

## West Area Planning Committee

2<sup>nd</sup> August 2016

**Application Number:** 15/02352/FUL

**Decision Due by:** 31<sup>st</sup> August 2016

**Proposal:** Erection of 3 x 6 bedrooms dwellinghouses (Use Class C3).  
Provision of car parking spaces, private amenity space, bins and cycle stores (site plan appendix 1)

**Site Address:** 18 Hawkswell Gardens Oxford Oxfordshire OX2 7EX

**Ward:** Summertown Ward

**Agent:** Mr James Corris

**Applicant:** Mr & Mrs Racy

**Application Called in** – by Councillors Gant, Gotch, Wade and Fooks for the following reasons - overdevelopment, the houses being considerably larger than those surrounding, and in relation to the plot; and on the grounds of difficulty of access to the site, both during construction and for future occupants.

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### **Recommendation:**

APPLICATION BE REFUSED

For the following reasons:

- 1 The application site area exceeds 0.25ha; on sites of this size it is a requirement to provide 50% of dwellings as affordable housing or in some circumstances to make a contribution towards the provision of affordable housing unless a lack of viability can be successfully demonstrated. These proposals fail to provide on-site affordable housing and there is no agreement in place to make a financial contribution towards the provision of affordable housing. There has also been no evidence to suggest that if a contribution (either financial or on-site provision) were made that the site would not be viable. As a result, the development fails to meet the requirements of Policy CS24 of the Oxford Local Plan 2001-2016 and Policy HP3 of the Sites and Housing Plan (2013).
- 2 The development fails to provide the most efficient use of land; having taken into account the density of development proposed and the capacity of the site. The development is therefore contrary to Policy CP6 of the Oxford Local Plan 2001-2016.

### **Main Local Plan Policies:**

## **Oxford Local Plan 2001-2016**

**CP1** - Development Proposals

**CP6** - Efficient Use of Land & Density

**CP8** - Design Development to Relate to its Context

**CP10** - Siting Development to Meet Functional Needs

**CP11** - Landscape Design

### **Core Strategy**

**CS2\_** - Previously developed and greenfield land

**CS11\_** - Flooding

**CS12\_** - Biodiversity

**CS13\_** - Supporting access to new development

**CS17\_** - Infrastructure and developer contributions

**CS18\_** - Urban design, town character, historic environment

**CS23\_** - Mix of housing

### **Sites and Housing Plan**

**HP2\_** - Accessible and Adaptable Homes

**HP3\_** - Affordable Homes from Large Housing Sites

**HP4\_** - Affordable Homes from Small Sites

**HP9\_** - Design, Character and Context

**HP10\_** - Developing on residential gardens

**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:**

01/00668/NF - Erection of single storey outbuilding. – PER

08/02140/FUL – Demolition of existing outbuildings (boat house and summer house).

Erection of 2x5 bedroom, three storey dwellings. Parking, bin and cycle storage.  
(Amended description). – PER

### **Internal and Statutory Consultees**

#### Tree Officer

Request amended plans to retain two trees of higher quality (T32 and T40 on arboricultural report plans) and require additional space for planting at northern and southern edges of the site. Require the retention of the laurel hedge on the western boundary.

### Oxfordshire County Council Highways

The development is proposed to be served by a private road and therefore not applicable to Oxfordshire County Council Highways. However, some concerns about the practicality of the access driveway and space for vehicles to pass. Normally six bedroom dwellings would require three parking spaces, only two spaces are provided in this case.

### Ecology Officer

No objection subject to recommendation and enhancements of the Extended Habitat and Preliminary Bat Survey (4Acre Ecology) being taken into account. Recommendation for further enhancement measures.

### Land Quality Officer

No objections subject to conditions requiring a phased risk assessment, investigation and remediation. Recommend a condition that the development not be occupied until remediation has been carried out.

### Archaeology

No objections subject to conditions.

