

EAST AREA PLANNING COMMITTEE

6th November 2013

Application Number: 13/02419/FUL

Decision Due by: 11th November 2013

Proposal: Erection of 1 x 3-bedroom detached dwellinghouse (Use Class C3) to rear of existing house.

Site Address: 28 Abberbury Road – Appendix 1

Ward: Rose Hill and Iffley

Agent: Nicholas Kidwell

Applicant: Mrs Christine Noble

Application called in by Councillors Turner, Fry, Brown and Paule so that it can be determined in public.

Recommendation:

APPLICATION BE REFUSED

For the following reasons:-

- 1 As a result of its inappropriate siting within established spacious rear gardens of houses that exhibit a strong building line, the proposals represent a backland form of development that is, in principle, unacceptable. Furthermore the proposals would set a precedent for similar development that would result in the long term fundamental loss of the open, verdant and semi-rural character of the area contrary to the requirements of policies CP1 and CP8 of the Oxford Local Plan 2001-2016 as well as policies HP9 and HP10 of the Sites and Housing Plan 2011-2026.
- 2 As a result of its diminutive height, awkward combination of flat and mono-pitched roof forms as well as contrived design detailing, the proposed dwelling represents a building of alien appearance that contrasts with the established traditional scale, form and style of housing within the immediate locality to the detriment of the character and appearance of the area. The proposals therefore fail to accord with the requirements of policies CP1 and CP8 of the Oxford Local Plan 2001-2016, policy CS18 of the Oxford Core Strategy 2026 as well as policy HP9 of the Sites and Housing Plan 2011-2026.

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
CP9 - Creating Successful New Places
CP10 - Siting Development to Meet Functional Needs
CP11 - Landscape Design
NE15 - Loss of Trees and Hedgerows
NE16 - Protected Trees
HE2 - Archaeology

Core Strategy

CS2_ - Previously developed and greenfield land
CS18_ - Urb design, town character, historic environment

Sites and Housing Plan

HP9_ - Design, Character and Context
HP10_ - Developing on residential gardens
HP2_ - Accessible and Adaptable Homes
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

Relevant Site History:

13/00279/FUL - Erection of 1x3 bed detached dwelling house (Class C3) to rear of existing house. Provision of additional vehicular access from highway. **Refused 15.03.2013**

Representations Received:

Six third party representations have been received. The comments raised can be summarised as follows:

- Granting planning permission for the development proposed would have a serious adverse impact on the low density, spacious and semi-rural character of the area which contains green, open and tranquil garden spaces;
- There is no precedent for this type of development in Abberbury Road though approving the application could set a very difficult precedent for the Council to

resist;

- The proposal is a classic case of “garden grabbing” that the Government has been seeking to resist;
- The garden is large and able to satisfactorily accommodate a new dwelling;
- The proposals will not have a significant adverse impact on neighbouring properties;
- New housing is much needed in Oxford and this would help towards delivering it.

Friends of Iffley Village – Concerns expressed about the principle of backland development in the area though do not object in this case.

Statutory and Internal Consultees:

Local Highway Authority (LHA) (Oxfordshire County Council) – The provision of one off-street parking space to serve a three bedroom dwelling in Iffley Village is unlikely to be sufficient and the proposal is therefore likely to result in some additional on-street parking. Furthermore, cars serving the new dwelling are unlikely to be able to turn around within the site and be able to leave in a forward gear. However, overall, the harm to the highway network as a result of the proposals is not considered to be significant enough to merit an objection.

Thames Water – No objection.

Officers’ Assessment:

Application Site and Locality

1. The application site consists of a large detached family house of approximately 1930’s construction designed in a traditional form and scale and set within a large plot. The site is located on Abberbury Road in Iffley Village. Abberbury Road and indeed this part of Iffley Village is typified by similarly large detached properties set within spacious, verdant and tranquil surroundings which results in the area having something of a semi-rural character which is unusual within the city. The street is generally quiet with little through-traffic and the street frontages feature significant greenery including shrubbery and more formal planting as well as larger trees which contribute towards giving the area a low density, verdant character. The houses are generally set back into their plots which allows the aforementioned greenery to establish along the plot fronts as well as afford ample space for off-street parking outside the houses. The gaps between and at the front of the houses further contribute towards the semi-rural qualities that the area enjoys.

2. The application site can be seen in its context on the site location plan attached as appendix 1 to this report.

Description of Proposed Development

3. The application seeks consent for the erection of a three bedroom detached dwelling within the rear garden of No. 28 Abberbury Road following the lateral subdivision of the plot. The dwelling is proposed to be single storey in height though features a basement level as well as a mezzanine floor. The dwelling is proposed to feature white smooth rendered external walls with a part sedum covered flat roof and

part mono-pitched roof covered with photovoltaic tiles. Off-street parking would be provided alongside the existing house following the demolition of its existing attached side garage.

