

East Area Planning Committee

14th August 2012

Application Number: 12/01357/FUL

Decision Due by: 2nd August 2012

Proposal: Demolition of public house. Erection of 3 x 4-bedroom dwellings with undercroft with bin stores, cycle parking, car parking and private amenity space.

Site Address: The Shelley Arms 114 Cricket Road Oxford Oxfordshire

Ward: Cowley Marsh Ward

Agent: N/A

Applicant: Terry's Stone Cottage Ltd

Called in by Councillors Brett, Fooks, McCready and Wilkinson on grounds that although the site needs redeveloping, it should be for a larger number of smaller units so there is a social housing requirement.

Recommendation:

APPLICATION BE APPROVED

Reasons for Approval

- 1 The proposal forms an appropriate visual relationship with the surrounding development and would appear in keeping with the character of the area. The application is accompanied by a Viability Assessment which justifies the loss of the existing public house and the proposed layout has been prepared in conjunction with the Local Highway Authority having regard to the requirement for off street car parking and the unacceptability of creating a new access onto Shelley Road. The proposal complies with the Balance of Dwellings SPD and adopted policies contained within the Oxford Local Plan 2001 - 2016 and the Core Strategy 2026. No objections have been received from third parties or statutory consultees.
- 2 The Council considers that the proposal accords with the policies of the development plan as summarised below. It has taken into consideration all other material matters, including matters raised in response to consultation and publicity. Any material harm that the development would otherwise give rise to can be offset by the conditions imposed.

Conditions

- 1 Development begun within time limit

- 2 Develop in accordance with approved plans
- 3 Samples
- 4 Amenity no additional windows
- 5 Design - no additions to dwelling
- 6 Landscape plan required
- 7 Landscape - carry out by completion
- 8 Boundary details before commencement
- 9 Construction Travel Plan
- 10 Provision of parking
- 11 Provision of rumble strip
- 12 Provision of bollards
- 13 Cycle parking details required
- 14 Provision of bin stores
- 15 Contaminated land – desk top study
- 16 Provision of bat roosts and bird boxes
- 17 Sustainable Construction Measures

Principal Planning Policies

Oxford Local Plan 2001-2016

- CP1** - Development Proposals
- CP6** - Efficient Use of Land & Density
- CP8** - Design Development to Relate to its Context
- CP9** - Creating Successful New Places
- CP10** - Siting Development to Meet Functional Needs
- TR3** - Car Parking Standards
- TR4** - Pedestrian & Cycle Facilities
- HS19** - Privacy & Amenity
- HS21** - Private Open Space
- RC18** - Public Houses

Core Strategy 2026

- CS2_** - Previously developed and greenfield land
- CS9_** - Energy and natural resources
- CS10_** - Waste and recycling
- CS11_** - Flooding
- CS18_** - Urban design, town character, historic environment
- CS23_** - Mix of housing

Sites and Housing Plan - Submission

- HP4_** - Affordable Homes from Small Housing Sites
- HP9_** - Design, Character and Context
- HP11_** - Low Carbon Homes
- HP13_** - Outdoor Space
- HP14_** - Privacy and Daylight
- HP15_** - Residential cycle parking
- HP16_** - Residential car parking

Other Material Considerations:

Relevant Site History:

There have been a number of applications relating to alterations to the public house but there is no history relating to the redevelopment of the site.

Public Consultation:

Statutory Consultees

Highway Authority: No objections subject to the following conditions and informatives:

- Parking area to be constructed using permeable paving
- No discharge of surface water onto adjacent public highway
- Provision of cycle parking
- Submission of a Construction Travel Plan
- Installation of a rumble strip at the site access
- Provision of bollards to prevent indiscriminate parking
- Alterations to the public highway to be at the applicant's expense
- Traffic Regulation Order for double yellow lines at the junction of Cricket Road, Shelley Road and the school access.

Thames Water: No objections on grounds of surface water or sewerage infrastructure but suggest contact in view of recent legal changes under the Water Industry.

Third Party Comments:

None received.