### **Representations Received:**

Mrs Allen (9 Hawkswell Gardens), Mr and Mrs del Nevo (19 Harbord Road), Dr Young (12 Hawkswell Gardens), Mr Williams (11 Hawkswell Gardens), Dr Lloyd (5 Hawkswell Garden), Hawkswell Gardens Residents Association, Mrs Allen (9 Hawkswell Gardens), Dr Mitter (16 Hawkswell Gardens), Mrs Hawker (8 Hawkswell Gardens), Hawkswell Estates, Dr Dawkins (14 Hawkswell Gardens), Mrs Gardner (17 Hawkswell Gardens), Mr Matthews (10 Hawkswell Gardens), Dr Besse (14 Hawkswell Gardens), Mr Johnston (15 Hawkswell Gardens), Ms Padley (21 Hawkswell Gardens), Dr Davis (39 Hawkswell Gardens), Dr Herz (15 Hawkswell Gardens), Mrs Williams (25 Hawkswell Gardens), Mr Clarke (37 Hawkswell Gardens), Mrs Dagmar Carr (31 Hawkswell House), Mr Godfrey (23 Hawkswell gardens), Objections:

- Access
- Amount of development on site
- Effect on existing community facilities
- Effect on traffic
- Information missing on plans/inaccuracies
- Ecology and biodiversity impacts
- Seek retention of handkerchief tree
- Concerns about presence of Japanese Knotweed
- Concerns about construction traffic
- Flood risk
- Effect on privacy
- Pollution
- Parking
- Open space provision
- Impact on light
- Noise and disturbance
- Loss of vegetation and trees

- Impact on river terrace
- Affordable housing
- Height of proposed development
- Development is not fully accessible
- Out of character
- Suggestion of some conditions if planning permission granted

The above representations were received before 21<sup>st</sup> July 2016. A consultation on amended plans (that related to the increase in the site application area to include the land up to the bank of the River Cherwell) is not due to end until 29<sup>th</sup> July 2016. The comments above relate to all of the consultation comments received so far in relation to the original application site area and the amended plans. Any comments received after 21<sup>st</sup> July 2016 will be provided as a verbal update to the Committee.

### **Site Description**

1. The application site comprises the land between the rear of 18 Hawkswell Gardens and the River Cherwell. The land is currently residential garden land and gently slopes down to the river; much of the land is vegetated and there is a small boathouse in the north-eastern corner of the site. Hawkswell Gardens is a residential cul-de-sac; there are a variety of dwelling types and styles in the area including larger detached dwellings and blocks of flats (notably Hawkswell House to the west of the application site). To the north of the application site is Lucerne Close which also contains larger detached and semi-detached houses. It is important to note that as a result of the topography of the area, Lucerne Close is higher than Hawkswell Gardens and the application site.
2. The planning application was originally submitted in August 2015. When originally submitted the application site did not encompass all of the land between the gardens and the River Cherwell; an amended site location plan was submitted in July 2016. Other information has also been provided following the submission of the amended plans, notably clarification of matters relating to affordable housing and the submission of a flood risk assessment. These matters are discussed in detail in this report.

### **Proposals**

3. It is proposed to demolish the boathouse (and other small outbuildings) and erect three detached, two storey dwelling house on the land. Each of the dwellinghouses would be six bedroom properties. The proposed dwellings would align approximately with the row of dwellings on the eastern side of Lucerne Close. The proposed dwellinghouses would have a traditional appearance, reflected in the nature of their construction and the use of materials. Ashlar would be used for the construction of walls for House 3 (at the southern edge of the site) whilst the proposed two houses at the northern end of the site (Houses 1 and 2) would be constructed from dressed Southwold stone. Weathered red tiles are proposed for roofs

to compliment the appearance of neighbouring dwellings.

4. Each of the proposed properties would benefit from their own car parking and garden; the gardens extending down to the river Cherwell. The proposals include cycle parking, landscaping and paved areas around the dwellings providing rear and side accesses. The vehicular access to the site would be from the end of the cul-de-sac, via a private drive adjacent to the garages to the side and rear of 18 Hawkswell Gardens.
5. Officers consider that the principle determining matters relating to the proposals are:
  - Principle
  - Affordable Housing
  - Design
  - Impact on Neighbours
  - Access and Parking
  - Flooding and Drainage
  - Biodiversity
  - Trees

