

**Site Address: Land Adjoining And South
West Of 27 Derwent Road, Bicester**

15/01295/F

Ward: Bicester West

District Councillor: Cllrs Bolster, Hurle, Sinbley

Case Officer: Nathanael Stock

Recommendation: Refusal

Applicant: Mr Mustab Ahmed

Application Description: Erection of a two storey building to form one two storey dwelling and two flats, and associated hardstanding and means of access

Committee Referral: Member
Request – Cllr Sibley

Committee Date: 3rd September 2015

1. Site Description and Proposed Development

- 1.1 The application site is a small, relatively flat area of open, undeveloped green space within – but towards the western edge of – the built form of Bicester, bounded on three sides by residential neighbours (separated from neighbours on two of those sides by footpaths) and to the fourth by the highway (Dryden Avenue). The site is not within a designated Conservation Area; there are no listed buildings or other heritage assets in the vicinity; and there are no other designations.
- 1.2 Planning permission is sought for the erection of a two storey building to form one two storey dwelling and two flats. The building would have an eaves height of 5.4m, ridge height of approx. 6.9m, overall depth of 8.5m and width of approx. 13.5m; it would have a shallow pitched roof, with left to right ridge, broadly central gable projection to the rear and two smaller gable projections to the front.
- 1.3 The bulk of the building would form two flats, one at ground and one at first floor, both accessed from front doors facing eastward towards Dryden Avenue, and both featuring open plan living kitchen area, two bedrooms and a bathroom. The northern end of the building would form a two-storey dwelling, again with a front door facing towards Dryden Avenue, and featuring an open plan kitchen living area at ground floor and one en suite bedroom at first floor level.
- 1.4 The submitted landscape plan shows two car parking spaces each for the two flats in a tandem arrangement, situated between the proposed building and 27 Derwent Road, and one parking space to the north of the building to serve the dwelling. The same plan indicates a communal amenity area for the proposed dwellings, bounded by a 1.5m high picket fence, with two existing trees shown to be retained.

2. Application Publicity

- 2.1 The application was publicised by way of neighbour notification letters and a notice displayed near to the site. The comments (16 letters of objection, from 10 separate addresses) raised by third parties are summarised as follows:
 - (1) Principle of development is totally inappropriate – new development has to provide green space or make a contribution towards the maintenance thereof; should be inappropriate to build on existing open spaces; contrary to the Local Plan
 - (2) Impact on the character of the area – Cramped form of development; overdevelopment of the site; too much development on a small area of land; out of character with surrounding development; the building would be

an eyesore, not to mention fences, outbuildings and garden paraphernalia; how would the communal garden be maintained?

- (3) Loss of open green space important to and well used by local community (has been actively used for 30+ years) as a place to play sport with children, to socialise, to celebrate (e.g. queen's jubilee), where children have been able to play safely; this small green space is very precious to the local community; the green is as much a part of the neighbourhood as the school and the pub; have always believed the green to be an ornamental garden / open space for recreational use as there never been any notices to the contrary (and the Council has maintained it as such); its loss would be detrimental to the amenity of the area and to social cohesion; the proposal does not accord well with Bicester's emerging status as a garden town; and is also contrary to the objectives of the NPPF
- (4) Impact on neighbours' amenity – Significant loss of privacy for neighbouring residents (esp. Nos. 23 – 26 Derwent Road), as well as loss of light, and also loss of outlook to No. 27; would be more difficult for emergency vehicles to access neighbouring properties quickly; noise pollution and dust during construction
- (5) Impact on highway safety – parking is already an issue along this busy road through the estate – the proposal would exacerbate this situation / cause parking problems in the area; the site is opposite a primary school – this road is esp busy in the mornings and afternoons – any more cars would cause a danger to the public esp children; the edge of the site, adj to the road, is used as a valuable overflow to local residents' parking problems
- (6) Loss of trees/vegetation
- (7) Impact on wildlife
- (8) Approval would set a dangerous and unwelcome precedent for similar green spaces in the area
- (9) New residential development not necessary now that the Local Plan has been adopted, with a large number of new houses allocated for Bicester; lack of benefit given the number of houses proposed

