.

Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.

The Local Plan and its associated documents are available on the Council's website: [www.cherwell.gov.uk](http://www.cherwell.gov.uk)

ESD15: The Character of the Built and Historic Environment

Cherwell Local Plan 1996 (saved Policies)

C28 – Layout, design and external appearance of new development

#### 4.2 **Other Material Policy and Guidance**

Planning Practice Guidance (PPG)

National Planning Policy Framework (NPPF)

### **5. Appraisal**

5.1 The key issues for consideration in this application are:

- Visual impact
- Residential amenity
- Highway safety

#### **Visual Impact**

5.2 Government guidance within the NPPF states that the purpose of the planning system is to contribute to the achievement of sustainable development. There are three dimensions to sustainable development; economic, social and environmental. These roles should not be undertaken in isolation, because they are mutually dependant. The planning system should seek to create a high quality built environment with accessible local services that reflect the community's needs and support its health, social and cultural well-being.

- 5.3 Pursuing sustainable development involves seeking positive improvements in the quality of the built, natural and historic environment as well as in people's quality of life, including improving the conditions in which people live, work, travel and take leisure. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. Planning decisions should aim to ensure that developments will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development, and are visually attractive as a result of good architecture and appropriate landscaping.
- 5.4 Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions. Further, planning decisions should aim to achieve places which promote safe and accessible developments, containing clear and legible pedestrian routes, and high quality public space, which encourage the active and continual use of public areas. Existing open space, sports and recreational buildings and land, including playing fields, should not be built on unless they are surplus to requirements, would be replaced elsewhere or the development is for alternative sports and recreational provision, the needs for which clearly outweigh the loss.
- 5.5 Policy ESD 15 of the Cherwell Local Plan 2011-2031 states that new development will be expected to complement and enhance the character of its context through sensitive siting, layout and high quality design. All new development will be required to meet high design standards and should be designed to deliver high quality safe, attractive, durable and healthy places to live and work in. Further, development of all scales should be designed to improve the quality and appearance of an area and the way it functions and development should be designed to integrate with existing streets and public spaces, and buildings configured to create clearly defined active public frontages
- 5.6 Saved Policy C28 of the Cherwell Local Plan 1996 exercises control over all new development to ensure that it is sympathetic to the character of the context of the development.
- 5.7 The site consists of an area of public open space owned by Cherwell District Council and forms part of a landscaped strip running along the southern edge of Longelandes Way that contributes to the open character and appearance of the existing streetscene. The landscaping of the site consists of grass, although it serves to separate the existing fence at 21 Chetwode from the back edge of the footway.
- 5.8 It is the opinion of Officers that the incorporation of this land into the domestic curtilage of 21 Chetwode, together with its enclosure by timber fencing, would detract from, rather than improve, the character and quality of the area and the way it functions, and result in the loss of an area of public open space that contributes to the open character and appearance of the streetscene.
- 5.9 It is apparent that the occupants of 19 Chetwode have enclosed a similar parcel of land with a timber fence, although there is no record of a planning application for the change of use of the land to domestic curtilage and the erection of a fence.
- 5.10 If the current application were to be permitted, Officers consider that it would set an undesirable precedent for the incremental erosion of this public open space as there are a number of dwellings in close proximity to the site that may seek to undertake similar works.
- 5.11 The proposal is considered contrary to Government guidance contained within the NPPF, Policy ESD 15 of the Cherwell Local Plan 2011-2031 and saved Policy C28 of

the Cherwell Local Plan 1996.

### **Residential Amenity**

- 5.12 Government guidance contained within the NPPF seeks to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings. Policy ESD 15 of the Cherwell Local Plan 2011-2031 states that new development should consider the amenity of both existing and future development, including matters of privacy, outlook, natural lighting, ventilation, and indoor and outdoor space.

Officers consider that the proposed fence would be positioned a sufficient distance from openings at neighbouring properties in order to avoid any harm in terms of a loss of privacy or amenity, in accordance with the above Policies.

### **Highway Safety**

- 5.13 Officers consider that the proposed fence would be positioned a sufficient distance from the highway in order to avoid causing significant harm in terms of highway safety, in accordance with Government guidance contained within the NPPF in terms of sustainable transport.

### **Engagement**

- 5.14 With regard to the duty set out in paragraphs 186 and 187 of the Framework, Officers did not consider that the application could be amended in order to overcome concerns regarding the impact upon visual amenity. The application has been determined in a timely and efficient manner and it is therefore considered that the duty to be positive and proactive has been discharged through discussion with the applicant on site.

### **Conclusion**

- 5.15 The proposed change of use of public open space to domestic curtilage and erection of a fence, by virtue of its appearance and positioning, would result in the loss of public open space that would detract from the open character and appearance of the context of the development, contrary to Government guidance contained within the National Planning Policy Framework, Policy ESD 15 of the Cherwell Local Plan 2011-2013 and saved Policy C28 of the Cherwell Local Plan 1996. In addition, it will set an undesirable precedent for the consideration of similar proposals that would cumulatively further erode the area of open space but would be consequentially difficult to resist.

## **6. Recommendation**

**Refusal**, for the following reason:

The proposed change of use of public open space to domestic curtilage and erection of a fence, by virtue of its appearance and positioning, would result in the loss of public open space that would detract from the open character and appearance of the context of the development, contrary to Government guidance contained within the National Planning Policy Framework, Policy ESD 15 of the Cherwell Local Plan 2011-2013 and saved Policy C28 of the Cherwell Local Plan 1996. In addition, it will set an undesirable precedent for the consideration of similar proposals that would cumulatively further erode the area of open space but would be consequentially difficult to resist.

## **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 the decision has been made in an efficient and timely way.