## **Officer Assessment**

### **Principle**

6. The application site is composed almost entirely of existing residential garden land. For the purposes of the National Planning Policy Framework (NPPF), residential garden land is not considered to be previously developed land. The Council's Policy CS2 of the Core Strategy (2011) together with the NPPF require that the majority of new development should take place on previously developed land. However, there is scope within the Council's planning policies, specifically in relation to Policy HP10 of the Sites and Housing Plan (2013) for some new residential development to take place on existing garden land where design and other constraints can be adequately responded to. Given the amount of residual garden land that would remain post-development for No. 18 Hawkswell Gardens it is possible to consider that development may be acceptable in principle.
7. The proposals would be on a site of approximately 0.34ha. Policy CP6 requires that all developments should make efficient use of land. The proposals would provide a very low density of development; this appears to be partially justified from the point of view of the extensive areas of floodplain at the rear but there would still be a large development area. It is the view of Officers that there would be a capacity for development of more than three large dwellinghouses and this would not provide the most efficient use of the land. Policy CP6 requires there to be a higher density of development because of the limited amount of land available for all development in Oxford. This policy is also a response to the acute shortage of housing in the City. Having taken into account the constraints of the site and the character of the surrounding area it is recommended

that the proposals would fail to meet the requirements of Policy CP6 of the Oxford Local Plan 2001-2016; Officers have recommended that this form a reason for refusal of the proposed development.

### **Affordable Housing**

8. The application site area is greater than 0.24ha; as a result there is a requirement for affordable housing for on-site provision as set out in Policy HP3 of the Sites and Housing Plan. No affordable housing provision has been proposed as part of the development. In addition, no agreement to an affordable housing contribution payment in lieu of on-site provision has been made as part of the proposals. There has also been no viability information provided with the application to demonstrate that on-site provision could not be provided and an affordable housing contribution in lieu of on-site provision could not be made. As a result, the development fails to meet the requirements of Policy HP3 of the Sites and Housing Plan and this forms a reason for refusal in the Officer recommendation.

### **Design**

#### Siting and External Appearance

9. The proposals are for three large detached dwellinghouses that would be sited behind 18 Hawkswell Gardens and aligned approximately with dwellings in Lucerne Close. The siting of the proposed dwellings would minimise their impact on the public realm, despite their large size. The dwellings proposed would be very visible when viewed from the riverside garden to the south of the site; this is private land that is a shared amenity space used by all the occupiers of Hawkswell Gardens (and is the only outdoor amenity space of the flats at Hawkswell House). Vegetation along the southern edge of the site would soften the appearance of the dwellings proposed and it is not considered that the proposed development would be obtrusive when viewed from the riverside garden. At the northern edge of the site the new dwellings would not be particularly visible from Lucerne Close because of the change in levels and existing and proposed vegetation along the northern boundary of the site.

#### Materials

10. The materials proposed would be high quality and would harmonise with some of the surrounding properties. There is a first floor extension proposed to House 3, Officers regard that this aspect of the proposals would be an unusual and contemporary design; the appearance of this aspect of the development would not be particularly visible in the public realm and its discrete siting would mean that it would not be visually discordant.

#### Internal Floor Area

11. All three of the proposed dwellings would be three bedroom houses (with accommodation over three storeys for the two dwellings closest to the northern boundary, Houses 1 and 2 and over two storeys for the dwelling

adjacent to the southern boundary (House 3)). The internal floor areas for the proposed dwellings would be approximately 280m<sup>2</sup> for Houses 1 and 2 and 290m<sup>2</sup> for House 3. The proposed internal layout would conform with the requirements for providing accessible and adaptable homes; the development would therefore conform with Policies HP2 and HP12 of the Sites and Housing Plan (2013) and Policy CP13 of the Oxford Local Plan 2001-2016.

#### Outdoor Space

12. The proposed dwellings would benefit from long rear gardens, with areas of the garden being above the floodplain and some of the gardens being within that area. The resultant garden of No. 18 Hawkswell Gardens, following development would be sufficient size for a large family house. This would enable sufficient area of outdoor amenity space and Officers would recommend that the development complies with the requirements of Policy HP13 of the Sites and Housing Plan (2013).
13. There are proposals for boundary treatments submitted with the proposals.

