

## West Area Planning Committee - 12th May 2015

**Application Number:** 15/00710/FUL

**Decision Due by:** 6th May 2015

**Proposal:** Demolition of lock up garage and erection of 1 x 1 bed dwellinghouse (Use Class C3). (Resubmission following refusal of 13/02745/FUL) Erection of outbuilding. Provision of private amenity space.(Amended plans)

**Site Address:** 7 Middle Way, **Appendix 1.**

**Ward:** Summertown Ward

**Agent:** Mr Robin Jones

**Applicant:** Mr Simon Hare

The application has been called into committee by the following members – Cllrs. Fooks, Wade, Gant and Goddard. The reason is given as follows:

*“This is an amended version of the application refused last year, dismissed at appeal. There are still concerns about the impact on the character of the street, which was the reason for refusal last time, and some continuing concern about the impact on the neighbouring property. Committee need to decide whether or not the reasons for refusal have been adequately overcome.”*

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### **Recommendation:**

APPLICATION BE APPROVED

For the following reasons:

- 1 The dwelling proposed is considered to form an appropriate visual relationship with surrounding development without giving rise to significant harm to neighbouring residential amenity. The dwelling would provide a reasonable standard of living for future occupiers and the safety of the public highway would not be materially compromised. Consequently the proposals are considered to accord with the requirements of the development plan including policies CP1, CP6, CP8, CP9, CP10 and CP22 of the Oxford Local Plan 2001-2016, policies CS2 and CS18 of the Oxford Core Strategy 2026 as well as policies HP2, HP9, HP11, HP12, HP13, HP14, HP15 and HP16 of the Sites and Housing Plan 2011-2026.
- 3 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 of materials
- 4 Removal of Part 1 PD rights
- 5 Removal of part 2 PD rights
- 6 Exclusion from CPZ
- 7 Garden building incidental
- 8 Boundary treatment
- 9 Bin and cycle parking details required
- 10 Phased contamination risk assessment
- 11 Energy efficiency

### **Community Infrastructure Levy (CIL).**

The proposed development would be liable for monetary contributions of £5478.70 in accordance with the Community Infrastructure Levy. The amount payable would be subject to inflation.

### **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
- CP22 - Contaminated Land
- TR13 - Controlled Parking Zones

### **Core Strategy**

- CS2 - Previously developed and greenfield land
- CS18 - Urban design, town character, historic environment

### **Sites and Housing Plan**

- MP1 - Model Policy
- HP2 - Accessible and Adaptable Homes
- HP9 - Design, Character and Context
- HP11 - Low Carbon Homes
- HP12 - Indoor Space
- HP13 - Outdoor Space
- HP14 - Privacy and Daylight
- HP15 - Residential cycle parking
- HP16 - Residential car parking

### **Other Material Considerations:**

- National Planning Policy Framework
- Planning Practice Guidance

### **Relevant Site History:**

63/13047/AA H – Planning permission granted 22/10/1963 for office and storage

buildings for builders.

13/01886/FUL – Planning permission refused 12/09/2013 for demolition of lock up garage and erection of 3-bed dwelling house (use class C3) with integral garage. Erection of garden office to rear and provision of private amenity space and bins store (amended plans). The reasons for refusal were given as per below:

1. *“Having regard to the height and bulk of the proposed dwelling and its relationship with 9 Middle Way, the proposal would result in a loss of light to the ground floor kitchen area, to the main bedroom and to the outdoor courtyard area and would overlook and appear overbearing in the outlook from the house and garden at 9 Middle Way thereby detracting from the standard of residential amenities enjoyed by the occupiers of this property. In addition, the proposal would result in a loss of privacy to the kitchen window serving 8 South Parade. In this way the proposal would be contrary to policy HP14 of the adopted Sites and Housing Plan”.*
2. *“The proposal would result in a new garage abutting the pavement of Middle Way with poor visibility splays. The proposal would therefore be likely to result in cars pulling out over the pavement which would be detrimental to both pedestrian and general highway safety. The proposal would therefore be contrary to policy CP10 of the adopted Oxford Local Plan 2001 – 2016”.*