Non-material issues raised:

- (1) The applicant is not a local resident
- (2) The proposal's impact on property values

3. Consultations

3.1 Bicester Town Council: No comments recieved

Cherwell District Council Consultees

3.2 Environmental Protection Officer: No comments received

3.3 Landscape Officer: No comments received

Oxfordshire County Council Consultees

3.4 Highways Liaison Officer: No comments received

Other Consultees

- 3.5 Thames Water: No comments received
- 3.6 Derwent Residents Group: Strongly objects. Representation appended to this report.
- 3.7 Cllr Les Sibley: Objects. Comments as follows:

As a long term resident of thirty plus years at Derwent Road Bicester I strongly object to the above planning applications for the following reasons:

The planned proposals as outlined would have a detrimental and long term impact on the environment of the local green and open space area that has been a focal point for community cohesion and activities for Derwent Road residents over many years.

Overdevelopment of a confined space.

Not in keeping with the local street scene.

The proposed development would face onto the busy "T" Junction of Tweed Crescent / Dryden Avenue which already suffers from on street parking, traffic congestion, pollution, noise and poor visibility especially when entering and exiting from Tweed Crescent. This is also a main route for school and local Buses.

Vehicles attempting to manoeuvre and park on the proposed development will cause traffic issues.

Adverse impact on neighbouring properties numbers 23, 24, 25, 26 and 27 Derwent Road by way of loss of view across the open space area and beyond. Loss of privacy and light. Loss of recreational land and local Green Space which are protected from development by the original planning permission and by the National Planning Policy Framework (NPPF) in particular paras 76 & 77 (see below)

NPPF – Promoting Healthy Communities Page 18 - Local Green Space 76. Local communities through local and neighbourhood plans should be able to identify for special protection green areas of particular importance to them. By designating land as Local Green Space local communities will be able to rule out new development other than in very special circumstances.

Identifying land as Local Green Space should therefore be consistent with the local planning of sustainable development and complement investment in sufficient homes, jobs and other essential services. Local Green Spaces should only be designated when a plan is prepared or reviewed, and be capable of enduring beyond the end of the plan period.

77. The Local Green Space designation will not be appropriate for most green areas or open space. The designation should only be used:

- where the green space is in reasonably close proximity to the community it serves;
- where the green area is demonstrably special to a local community and holds a particular local significance, for example because of its beauty, historic significance, recreational value (including as a playing field), tranquillity or richness of its wildlife; and
- where the green area concerned is local in character and is not an extensive tract of land.

May I also draw your attention to a fundamental point regarding the local recreational

and Green Space in Derwent Road which has to be answered before any planning application is given the green light?

I would request that the CDC Planning Officers and Members recognise the strong and valid objections of local residents and councillors by rejecting this application to build on a local green space.

4. Relevant National and Local Policy and Guidance

4.1 Development Plan Policy

Development Plan Policies

The Cherwell Local Plan 2011-2031 - Part 1 was formally adopted by Cherwell District Council on 20th July 2015 and provides the strategic planning policy framework for the District to 2031. The Local Plan 2011-2031 – Part 1 replaced a number of the ‘saved’ policies of the adopted Cherwell Local Plan 1996 though many of its policies are retained and remain part of the development plan. The relevant planning policies of Cherwell District’s statutory Development Plan are set out below:

Cherwell Local Plan 2011 - 2031 Part 1

PSD1 – Presumption in Favour of Sustainable Development
BSC2 – The Effective and Efficient Use of Land
BSC3 – Affordable Housing
BSC4 – Housing Mix
BSC10 – Open Space, Outdoor Sport & Recreation Provision
ESD1 – Mitigating and Adapting to Climate Change
ESD3 – Sustainable Construction
ESD7 – Sustainable Drainage Systems (SuDS)
ESD10 – Protection and Enhancement of Biodiversity and the Natural Environment
ESD15 – The Character of the Built Environment