#### Trees and Landscaping

14. The application site contains a large number of trees. 39 of the trees on the site are proposed to be removed, either because of their poor physical condition or in order to facilitate the proposed development. The application originally sought the removal of additional vegetation, particularly along the northern and southern boundaries and the removal of a dove or handkerchief tree (identified as T32 on the arboricultural report plans). Officers sought amended plans to retain more vegetation along the boundaries and the retention of the dove tree; this tree is an unusual tree that has a positive impact on the public realm. The amended plans retain these trees and it is recommended that the development is now acceptable in terms of its impact on trees. Landscaping proposals have been provided with the application.

### **Impact on neighbours**

#### Overlooking

15. The proposed development would be separated from 18 Hawkswell Gardens by the front gardens and parking areas of the proposed dwellings and the rear garden of No. 18; the overall distance between the nearest windows of a proposed dwellinghouse (House 3) and the rear windows of No. 18 Hawkswell Gardens would be 22m. This distance would be sufficient to protect the privacy of the occupiers of that property and their rear garden amenity space.
16. To the north of the application site lies No. 23 Lucerne Road, four rooflights are proposed for House 1 facing towards that property. Officers recommend that these rooflights could be conditioned to be obscure glazed or be required to be installed at a height to avoid overlooking if

planning permission is granted. The privacy of the rear garden of No. 23 Lucerne Road would be protected by existing and proposed vegetation along the boundary as well as the lower ground level of the application site (compared with Lucerne Road).

17. To the south of the application site lies the communal gardens; this is land that is used as an amenity space by occupiers of various properties in Hawkswell Gardens and is the only outdoor amenity space for the occupiers of Hawkswell House. This space is a shared space that is open to occupiers of a number of properties. There would be some overlooking from first floor bedrooms into the shared riverside garden; though as this is a shared space it is not considered that this would be unacceptable.

#### Impact on Light

18. The proposed development would not have an adverse impact on light for neighbouring occupiers. The properties proposed would be in line with houses on Lucerne Road and would be situated below the ground level of the neighbouring property to the north (No. 23); there would be no impact from House 1 on the south elevation windows of that property. There is sufficient separation between the proposed dwellings and neighbouring properties to ensure no material impact on habitable rooms as a result of the proposed development. In reaching this view, Officers have been mindful of the 45/25 degree code as set out in Policy HP14 of the Sites and Housing Plan (2013).
19. On the above basis, Officers recommend that the development would likely be acceptable in terms of its impact on the amenity of neighbours and meets the requirements of Policy HP14 of the Sites and Housing Plan (2013).

#### Access and Parking

20. The Highway Authority has indicated that they are not able to object to the proposals due to the access being an existing private access and road; proposals for further accesses onto that road are not the subject of an assessment from the Highway Authority. Officers regard that the proposals for a single carriageway access with the passing places that are proposed would likely be acceptable in terms of providing a functional access to the site; given the relatively small number of vehicle movements that are likely to arise from the development.
21. The proposed parking amount and arrangements proposed would be acceptable in the context of Policy HP16 of the Sites and Housing Plan (2013).

#### **Biodiversity**

22. There are no objections in principle to the development from the Council's ecology officer but the recommendations and mitigation proposed in the submitted bat survey would be required by condition if approval had been



recommended. Biodiversity enhancement measures, in relation to hedgehogs would also be required by condition.

### **Archaeology**

23. Comments have been received from the Council's archaeologist that indicates that the application site is a known site of potential archaeology. If planning approval were granted, Officers would recommend conditions requiring archaeological investigation, recording and mitigation as appropriate.

### **Flooding and Drainage**

24. The majority of the site (including the areas proposed for the dwellings) would be in areas at a low risk of flooding. The eastern part of the site would fall within flood zones 2 and 3 as identified on the Environment Agency floodplain maps (and contained within the Flood Risk Assessment report). The application site is at a low risk of surface water flooding. The flood risk assessment report provides details confirming that the proposed development would be outside of the 1 in 100 (plus climate change) flood event area. Parts of the garden would lie within more flood prone areas but there are no proposals to develop these areas. Officers recommend that if planning permission was granted then conditions could be included to ensure that all hard surfaced areas are proposed to have permeable surfacing.

### **Conclusion**

25. On the basis of the above, for the reasons set out above the application is recommended for refusal.

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

**Background Papers:** 15/02352/FUL

**Contact Officer:** Robert Fowler

**Extension:** 2104

**Date:** 21<sup>st</sup> July 2016