Officers Assessment:

Site Description

1. The site lies on the south west side of Cricket Road at its junction with Shelley Road and comprises a substantial, brick built, two storey building that was formerly trading as The Shelley Arms. The public house has been closed for over a year and is boarded up.
2. The public house has a large forecourt area at the front and side of the building that has been used for customer car parking; however there is no formal car park and the land to the rear of the building is entirely garden land which is primarily laid to grass.
3. Cricket Road is characterised by residential development comprising similar pairs of semi detached houses with small front gardens, often used for car parking and long narrow rear gardens. Shelley Road, which abuts the side boundary of the public house, is a pedestrian and cycle access to Cardinal Newman Middle School. There is no entry for vehicles and this is clearly signposted; however cars can egress the school site from this gate.

The Proposal

4. The application seeks planning permission for the demolition of the public house and all other structures on the site and the erection of 3 x 4 bedroom dwellings together with a new access drive and a rear car park providing 10 car parking spaces. The dwellings would be laid out over two floors with two reception rooms, a kitchen and conservatory on the ground floor and four bedrooms and two bathrooms on the first floor.
5. Each dwelling would be served by a front and rear garden, a cycle store and a bin store and the proposal also includes the provision of 5 bollards on the Cricket Road frontage to prevent indiscriminate car parking.
6. The dwellings would be erected using facing bricks and roof tiles to be agreed and would have a maximum height of 8 metres. In terms of design, they would have feature front bay windows and would appear similar to the general character of the surrounding development.
7. The proposal is the result of pre-application discussions with officers from the City Council and the Local Highway Authority. Officers consider the principle determining issues in this case to be:
 - Planning Policy
 - Loss of Public House
 - Highways and Parking
 - Balance of Dwellings
 - Contributions towards Affordable Housing
 - Form and appearance
 - Private Amenity Space
 - Impact on Neighbours
 - Sustainability

Planning Policy

8. The National Planning Policy Framework was approved in March 2012 and largely carries forward existing planning policies and protections in a significantly more streamlined and accessible form. It also introduces the presumption in favour of sustainable development and makes adjustments to some specific policies.
9. The NPPF refers to the potential conflict of local plan policies and the policies set out in the new document. It confirms that development plan policies adopted since 2004 that conflict to a limited degree with the NPPF will still be afforded significant weight by the Secretary of State and Inspectors in decision taking. Both the adopted Oxford Local Plan and Core Strategy are relatively recent and have been adopted post 2004.
10. Although the NPPF does not provide a definition of sustainable development that can be mechanically applied, it does list five issues

which are key to its essential principles and these comprise easy job creation, biodiversity and nature gains, improving design, improving people's living, working, travel and leisure conditions and widening the choice of high quality homes.

Loss of the Public House

7. Policy RC18 of the adopted Oxford Local Plan states that planning permission will only be granted for the change of use of a public house if one or more of the following criteria are met:
 - no other potential occupier can be found following a realistic effort to market the premises for its existing use;
 - substantial evidence of non-viability is submitted; and
 - it is demonstrated that suitable alternative public houses exist to meet the needs of the local community.
8. The application is accompanied by a Viability Assessment which confirms that The Shelley Arms closed on 19th April 2011. It describes the location, accommodation and structural condition of the public house and takes an overview of the current state of the licensed trade, which it describes as the 'worst in living memory' with over 3000 pubs nationwide closing since 2009.
9. The Assessment goes on to assess the current viability. It states that The Shelley Arms comprises a wet-led community pub that has been disproportionately disadvantaged by the smoking ban; is a predominantly male, games led orientated pub; has very limited catering facilities and has seen little investment for many years. It is also located in an economically challenging location. In terms of other pubs nearby, the report cites The Exeter Hall on Cowley Road, The Donnington Arms on Howard Street, The Marsh Harrier on Marsh Road, The Jolly Boys on Florence Park Road and The City Arms on Cowley Road. All of these establishments are within 800 metres of The Shelley Arms and provide a variety of eating and drinking venues.
10. The report concludes that The Shelley Arms has become a marginal pub. It has suffered from a lack of investment and in more recent times has suffered significant damage to its fabric. It goes on to say that with enough investment, any pub can be made attractive but the question is whether or not such a level of investment can be found in the market and whether a sufficient return can be made. The Shelley Arms has suffered a steady loss of trade and profitability from a number of quarters including supermarket competition, decreasing beer sales, poor general economic conditions, promotional pricing in competitor managed public house operations and an increase in the proportion of ethnic minorities in the area. The likely level of return is insufficient to induce an operator to re-open the pub and there are many other local drinking and eating establishments close by.
11. Officers are satisfied that non-viability has been adequately demonstrated

in the Assessment. Together with the existence of alternative pubs to meet the needs of the local community, officers take the view that the applicant has satisfied 2 of the 3 criteria set out in policy RC18 which is acceptable.

