

**Application Number:** 12/02949/FUL

**Decision Due by:** 11th January 2013

**Proposal:** Erection of outbuilding in rear garden.

**Site Address:** 53 Stanley Road Oxford Oxfordshire OX4 1QY  
(Location Plan – Appendix 1)

**Ward:** St Marys Ward

**Agent:** Embling Associates Ltd

**Applicant:** Mrs I Bettencourt

**Application Called in –** by Councillors – Clack, Fry, Tanner and Kennedy  
for the following reasons – Potential overdevelopment.

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**Recommendation:**

APPLICATION BE APPROVED

For the following reasons:

- 1 The development forms an acceptable visual relationship with the existing site and local area and will not have an unacceptable effect on the current and future occupants of adjacent properties. An adequate size of garden will be retained and concerns over flooding can be dealt with by condition. The proposals therefore comply with Policies CP1, CP8, CP10, HS19 and HS21 of the adopted Oxford Local Plan 2001 – 2016, Policies CS11 and CS18 of the Core Strategy and Policies HP9, HP13 and HP14 of the Sites and Housing Plan.
- 2 Objections have been received from a number of local residents and the comments made have been carefully considered. However it is the Council's view that the comments made do not constitute sustainable reasons for refusing planning permission that would be supported on appeal and that the imposition of appropriate planning conditions will ensure the provision of a good quality form of development that would not unacceptably impact on the amenities enjoyed by neighbouring occupiers.
- 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.

subject to the following conditions, which have been imposed for the reasons stated:-

- 1 Development begun within time limit
- 2 Deemed in accordance with approved plans
- 3 Building materials as specified
- 4 Specific exclusion approved plans - side facing windows, 12/1104/P1 and 02A (Elevations), 16.11.2012,
- 5 Private open space - no garden buildings
- 6 Exclusion of other uses purposes incidental to the main dwelling (not primary living,

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

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

**CP1** - Development Proposals

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

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

**HS19** - Privacy & Amenity

**HS21** - Private Open Space

#### **Core Strategy**

**CS11\_** - Flooding

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

#### **Sites and Housing Plan - Submission**

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

**HP13\_** - Outdoor Space

**HP14\_** - Privacy and Daylight

#### **Other Material Considerations:**

National Planning Policy Framework

Town and Country Planning (General Permitted Development) (Amendment) (No. 2) (England) Order 2008 (GPDO)

#### **Relevant Site History:**

12/00129/FUL - Rear single and two storey extension. (Amended plans). PER 29th March 2012.

## **Representations Received:**

51 Stanley Road: Objection – Too large for site, possible use, precedent.

55 Stanley Road: Objection –Overlooking, overbearing, too large for site, precedent.

## **Statutory and Internal Consultees:**

Local Drainage Authority: Drainage should be SUDs compliant.

## **Issues:**

Private amenity space  
Visual amenity  
Effect on adjacent occupiers  
Drainage

## **Officers Assessment:**

### Site description and background

1. 53 Stanley Road is a terraced house over four floors, with the upper and lower ground floors having been extended with permission granted under application 12/00129/FUL. Part of the rear garden has also been dug out behind the lower ground floor extension, creating a two level garden with a patio at the lower level and a lawned area behind. The total garden remaining measures around 11 metres in depth.
2. Permission is now sought to construct a detached garden building at the rear of the garden. The proposal requires planning permission because the building would be within 2 metres of the boundary of the site and is in excess of 2.5 metres high, and also because of the removal of Permitted Development rights by Condition 4 of the previous planning permission:
  - *Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking or enacting that Order) no structure, building or enclosure as defined in Class E of Schedule 2, Part 1 of the Order shall be erected or otherwise provided within the curtilage without the prior written consent of the Local Planning Authority.*

*Reason: The Local Planning Authority considers that even small losses of garden space should be the subject of further consideration to safeguard the provision of private open space in accordance with policy HS21 of the Adopted Oxford Local Plan 2001-2016.*
3. The outbuilding is intended to be used by the applicant as a summer house for sitting out and uses incidental to the main dwelling.