4. The current application follows the Council's refusal of a similar application earlier in 2013. The current scheme differs from that previously refused in that it does not include a separate vehicular access for the new dwelling with both the existing and proposed dwellings gaining access sharing the same existing driveway which would be extended. The previous scheme was refused for four reasons which will be discussed in more detail in the next section of the report.

5. Officers' consider the principal determining issues in this case to be:

- Principle;
- Impact on the Character and Appearance of the Area;
- Design;
- Standard of Accommodation;
- Impact on Neighbouring Properties;
- Impact on Trees;
- Parking; and
- Archaeology.

Principle

6. Planning permission was refused for a similar type of development within the rear garden of No. 28 Abberbury Road earlier in 2013. The application was refused for four reasons and these can be summarised as follows:

- The proposals represented an inappropriate form of backland development that, as a result of the inappropriate siting of the dwelling, did not respond to the established character and appearance of the area;
- As a result of its awkward form and contrived diminutive scale, the proposed dwelling failed to respect the more traditional form and scale of established built development in the area;
- The proposals resulted in the loss of a number of protected trees that made significant contributions to public amenity. It also would have resulted in harm to other important trees that would have jeopardised their long term survival. The proposals were therefore found to be detrimental to the character and appearance of the area as well as public amenity;
- The development was proposed to take place close to the extent of a known Anglo-Saxon burial ground and, in the absence of on-site investigations, the Council could not satisfactorily assess whether the proposals would have given rise to harm to deposits of heritage significance.

7. Consequently, in order to be considered to be acceptable, the current proposals need to overcome the reasons for refusal of the previous application whilst continuing to be acceptable in other respects.

8. In 2010 the Government re-classified residential gardens as greenfield land in the face of concerns about the inappropriate development of gardens which was considered to be having significant and lasting adverse impacts on the character of residential areas. Concern was also raised by the Government about the loss of green spaces within towns and cities both in terms of the loss of outdoor amenity

spaces as well as harm to ecology.

9. The National Planning Policy Framework re-emphasises the Government's position on the matter and states that *"local planning authorities should consider the case for setting out policies to resist inappropriate development of residential gardens, for example where development would cause harm to the local area"*.

10. Partly of its own accord but also in response to Government guidance, the Council adopted policy HP10 as part of its Sites and Housing Plan 2011-2026 (SHP) which states, inter alia, that planning permission will be granted for new residential development on garden land provided it responds to the character and appearance of the area.

Impact on Character and Appearance of the Area

11. As already set out, Abberbury Road and its adjoining Abberbury Avenue are characterised by large houses of traditional form and scale set within large, spacious and undeveloped plots along verdant, quiet roads. The result is an unusual but very pleasant semi-rural character. The houses are laid out in a relatively consistent building line where there is a clear established pattern to the built development with houses set back from the road frontage to allow for a combination of front gardens and off-street parking. Gaps between houses allow both prolonged and glimpsed views through to the large open gardens that are intimated by the spaces around the houses and the green street frontages.

12. In order to be considered to be acceptable when considered against policy HP10 of the SHP, new development must respond to the character and appearance of the area taking account of views from the streets, the public realm and the wider residential environment. It also states that the size of plot to be developed should be of an appropriate size and shape to accommodate the proposal, taking into account the scale, layout and spacing of existing and surrounding buildings.

13. Officers consider that the erection of a new dwelling in the rear garden of No. 28 Abberbury Road would be wholly at odds with the established character described above. It would introduce a large new building into an undeveloped area of garden completely out of step with the layout of existing houses which would be visible both from the public realm as well as the wider residential environment.

14. However, it is not just the harm caused by the location of the building itself that is unacceptable but also the associated development and uses that follow. The lateral subdivision of the rear garden will be created with fences or other means of enclosure that will clearly delineate a separate residential use taking place at the lower end of the garden. This kind of plot subdivision and the associated relationship between the built and natural environment is not in evidence anywhere else in Abberbury Road and would conflict with the established layout of gardens. This established layout contributes to the area's feeling of spaciousness and tranquillity that far exceeds anything caused by a more typical residential garden outbuilding where the use is inherently connected to the main house. Moreover, the separate use associated with a large new habitable building in the rear garden would also be in evidence at night time when lights from windows will provide clear evidence of activity and occupation of the rear garden that is not consistent with the semi-rural

undeveloped character of the area. Other developments are also likely to accumulate over the years including potentially new hardstanding areas (patios) and additional outbuildings that would all further harm the green and spacious rear gardens.