Highways and Parking

12. Pre-application discussions with the Local Highway Authority established the following points:
 - A new vehicle access onto Shelley Road would not be acceptable
 - No vehicle parking on either of the two road frontages of the site
 - 3 parking spaces would be required to serve a 4 bedroom dwelling
 - A turning area would be required to enable cars to egress the site in a forward direction
 - The new access drive should be of sufficient width to allow vehicles to pass
13. These restrictions and requirements have, to a large extent, dictated the layout of the site and the number of units that the site can accommodate. In particular the objection to the formation of any new access onto Shelley Road removes the possibility of a reasonable property density on the site. The width of the new access would be 5.3 metres with a pavement along one side and this would enable two cars to pass each other on the drive. A total of 10 car parking spaces would be provided at the back of the site together with a vehicle turning area. This level of car parking represents the maximum number of spaces that can be required. The site is located relatively close to the City and very close to the shops and services on Cowley Road. This car park would have only one access point onto the highway and sensor lighting will be provided as an aid to security.
14. The Local Highway Authority are not raising an objection to the application subject to the imposition of conditions and informatives as set out earlier in this report.

Balance of Dwellings

15. The Balance of Dwellings [BoDS] Supplementary Planning Document [SPD] was adopted in January 2008 to elaborate upon policy HS8 of the Oxford Local Plan [now superseded by policy CS23 of the Core Strategy] and to ensure a satisfactory mix of dwelling sizes in the different neighbourhood areas, set out as red, amber and green. The site lies in a 'red' area where the pressure on family housing is significant and new developments should seek to promote a higher percentage of new family dwellings.
16. For developments of 3 or less dwellings, the only criteria that needs to be met is that there is no net loss of family units. In this case, whilst there exists some residential accommodation on the first floor of the pub, the proposal would provide 3 new family dwellings which is exactly what the BoDS SPD is seeking in East Oxford.

17. This application has been called to committee on grounds that the proposal should comprise a greater number of smaller units to include social housing. Members are advised that the required mix of housing in 'red' areas includes 45% three bedroom family dwellings which, given the highway and parking requirements, would automatically limit the overall number of units that the site could satisfactorily accommodate.

Contributions towards Affordable Housing

18. Policy HP4 of the Sites and Housing Plan states that planning permission will only be granted for residential development on sites with a capacity for 4 – 9 dwellings if a financial contribution is secured towards the delivery of affordable housing elsewhere in Oxford. The contribution required will be 15% of the total sale value of the development.
19. The applicant has carried out pre-application discussions with the Council and his original proposals involved the erection of 2 pairs of semi detached dwellings accessed off Cricket Road together with a block of 4 flats accessed off Shelley Road giving a total of 8 units. This was not acceptable to the County Council as Local Highway Authority who are not prepared to accept frontage parking to either boundary or any new access off Shelley Road. The current proposal for 3 dwellings addresses the Highway Authority's concerns and provides three new family dwellings that would appear sympathetic to the general character of the area, provide off street parking and provide adequate rear garden areas.

Form and Appearance

20. Policy CP1 of the adopted Oxford Local Plan states that planning permission will only be granted for development that shows a high standard of design, that respects the character and appearance of the area and uses materials of a quality appropriate to the nature of the development, the site and its surroundings. Policy CP6 states that development proposals should make the best use of site capacity but in a manner compatible with both the site itself and the surrounding area and policy CP8 states that the siting, massing and design of new development should create an appropriate visual relationship with the form, grain, scale, materials and detailing of the surrounding area. Policy CS18 of the adopted Core Strategy stresses the need for high quality urban design that responds appropriately to the site and its surroundings, contributes to an attractive public realm and creates a strong sense of place.
21. In the design and access statement submitted with the application, the applicant states that the scheme seeks to form a relationship of harmony with the surrounding street scene with the proposed units respecting the frontage building line and eaves and ridge heights. It goes on to say that the design of the new units will reflect and uphold the materials, textures and colours of the surrounding houses.