Cherwell Local Plan 1996 (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

- Paragraphs 6 – 9, 13, 14, 17 (presumption + core planning principles), 18, 19, 20 (economy), 29 – 36 (transport), 47, 49, 50, 52 (housing), 56 – 66 (design), 69, 70, 73 – 77 (healthy communities), 93 – 104 (climate change and flooding), 109 – 125 (natural environment), 126 – 139 (historic environment) and 186 – 206 (decision taking)

National Planning Practice Guidance

5. Appraisal

5.1 The key issues for consideration in this application are:

- Planning history
- District housing land supply
- Principle of development
- Impact on the character of the area
- Residential amenity

- Highway safety

Planning History

- 5.2 There is no specific site history to this site save for the original consent for the residential estate granted under reference NE.720/72 which reveals this site to be an open space as part of the whole design layout.

District housing supply

- 5.3 The five year land supply was comprehensively reviewed for the 2014 Annual Monitoring Report (“the AMR”) which was published on 31 March 2015. The AMR concluded that the district has a **5.1 year supply** of deliverable sites for the five year period 2015-2020 (commencing on 1 April 2015). This is based on the housing requirement of the Submission Local Plan (as Proposed to be Modified, February 2015) which is 22,840 homes for the period 2011-2031 and is in accordance with the objectively assessed need for the same period contained in the 2014 SHMA (1,140 homes per annum of a total of 22,800). The five year land supply also includes a 5% buffer for the reasons explained at paragraph 6.28 of the AMR. The presumption in favour of sustainable development, as advised by the Framework, will therefore need to be applied in this context.

Principle of development

- 5.4 The Framework states that one of the core planning principles is to proactively drive and support sustainable economic development to deliver the homes, business and industrial units, infrastructure and thriving local places that the country needs. Every effort should be made objectively to identify and then meet these needs including for housing. A five year housing land supply should be maintained and at this time the Council is able to demonstrate a 5.1 year supply of deliverable housing land. Therefore the relevant policies of the adopted Cherwell Local Plan are the starting point for decision making.
- 5.5 Nevertheless, it remains the case proposed development should be approved unless there would be harm caused that significantly and demonstrably outweighed the benefits.
- 5.6 Bicester is an urban centre and as such a suitable location in principle for further housing development. The site is within a residential estate which, again, would be appropriate for development for further residential units. Proposed developments with an urban focus are considered to be the most sustainable and this is a primary aim of Government guidance. Such locations allow for a managed pattern of growth to make the fullest possible use of public transport, walking and cycling.
- 5.7 However, to properly achieve sustainable development, the Framework advises that economic, social and environmental gains should be sought jointly and simultaneously through the planning system. It is not only about the need for housing or its location, and development should not be granted if it would cause significant harm to acknowledged interests. In this case the matters identified in the introduction need to be considered to enable a balanced judgement to be formed.
- 5.8 The recently adopted Cherwell Local Plan states that one of the key environmental challenges facing Bicester is to manage growth in a way that will not unacceptably harm important natural assets (C.26, p134) and the Council seeks to ensure sustainable development by, among other things, taking the eco-town concept across the whole town (C.28, p135). Policy Bicester 7 seeks to protect existing green spaces within the town (p160), as does Policy BSC10, and Policy ESD15 states that development should be designed to improve the quality and appearance of an area and the way it functions, and should consider the amenity of existing and future development, including outdoor spaces.