15. Whilst applications must be considered on their individual merits there are occasions when the precedent set by approving a development must be considered and forms a material planning consideration. In this case the application site is very similar in layout to the majority of other plots in both Abberbury Road and Abberbury Avenue with similar opportunities and constraints to development. Were the application to be approved officers consider it exceptionally likely that similar proposals for development within rear gardens of nearby properties would come forward over the next few years that the Council would then find very difficult to resist. For this reason the proposals would, if approved, result in a long-term and fundamental change to the character of the area that would be completely at odds with the requirements of development plan policy. Furthermore it would fail to be consistent with at least one of the three key sustainability dimensions set out in the NPPF which sets out the importance of *“contributing to protecting and enhancing our natural, built and historic environment”*. Consequently, and for the reasons above, officers recommend that Members give significant material weight to the precedent that would be created were this application to be approved against the advice of officers.

16. Planning permission was granted back in 2007 for a new house in the rear garden of 9 Abberbury Avenue. However, this decision was taken under now superseded Government guidance as well as superseded development plan policies. Consequently the circumstances under which that proposal was assessed back in 2007 were fundamentally different to that existing today. In addition, the approved house had a number of differences to the application proposals that further reduces its relevance to the consideration of this application. The approved house was proposed to be located in the rear garden of a house that formed the end of the street so that, to a degree, it “book-ended” development within the road rather than amounting to the type of backland infill development that characterises the application proposals. For these reasons the Committee is advised to give this 2007 decision no material weight in the decision making process. Consequently, officers recommend that the application should be refused due to the clear conflict with development plan policies and Government guidance.

Design

17. The built development in the immediate context of the site is characterised by large detached houses mainly with gabled, hipped and mansard roof forms constructed from a variety of common materials. However, they are generally of a similar scale (two storey) such that they clearly appear as family houses within the street and, notwithstanding the variety of roof forms, they are all designed in a more traditional style. The combination of the large traditionally designed houses amongst spacious and verdant surroundings works successfully to create a pleasant balance between the natural and built environment where they complement each other.

18. Policy HP9 of the SHP states that *“planning permission will only be granted for residential development that responds to the overall character of the area, including its built and natural features”*. Policies CP1 and CP8 of the Local Plan reflect these

requirements and add that development is expected to be of a high quality and respect the character of the area by reinforcing important local characteristics.

19. The erection of a single storey part flat, part mono-pitched roof structure is considered to represent a development of contrived and awkward form that has in fact been designed to prevent undue impact on neighbouring properties rather than respond to the character of existing built development. Rather than attempting to take reference from the architectural styles of existing houses it introduces an alien form and scale of building that is without precedent in the locality and which will further compound its unsuitability when viewed from surrounding properties as well as gaps in the street frontage. It appears neither as a more traditional outbuilding in a residential garden setting (due to its excessive footprint and awkward, anomalous form) nor as a more traditional house in keeping with the prevailing building character of the area.

20. Consequently officers are of the view that, notwithstanding the in principle objection to the backland development proposed, the form and scale of the building proposed continue to be inappropriate for its context only serving to exacerbate its unacceptability when considered against a number of development plan policies including policies HP9 and HP10 of the SHP as well as policies CP1 and CP8 of the Local Plan. In this respect the proposals are considered to have failed to overcome the second reason for refusal of the previous application and it follows that the proposals should once again be refused on similar grounds.

Standard of Accommodation

21. Policies HP2 and HP12 of the SHP require all new dwellings to provide a reasonable standard of internal living space including a requirement to meet Lifetime Homes standard.

22. The dwelling proposed is found to be of sufficient size to meet the Council's minimum size criterion for new family sized dwellings (the floor area exceeds 75 sq m) with all habitable rooms having access to reasonable levels of natural light and outlook.

23. The proposals do broadly comply with the majority of Lifetime Homes requirements though the distance from the parking space to the front door of the dwelling is greater than would normally be expected (though the access is level) and the front door width does not allow sufficient 'nib' width for wheelchair users to comfortably open the front door from inside. Bathroom and bedroom sizes are however adequate as is the circulation space. Officers therefore, on balance, find the proposals acceptable in this regard particularly given that the previous scheme was not refused on this ground.

24. Policy HP13 of the SHP requires new dwellings to be provided with a reasonable quality and quantity of outdoor space. In the case of family sized dwellings such as that proposed, a private garden at least equivalent to the footprint of the dwelling should be provided which should also be of a good usable layout.

25. The dwelling proposed is to be served by a garden of more than sufficient size to meet the Council's amenity space requirements and is also of good usable dimensions. It is also not unduly overlooked by the upper floor windows in existing

houses given that the proposed dwelling has been sited and orientated to screen the rear garden. Whilst there is a band of tall conifer trees along the southern boundary of the site, these are unlikely to result in significant overshadowing of the new garden given the separation distances involved.