13/02745/FUL – Planning permission refused 10.12.2013 for demolition of lock up garage and erection of 2 storeys, 2-bed dwelling house (Use Class C3), erection of garden office to rear and provision of private amenity space and bins store. (amended plans). The reasons for refusal were given as per below:

1. *“As a result of its projection beyond the established building line and its awkward recessed integral car port, the proposed development fails to form an appropriate visual relationship with surrounding development to the detriment of the character and appearance of the area. The proposals therefore fail to comply with the requirements of policies CP1 and CP8 of the Oxford Local Plan 2001-2016 as well as policy CS18 of the Oxford Core Strategy 2026 and policy HP9 of the Sites and Housing Plan 2011-2026”.*
2. *“The height of the proposed house and its orientation to the south-east of 9 Middle Way would result in significant loss of sunlight and daylight for this neighbouring dwelling as well as give rise to an increased ability to overlook the small neighbouring rear garden of 9 Middle Way. The proposal will also result in the significant loss of privacy for occupiers of 8 South Parade when using their kitchen. Consequently the proposals fail to adequately safeguard the living conditions of occupiers of neighbouring dwellings contrary to the requirements of policies CP1 and CP10 of the Oxford Local Plan 2001-2016 as well as policy HP14 of the Sites and Housing Plan 2011-2026”.*

The decision was subsequently appealed and dismissed on 04/08/2014 by the Planning Inspectorate, giving the following reasons:

*“Despite the variation in building size and design in the road and the traditional*

*design and detailing of the proposed house, with the forward siting I consider that it would not sit comfortably in the street scene and would be detrimental to the character and appearance of the area. As such, it would not accord with policy CP.8 of the Oxford Local Plan 2001-2016 (2005) which, among other things, requires all new buildings to relate to their setting to strengthen, enhance and protect local character; and requires that the siting, massing and design of development creates an appropriate visual relationship with the form, grain, scale, materials and details of the surrounding area”.*

The full text of the appeal decision is reproduced as **Appendix 2** to this report. A partial award of costs was made in favour of the applicant on the basis that reference was made by the planning authority to the impact on 3 and 5 Middle Way when that did not form part of the reason for refusal and where no flank windows are shown in the approved plans for that property

### **Representations Received:**

Four third party representations have been received, all objecting to the proposals. The concerns raised can be summarised as follows:

- Overdevelopment
- Adverse impacts to the character of site and street scene
- Overbearing on neighbour's private open space
- Loss of light
- Loss of privacy
- Loss of outlook
- Impacts to highway safety and traffic
- Inadequate parking
- Inaccurate plans

### **Statutory Consultees:**

#### Highways Authority

The Highways Authority raised no objections to the proposed development subject to a restriction on the issuance of parking permits being that the subject site is located within a Controlled Parking Zone.

#### Environmental Development

Environmental Development raised no objections to the proposal subject to preliminary soil contamination investigations to be undertaken prior to development. This could be sought by way of a condition.

### **Determining Issues:**

- Principle of development
- Design
- Amenity
- Parking and highways safety
- Energy efficiency

## **Officers Assessment:**

### **Site Description**

1. The application site consists of part of an unusual L-shaped parcel of land in Summertown which currently accommodates a number of single storey flat roof garage buildings. The garages are used for storage purposes, mainly in connection with surrounding residential properties and benefit from vehicular access along the south boundary. The garages are of a poor quality appearance that detract from the character and appearance of the area. The site in general also has an unkempt appearance and, as a result of its unusual shape, storage use, undeveloped nature and unsightly buildings, is something of an anomaly within the street.
2. Middle Way is primarily residential in nature with the southern end of the street featuring a mix of more traditional terraced two storey houses as well as newer two and a half storey buildings that combine to give the street an enclosed feel. The adjoining site to south benefits from extant planning permission for a two storey building with undercroft parking. Whilst the majority of the more historic buildings are not designated heritage assets, they are nonetheless of some architectural merit and positive contributors to the street scene.