- 5.9 In addition, paragraph 70 of the Framework encourages Local Planning Authorities to guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day-to-day needs, and paragraph 74 of the Framework states that existing open spaces should not be built on unless an assessment has been undertaken which has clearly shown the open space to be surplus to requirements, or the loss resulting from the proposal would be replaced by equivalent or better provision (in terms of quantity and quality) in a suitable location.
- 5.10 Further, paragraph 76 of the Framework states that local communities should be able to identify for special protection green areas of particular importance to them. Paragraph 77 makes clear that the Local Green Space designation will not be appropriate for most green area or open space and should only be used:
- where the green space is in reasonably close proximity to the community it serves;
 - where the green area is demonstrably special to a local community and holds a particular local significance, for example because of its beauty, historic significance, recreational value (including as a playing field), tranquillity or richness of its wildlife; and
 - where the green area concerned is local in character and is not an extensive tract of land.
- 5.11 In this instance, the proposed development would result in the loss of an existing green space, which would have a detrimental impact on the amenity of existing residents, and would reduce the community's ability to meet its day-to-day needs. The number and strength of response from local residents, including a newly formed Derwent Green Residents Group, suggests that the site is an important and valued asset for the local community. No assessment has been submitted by the applicant to show that the site as open space is surplus to requirements, and there is no proposal to replace the site with suitable alternative provision in the area. It is thus considered that the proposal would conflict with Local Plan Policies BSC10, Bicester 7 and ESD15 as well as paragraphs 70 and 74 of the Framework.
- 5.12 It is clear from the text of paragraph 77 that a Local Green Space designation will only be appropriate in occasional circumstances. However, the site is small in scale, local in character, very close to the community it serves (as identified by the Residents Group and the origin of individual objections) and appears to be demonstrably special to the local community for its recreational value. The criteria set out in paragraph 77 therefore appear to be satisfied which would give the site, subject to designation, a status similar to land in Green Belt.
- 5.13 Overall, therefore, it is considered that the principle of development on this site is not acceptable.

Impact on the character of the area

- 5.14 The Framework advises that pursuing sustainable development involves seeking positive improvements in the quality of the built environment, as well as in people's quality of life, including improving the conditions in which people live. Proposals should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.
- 5.15 The location of this site must be seen in the context of the planned nature of this residential estate. The original layout approved in the 1970s shows this site to have been part of an area of open space in an otherwise dense housing area. There are small pockets of green space offering some relief with the street scape which would otherwise be wholly dominated by buildings and the roads. Open areas of green space perform an essential function and should not be considered as opportunities to exploit for further development where they would cause harm.

- 5.16 It is considered that this green space does perform an essential function in the street scape, forms an essential element of the original planned estate and appears to be a pleasant area of open space. It contributes positively to the character of the area, and it is therefore considered that the proposal would cause substantial harm to this character. As such, the proposal conflicts with Local Plan Policy ESD15.
- 5.17 In addition, development in the area is generally set back from the highway, including on Dryden Avenue, but also Tweed Crescent, Tamar Crescent and Severn Close. Where buildings are closer to the road, as in 1 Tweed Crescent opposite the site, they are side on to the road. In seeking to achieve an acceptable relationship with neighbouring occupiers to the west, the proposed development has been sited very close to the highway.
- 5.18 However, in the context of the local built form and the design and length of enclosures (mixture of brick and close boarded timber fence) on the western side of Dryden Avenue, it is not considered that the layout of development is in itself a sustainable reason for refusal. The proposed building, at under 7 metres in overall height, is relatively squat and, subject to appropriate materials, would not be unduly imposing in purely visual terms, despite its location close to the highway. This conclusion on visual impact does not lessen the harm caused through the loss of a locally important green space, but the proposal is not considered so harmful to visual amenity as to warrant refusal on this basis alone.
- 5.19 The lack of private amenity space for future residents is, however, not desirable for new housing development, and is out of keeping with the prevailing pattern of development, which does weigh against the proposal.