22. The new dwellings would appear sympathetic in all respects to the existing street scene and the incorporation of a wide access drive would give the development a sense of spaciousness and improve the appearance of the area.

Private Amenity Space

23. Policy HS21 of the adopted Oxford Local Plan states that planning permission will not be granted for new residential development where inadequate or poor quality private open space is proposed. It goes on to say that family dwellings of two or more bedrooms should have direct access to an area of private open space which should generally have a length of 10 metres.
24. The proposal is for the erection of 3 x 4 bedroom dwellings with the same proportions and layout. The rear gardens serving two of the units would have lengths of 12 metres and these gardens would accommodate individual cycle stores. The rear garden serving the third unit would extend to some 25 metres and would be broadly similar to the long gardens that serve the adjacent properties on the south side of Cricket Road.

Impact on Neighbours

25. Policy HS19 of the adopted Oxford Local Plan states that planning permission will only be granted for development that adequately provides both for the protection and/or creation of the privacy or amenity of the occupants of the proposed and existing neighbouring, residential properties.
26. The only neighbouring property potentially affected by the proposal is number 116 Cricket Road which lies immediately to the north west of the site. All other nearby dwellings are located on the opposite sides of Cricket and Shelley Roads and are sufficiently distant from the site not to be adversely affected. There have been no third party objections to the application.
27. Number 116 Cricket Road has been extended at the side up to the joint boundary with the application site and to the rear. The proposed new dwelling closest to number 116 would be sited 1 metre from the joint boundary and would have two small windows in the flank wall, one serving a bathroom and one serving the hallway. There are no windows in the side wall of number 116 that faces towards the application site.
28. The rear wall of the closest new dwelling would project just over 1 metre beyond the rear wall of number 116 and this relationship is acceptable and would not adversely impact on the amenities enjoyed by the occupiers of 116. The proposed rear conservatory would be sited 3 metres in from the joint boundary. The proposal complies with the 45 degree rule and officers are satisfied that it would relate well to the neighbouring dwelling and to the surrounding area.

Sustainability

29. The design and access statement states that the new buildings will comply with part M of the building regulations and have level path access for disabled and non-disabled occupants alike. It also refers to the inclusion of facilities for rain water storage for gardening use and the inclusion of energy saving fittings to external and internal lights.
30. Given the brevity of these sustainability details, a condition is recommended that would require further details of sustainable construction measures to be submitted to and approved in writing by the Local Planning Authority.

Conclusion:

31. The proposal forms an appropriate visual relationship with the surrounding development and would appear in keeping with the character of the area. The application is accompanied by a Viability Assessment which justifies the loss of the public house and the layout has been prepared in conjunction with the Local Highway Authority having regard to the requirement for off street car parking and the unacceptability of creating a new access onto Shelley Road. The proposal complies with the Balance of Dwellings SPD and adopted policies contained in both the Oxford Local Plan 2001 – 2016 and the Core Strategy 2026. No objections have been received from third parties or statutory consultees.

Human Rights Act 1998

Officers have considered the Human Rights Act 1998 in reaching a recommendation to grant planning permission, subject to conditions. Officers have considered the potential interference with the rights of the owners/occupiers of surrounding properties under Article 8 and/or Article 1 of the First Protocol of the Act and consider that it is proportionate.

Officers have also considered the interference with the human rights of the applicant under Article 8 and/or Article 1 of the First Protocol caused by imposing conditions. Officers consider that the conditions are necessary to protect the rights and freedoms of others and to control the use of property in accordance with the general interest. The interference is therefore justifiable and proportionate.

Section 17 of the Crime and Disorder Act 1998

Officers have considered, with due regard, the likely effect of the proposal on the need to reduce crime and disorder as part of the determination of this application, in accordance with section 17 of the Crime and Disorder Act 1998.

In reaching a recommendation to grant planning permission, officers consider that the proposal will not undermine crime prevention or the promotion of community safety.

Background Papers:

12/01357/FUL

Contact Officer: Angela Fettiplace

Extension: 2445

Date: 9th July 2012