### **Description of Proposed Development**

3. The application seeks permission for the demolition of the existing garages and the erection of a part two storey, part single storey one bedroom house on the site to adjoin 9 Middle Way. A garden building is also proposed at the far end of the site in what would be the rear garden of the new house. A car port is proposed to allow off-street parking for one car.
4. The two storey part would be 5.5 metres wide x 6.1 metres deep x 6 metres high (4.7 metres to the eaves) and have a gable slate roof. The single storey part would be 7.9 metres deep x 5.5 metres wide x 2.9 metres high and have a felt flat roof.
5. The L-shaped plot is proposed to be divided such that the lower part of it will be effectively cut off from access leaving a small island of grassed land with four single storey garage blocks on it. It is understood that this is proposed to be purchased by a neighbouring business to use it as outdoor amenity space for staff. Such a use would, in any event, require consent for the change of use of the land.
6. Amended plans were received on 12/03/2015 and again on 09/04/2015 reducing the height of the eaves, increasing the pitch of the roof, deleting the garage door and amending the fenestration.

### **Principle of Development**

7. The application site features a number of existing buildings on it and constitutes previously developed land. The site itself and the building have an adverse

impact on the character and quality of the area with the site being of low environmental value. The awkward location of the lower portion of the site and the landlocked effect of the development would lend itself to being used for private amenity space or being annexed for use associated with an adjoining plot.

8. While the development would reduce the number of bedrooms from previous applications officers support the principle of new residential development on the site so as to make more efficient use of the land given its sustainable location in accordance with the requirements of policy CP6 of the Local Plan as well as policy CS2 of the Core Strategy.

## **Design and Appearance**

9. Policy HP9 of the Sites and Housing Plan 2011-2026 (SHP) requires new residential development to respond to the overall character of the area including its built and natural environment in terms of form, layout, density and appearance. These requirements are supported by policies CP1 and CP8 of the Local Plan as well as policy CS18 of the Core Strategy which requires new development to integrate successfully within its context.
10. In dismissing the appeal against refusal of the most recent application, (**Appendix 2**), the planning inspector noted that the proposed building would have been slightly higher than and sat forward of the adjoining property no. 9 Middle Way. While there is a varied pattern of development in the street scene, the proposed development would have been overbearing and incongruous with its immediate neighbours, exacerbating the existing overbearing impacts of nos.9A -11 Middle Way on no. 9 Middle Way. The planning inspector identified the siting of the building and its impact on the street scene, rather than the incongruous roof height, in summarising the reason for refusing the proposed development.
11. In response, the current application proposes a dwelling aligned with the main front and rear walls of the two storey parts of no. 9 Middle Way. The proposed dwelling would be 300mm higher than that of no. 9 Middle Way, with the eaves and roof line approximately 150mm higher than that of the adjoining dwelling. These differences would not be so great as to detract from either the design of the neighbouring dwelling or the character of the street scene more generally. It should be noted that the ridge to the roof would be set back slightly compared to no. 9 Middle Way and the pitch the same. Furthermore the eaves have been reduced in height compared to the previous application, with the two storey flat roof at the rear of no. 9 Middle Way obscured from the public domain by the proposed development.
12. The reduced scale of the dwelling would be consistent with the more historic scale of houses within the street such that it would appear to sit comfortably within the street scene and satisfy the concerns of the planning inspector in refusing to grant application no. 13/02745/FUL planning permission. Its form is more traditional and its design detailing appropriate given existing development within the street and its attempts to reflect established fenestration patterns and materials. Whilst the rear single storey element does have a significant flat roof it

still represents a significant improvement to the appearance of the site and would not be visible from any public areas. Consequently officers are satisfied that the form, scale and appearance of the dwelling is appropriate for its setting in accordance with the requirements of policy HP9 of the SHP as well as policies CP1 and CP8 of the Local Plan, and that the reasons for dismissing the appeal addressed.