Impact on residential amenity

- 5.20 The proposed development would result in a substantial loss of outlook to the neighbours to the west of the site (Nos. 23 to 26), who would be hemmed in on all sides by development, with a main road running to the rear and other houses to the north and south. The proposed building would be approx. 19.5 – 20 metres from these neighbours, which conflicts with Cherwell's guidance on separation distances (where 22 metres is required). This impact is exacerbated in this instance by the inclusion of a first floor kitchen window to the upstairs flat, where first floor windows would normally serve only bedrooms or bathrooms. The proposal would also result in some loss of amenity to the neighbours to the north of the site. The proposed building would be 13.5m at the closest point to No. 24, where the separation distance should be 14m.
- 5.21 In addition, the proposed building would be only 14 metres from the neighbour to the east, No. 1 Tweed Crescent. Although this relationship is across the public highway, and the proposed building would face the front garden of the neighbour, this relationship does give some cause for concern, and adds to the harm identified to Nos. 23 to 26.
- 5.22 Having regard to the proposed building's spatial relationship with No. 27 to the south-west of the site, it is not considered that the proposal would unduly impact on this neighbour's living conditions, either through loss of light, outlook or privacy.
- 5.23 Nevertheless, for the reasons set out above, the cumulative effect is that the proposal would result in a sense of over-domination to its neighbours, and therefore cause significant and demonstrable harm to residential amenity. The proposal would thus conflict with Local Plan Policy ESD15 in this regard, and paragraph 17 of the Framework.

Impact on local highway safety

- 5.24 No comments have been received from the local highway authority. The concerns of

local residents are noted with regard to the proposal's potential impact on local highway safety. However, adequate parking provision is proposed, visibility would appear to be satisfactory, and the proposal is considered acceptable in highway safety terms, subject to conditions to require adequate car parking provision and vehicular and pedestrian visibility. The proposal therefore accords with paragraphs 29 to 36 of the Framework.

Other Matters

- 5.25 The application site is not considered especially important in biodiversity terms, and conditions may be reasonably imposed to secure the retention of existing trees within the site. The site is relatively flat, small in scale and within an existing built up area with established drainage system and the proposal would therefore not have a significant impact in terms of flood risk. Dust, noise and disturbance would only have the potential to be an issue for local residents during the period of construction, and so would not constitute a sustainable refusal reason. The proposal would not have any material impact on heritage assets and, given its size, would not require a contribution towards affordable housing provision.

Conclusions

- 5.26 The principle of development in this urban location would normally be considered acceptable, despite the Council's current 5.1 year housing land supply, and the proposal would contribute additional housing that would help maintain this supply position.
- 5.27 However, its contribution in this regard would be relatively minor and, for the reasons identified in this report, the proposal would result in the loss of a locally important green space, which would have a detrimental impact on the amenity of existing residents, and would reduce the community's ability to meet its day-to-day needs. In addition, the green space performs an essential function in the street scape and contributes positively to the character of the area, and its loss would therefore cause substantial harm to the character of the area.
- 5.28 In addition, by reason of its scale and siting, the proposal would result in a substantial loss of outlook and undue overlooking to the neighbours to the west of the site (Nos. 23 to 26 Derwent Road), and in an imposing and overbearing form of development to the said neighbours and to No. 1 Tweed Crescent.
- 5.29 It is thus considered that the proposal would conflict with Local Plan Policies BSC10, Bicester 7 and ESD15 as well as paragraphs 17, 70 and 74 of the Framework.

Engagement

- 5.30 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 the efficient and timely determination of the application.

6. Recommendation

Refusal;

REASON(S) FOR REFUSAL

1. The proposal would result in the loss of a locally important green space, which would have a detrimental impact on the amenity of existing residents, and would reduce the community's ability to meet its day-to-day needs. No assessment has been submitted by the applicant to show that the site as open space is surplus to requirements, and there is no proposal to replace the site with suitable alternative provision in the area. In addition, the green space performs an essential function in the street scape and

contributes positively to the character of the area, and its loss would therefore cause substantial harm to the character of the area. The proposal would therefore conflict with Policies BSC10, Bicester 7 and ESD15 of the Cherwell Local Plan 2011-2031 and with paragraphs 70 and 74 of the National Planning Policy Framework.

2. By reason of its scale and siting, the proposed development would cause significant and demonstrable harm to the living conditions of neighbouring occupiers (Nos. 23 to 26 Derwent Road) through overlooking and loss of outlook, and would result in an imposing and overbearing form of development to the said neighbours and to No. 1 Tweed Crescent. The proposal would therefore conflict with Policy ESD15 of the Cherwell Local Plan 2011-2031 and with paragraph 17 of 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.