### Private amenity space

4. The adopted Oxford Local Plan requires that new dwellings should provide an amount of private open space to allow their occupants to enjoy fresh air and light in privacy, whilst Policy CP10 states that permission will only be granted where developments are sited to ensure that outdoor needs are properly accommodated, including private amenity space.
5. Policy HS21 states that planning permission will not be granted for development proposals where insufficient or poor quality private open space is proposed. The accompanying text says that where occupiers are likely to be children, then shared amenity space is not appropriate and, generally, the length of a private garden for a family house should be 10 metres.
6. Policy HP13 of the Sites and Housing Plan requires that houses of 2 or more bedrooms must provide a private garden of adequate size and the accompanying text states that the City Council will expect an area which is at least equivalent to the original building footprint.
7. The inspectors report into the emerging Sites and Housing Development Plan Document concluded that the document was “sound”. It is therefore intended to be formally adopted at Council on the 18<sup>th</sup> February 2013. As such it can be afforded almost full weight in determining planning applications.
8. The proposed development would result in the loss of garden space to the rear of the property, the remainder of which would measure around 7 metres in depth, marginally less than the depth of the original house. Bearing in mind the additional amenity offered by the proposed garden building, the remaining garden size is considered adequate to serve the house and the shortfall of 0.5 metres from the requirement of the Sites and Housing Plan is not considered sufficient to justify a refusal of planning permission on these grounds.

#### Visual amenity

9. Oxford City Council requires that all new development should demonstrate high quality urban design where the siting, massing and design creates an appropriate visual relationship with the built form of the local area. The Local Development Plan provides policies to support this aim and CP1, CP8, CS18 and HP9 are key in this regard.
10. The proposed development is not easily visible from the public domain and represents a form of development typical for domestic gardens. Whilst somewhat large relative to the remaining plot, it is noted that a flat roofed structure with the same footprint could have been erected under Permitted Development rights had these not been previously removed. The current pitched roof design is considered an appropriate form of development for its context and subject to a condition of planning permission to control the appearance of materials used in the build, the proposal is not materially out of character with the existing house or local area, and complies with Policies CP1 and CP8 of the Local Plan, CS18 of the Core Strategy and HP9 of the Sites and Housing Plan.

### Effect on adjacent occupiers

11. Oxford City Council requires development proposals to safeguard the privacy and amenities of adjoining occupiers and policies CP1, CP10 and HS19 of the Local Plan and Policy HP14 of the Sites and Housing Plan support this aim.
12. Appendix 6 of the OLP sets out the 45 degree guidance, used to assess the effect of development on the windows of neighbouring properties and this is reiterated in Appendix 7 of the Sites and Housing Plan.
13. The windows and glazed doors of the building would face the rear of the properties along Stanley Road and would be positioned in an elevated position relative to the lower ground floors of surrounding properties. However given the existing boundary treatments, it will be highly difficult, if not impossible, to gain sight of the lower ground floor windows of 21 and 25 Stanley Road from the windows and door of the proposed building. Any increase in overlooking or the perception of overlooking, over that already present by the existing use of the garden, is therefore considered marginal and it would be unreasonable to refuse planning permission on this basis.
14. The proposal complies with the 45-degree guidance and will not lead to a material loss of light to neighboring windows. There will be some effect on the gardens at 21 and 25 Stanley Road but with an eaves height of less than 2.3 metres it will not be unacceptably overbearing or overshadowing and subject to conditions to control the use of the building and reduce the perception of overlooking from the adjacent gardens there will be no unacceptable effect on adjacent occupiers, and the proposal complies with Policies CP1, CP10 and HS19 of the Local Plan and HP14 of the Sites and Housing Plan.

### Drainage

15. Oxford's Core Strategy states that sustainable drainage systems may be required for smaller developments, such as hard-standing on front gardens, as cumulatively these can increase flood risk. Policy CS11 of the Core Strategy seeks to limit the effect of development on flood risk, floodwater flows and flood water storage and states that all developments will be expected to incorporate sustainable drainage systems or techniques to limit runoff from new development.
16. The garden building will increase the area of non permeable surface in the area and a condition to ensure the implementation of a sustainable drainage scheme is considered reasonable to ensure the development does not result in an increased risk of flooding and that the proposal complies with policy CS11 of the Core Strategy.

### **Conclusion:**

17. The development forms an acceptable visual relationship with the existing site and local area and will not have an unacceptable effect on the current and future occupants of adjacent properties. An adequate size of garden will be retained and concerns over flooding can be dealt with by condition. The proposals therefore comply with Policies CP1, CP8, CP10, HS19 and HS21 of the adopted Oxford Local Plan 2001 – 2016, Policies CS11 and CS18 of the Core Strategy and Policies HP9, HP13 and HP14 of the Sites and Housing Plan.

#### 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: 12/02949/FUL**

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**Date:** 23rd January 2013