### **Amenity**

13. The proposed dwelling provides sufficient indoor floor space for good quality accommodation in accordance with policy HP12 of the Sites and Housing Plan. Sufficient outdoor space equivalent to the internal living areas would also be provided to satisfy policies CP10 of the Local Plan and HP13 of the Sites and Housing Plan. Windows to living areas would not be obstructed from receiving good daylight access and the internal layout and location of fenestration would provide good cross-ventilation. Windows and doors are directed towards the front and rear of the dwellings ensuring adequate privacy for occupants in compliance with policy HP14 of the Sites and Housing Plan. There is sufficient area for bin storage, details of which could be requested by way of a condition.
14. The development would generally comply with the provisions of HP2 of the Sites and Housing Plan for dwellings to be adaptable to Lifetime Home standards.
15. In dismissing the previous application, the planning inspector did not consider the proposed development to have an adverse impact to the daylight access, outlook and privacy of neighbouring properties. The lattice screen adjacent to the kitchen window of 8 South Parade was described by the planning inspector as a "contrived solution, [however it] would offer a reasonable compromise between maintaining privacy for existing and future occupiers and use of the land". The same solution is proposed now.
16. The form and scale of the building would generally be consistent with that previously refused with the exceptions of a greater front setback and lower roof form, thereby resulting in an acceptable relationship to neighbouring properties, maintaining their amenity in accordance with the determination of the planning inspector. Officers support the planning inspector's conclusions on the matter.

### **Parking and Highways Safety**

17. The provision of one car space would accord with the provisions of policy HP16 and by extension appendix 8 of the Sites and Housing Plan. The Highway Authority has recommended that the site be excluded from the Controlled Parking Zone and the Traffic Regulation Order be amended accordingly.
18. The driveway would provide sufficient visibility splays to ensure the safe ingress and egress of vehicles without adverse impacts to the safety of highway users.
19. The proposed development would be required to provide one space for cycle storage in accordance with the provisions of policy HP15 of the Sites and Housing Plan. It is recommended that a plan be submitted to and approved by

the Local Planning Authority prior to the commencement of works. It would be expected that the bin and cycle store would be located within the front setback of the site to provide easy access. The scale of this structure should not be so great as to detract from the character of the area, and is preferable to the open storage of bins as seen at no. 9 Middle Way.

### **Energy Efficiency**

20. Policy HP11 of the Sites and Housing Plan requires proposals for new dwellings to include an element of on-site renewable energy generation or low carbon technology depending on viability and feasibility. No details have been provided at this stage. However a condition can be imposed requiring such details.

### **Conclusion.**

21. The proposed development overcomes the inspector's reasons for dismissing the previous application on appeal and would contribute in a small way to the City's housing stock and improve the character of the site and its relation with the surrounding area. The amenity of neighbouring properties and highway safety would not be adversely affected. Committee is recommended to support the proposals accordingly. As such it is recommended that planning permission is granted subject to conditions.

### **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 of planning permission, officers consider that the proposal will not undermine crime prevention or the promotion of community safety.

**Contact Officer:** David Zabell

**Extension:** 2160

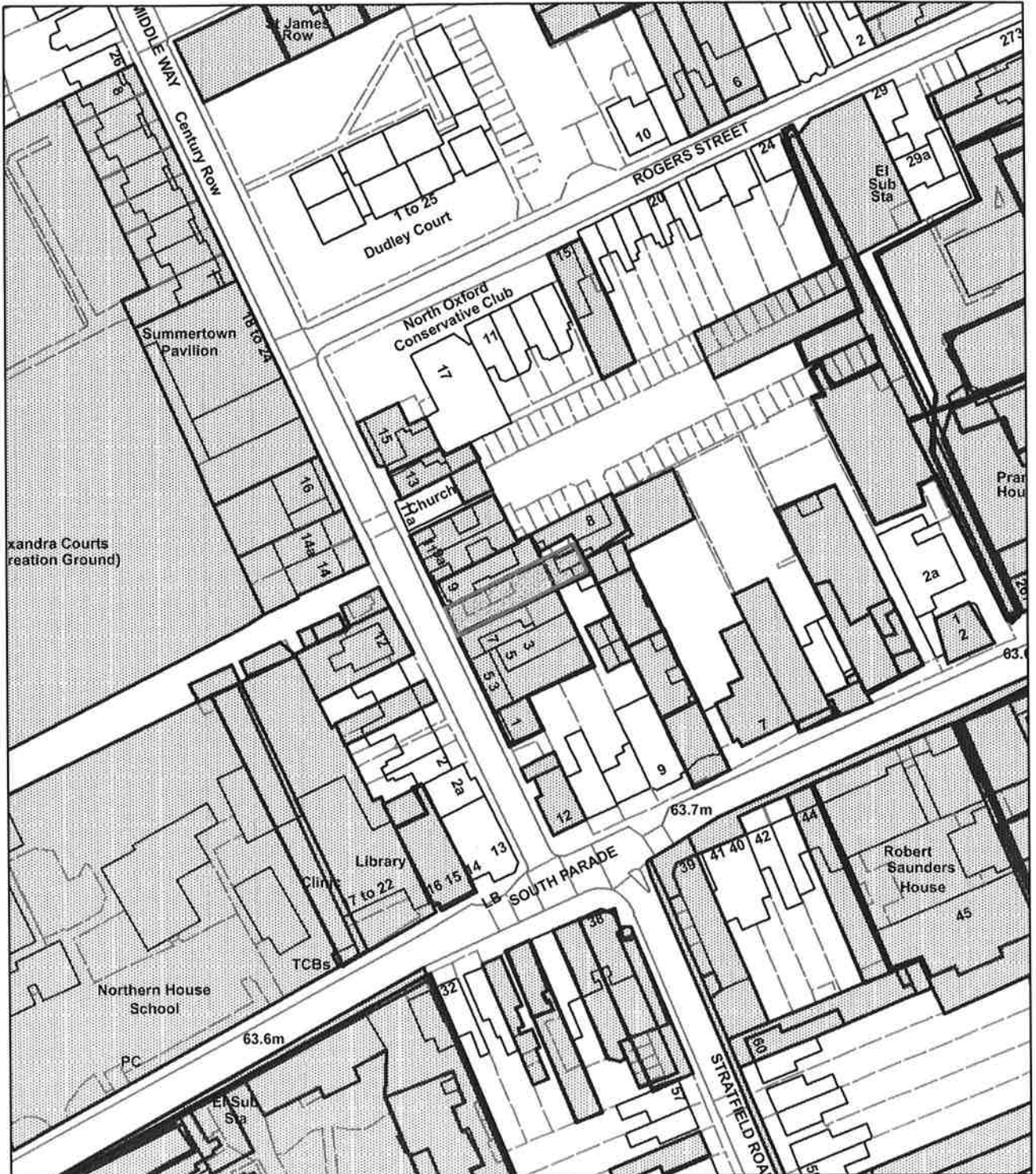
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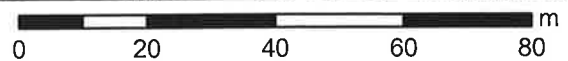
15/00710/FUL

7 Middle Way

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Oxford City Council

Planning

Scale: 1:1,115 (printed to A4)

## Appeal Decision

Site visit made on 12 June 2014

by **Isobel McCretton BA(Hons) MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 4 August 2014

**Appeal Ref: APP/G3110/A/14/2217604**

**7 Middle Way, Oxford OX2 7LH**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr Simon Hare against the decision of Oxford City Council.
- The application Ref. 13/02745/FUL, dated 16 October 2013, was refused by notice dated 19 December 2013.
- The development proposed is demolition of lock up garage and construction of a 2-storey 2-bed house.

### Decision

1. The appeal is dismissed.

### Application for Costs

2. An application for costs was made Mr Hare against Oxford City Council. This application will be the subject of a separate Decision.

### Main Issues

3. The main issues are the effect of the proposed development on the character and appearance of the area, and the effect on the living conditions of adjoining occupiers in terms of loss of light and privacy.

### Reasons

4. The appeal site lies on the eastern side of Middle Way and comprises a long, narrow lock up garage towards the front of the site adjoining the boundary with 9 Middle Way and a narrow access way between this and the boundary with 3-5 to 2 further flat-roofed garages to the rear.
5. The proposal is for the erection of a 2-storey, 2-bedroom house with a single storey rear addition and a home office building at the end of the garden. The front main wall of the proposed house would extend to the back of the footway, though the ground floor entrance and carport would be slightly recessed to enable a bin store to be incorporated.
6. Middle Way is a predominantly residential road mainly characterised by small, 2-storey houses set back from the footway with low front walls and small, planted front gardens. In this part of Middle Way there are a few exceptions where properties are built to the back of the footway; a large 3-storey office building on the opposite side of the road at nos.18-24; a dwelling with 2

integral garages at no.2A; a pair of modern, semi-detached houses and a small church at nos.9A, 11 and 11A; and a single storey commercial building (with 2 storeys to the rear) at nos.3-5. Nevertheless, apart from the more historic and non-residential single storey building at nos.3-5 and church building at 11A, for the most part the buildings hard up against the footpath stand out in the street scene as being more visually intrusive and out of keeping with the softer, planted frontages of most of the domestic properties.

7. The adjoining house at no.9, one of the smaller dwellings in the road, is a 2-storey cottage with the front door set back from the main front elevation and a part 2-storey, part single storey section to the rear. The proposed house would be slightly higher than no.9 and set forward of it. Similarly nos.9A and 11 are also higher and set forward of no.9 and are much more imposing. Although relative building heights vary along the road, I consider that the proposed development with a higher ridge and forward siting would result in no.9 having an incongruous relationship with its immediate neighbours making it appear dominated by larger buildings on either side.
8. Despite the variation in building size and design in the road and the traditional design and detailing of the proposed house, with the forward siting I consider that it would not sit comfortably in the street scene and would be detrimental to the character and appearance of the area. As such, it would not accord with policy CP.8 of the Oxford Local Plan 2001-2016 (2005) which, among other things, requires all new buildings to relate to their setting to strengthen, enhance and protect local character; and requires that the siting, massing and design of development creates an appropriate visual relationship with the form, grain, scale, materials and details of the surrounding area.

### ***Living Conditions***

9. The 2-storey element of the proposed house would align with the main 2-storey part of no.9, and the remaining single storey addition would be no higher than the existing garage along this boundary. The appellant has demonstrated that, while there would be some loss of sunlight to the side windows at no.9 (about an hour at the autumn equinox), the development would accord with the Council's guidelines set out in policy HP14/Appendix 7 of the adopted Sites and Housing Plan 2011-2026 (2013) (SHP).
10. There is an approved scheme<sup>1</sup> for a first floor extension to the offices at no.3-5, set back on a line with the existing 2-storey building with undercroft parking. The Council argues that the cumulative effect of this development and the appeal proposal would significantly affect the outlook and privacy of the occupiers at no.9. The 2-storey element of that development would be set back into the site and the Council evidently considered its impact on sunlight and daylight at no.9, with the appeal site intervening, to be acceptable. The Council has adduced no substantiated evidence to demonstrate that daylight and sunlight levels as a result of the cumulative impact of that development and the appeal scheme would fall below an acceptable level.
11. The nearest first floor window in the proposed new house would be to a bathroom and could be required, by condition, to be high opening only and glazed with obscured glass. Views from the proposed first floor bedroom window towards the rear of no.9 would be at an oblique angle and mainly

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<sup>1</sup> Ref. 14/00582/FUL dated 16 May 2014

constrained by the proposed single storey addition. It is commonplace for there to be some inter-visibility between first floor windows and adjoining gardens in urban situations such as this and I do not consider that there would be such a loss of privacy for the adjoining occupiers that the proposal should fail in this regard.

12. There is a ground floor kitchen window at the rear of 8 South Parade which faces directly onto the appeal site. The proposed garden office would be smaller than the existing lock up garage building which may slightly improve daylight to this window.
13. The occupier of no.8, however, contends that privacy would be reduced as, at present, activity at the garage is limited to drivers arriving and departing to collect or park a car, whereas a garden and garden office are likely to be used regularly. The appellant submitted an amended drawing which shows a fence/trellis along part of the joint boundary, offset from the kitchen window of no.8, which would help to minimise overlooking for both the occupiers of no.8 and future occupiers of the proposed house. This would be a somewhat contrived solution but, in my view, would offer a reasonable compromise between maintaining privacy for existing and future occupiers and use of the land at the appeal site. Details of such a fence and its retention could be required by condition if planning permission were granted.
14. I conclude that, subject to conditions, reasonable privacy and daylight would be maintained as required by SHP policy HP14/Appendix 7 so that the proposed development would not have an unacceptable effect on the living conditions of the adjoining occupiers and that the scheme would accord with policy CP.10 of the Local Plan in this respect.

### **Conclusion**

15. Although I have not found the impact on the adjoining neighbours to be unacceptable, this does not outweigh the harm to the character and appearance of the area I have identified.
16. For the reasons given above I conclude that the appeal should be dismissed.

*Isobel McCretton*

INSPECTOR