26. The proposals will result in the existing garden of 28 Abberbury Road being approximately halved. This will result in the remaining rear garden left to serve the existing house being smaller than almost any other garden in the immediate area with the exception of the three houses on the corner between Abberbury Road and Abberbury Avenue. Policy HP10 states that existing dwellings must retain a private garden that is at least equivalent to the footprint of the house. However, the remaining amenity space will still be of sufficient size to meet with the minimum requirements of policy HP10 with a layout that would make it genuinely usable for family occupiers. As already discussed the height of the proposed new dwelling is modest given its single storey flat roof nature and as such it will not unduly overbear the resultant rear garden of No.28 or result in significant overlooking of it given the substantive omission of windows in the north elevation of the new dwelling.

Impact on Neighbouring Properties

27. Policy HP14 of the SHP states that planning permission will only be granted for new development that adequately safeguards existing neighbouring residential amenity. It is against this policy requirement that the proposals should be assessed in this regard.

28. The dwelling proposed is, as already discussed, low rise and consequently of a modest height. It is also set a significant distance down into the rear garden. This combination of limited height and generous separation distance from neighbouring houses prevents it causing any significant loss of outlook or light for neighbouring occupiers. In addition the dwelling has been designed with low level windows so that there will not be the potential for significant direct overlooking above the boundary fences into adjacent gardens.

29. The previous refused scheme included an extended driveway running alongside the existing house that allowed separate vehicular and pedestrian access to the new dwelling. Concern was raised about the potential for disturbance to be caused to neighbouring occupiers (including future occupiers of the existing application house) stemming from car movements between gardens and the associated noise this generates. On balance however, officers concluded that this would not have been significant enough to justify another reason for refusal. Whilst vehicular access is now proposed to terminate at the side of the existing house, pedestrian access will still occur between the gardens and though this will bring with it the increased ability to overlook existing boundary fences, officers do not believe that this would be to an unacceptable degree.

30. Consequently, and for the above reasons, officers are comfortable with the impact that the proposed dwelling and its occupiers would have on residents of existing neighbouring properties such that the proposals are considered to accord with the requirements of policy HP14 of the SHP.

Trees

31. As already set out earlier in this report, the immediate area is characterised by its verdant streetscapes and features substantial vegetation adjacent to the roadsides which contribute towards its semi-rural character. The previous refused scheme included the removal of a protected silver birch tree at the front of the site to facilitate the creation of a new separate driveway to serve the existing house. It would also have involved construction works within the root protection areas of three other protected trees on the site which would have prejudiced their long term survival as significant contributors to public amenity. However the current scheme has omitted this new separate access so that no works are now proposed to affect either existing protected trees or trees of any real significance to the streetscene. A number of smaller trees are proposed to be removed from within the rear garden but these are not of any particular landscape importance.

32. Consequently officers are satisfied that the proposals will not result in significant harm to any trees of significant public amenity benefit such that the proposals are considered to accord with the requirements of policies NE15 and NE16 of the Local Plan. No concern is therefore raised about the proposals in this regard and officers are of the view that the third reason for refusal of the previous application has been successfully overcome as part of these proposals.

Parking

33. Iffley Fields and more specifically Abberbury Road feature large family sized housing where on-plot parking is common and car ownership is higher than the city average. Two off-street parking spaces are proposed to serve the existing house which officers consider to be sufficient and in accordance with the requirements of policy HP16 of the SHP. Furthermore the LHA also find this level of provision acceptable. One off-street parking space is proposed to serve the new three bedroom dwelling. Where off-street parking is common, car ownership is higher and in the absence of on-street parking controls, officers are of the view that this level of provision is below standard. It is therefore likely to result in additional on-street parking whether for residents of the new dwelling or for their visitors. In addition, there is inadequate turning space for a car to manoeuvre within the site and exit onto Abberbury Road in a forward gear however this is a common situation for many households. The area however is not subject to significant on-street parking pressure and so, on balance, officers do not consider it reasonable to conclude that the proposals are unacceptable in this respect particularly in light of the LHA's decision not to object to the proposals.

34. Whilst bin and cycle storage is not shown on the submitted plans they can clearly be comfortably accommodated on site for the new dwelling in accordance with the requirements of policies HP13 and HP15 of the SHP. Were Members to approve the application against the advice of officers, a condition should be imposed requiring details of such provision to be submitted by condition.

Archaeology

35. The proposals involve development within close proximity to the known extent of an Anglo-Saxon burial ground. The previous application was refused due to the potential for the development to involve construction works within this historic burial ground which could have resulted in damage to deposits of heritage significance. In

the absence of results of on-site trial investigations it was not possible for the Council to assess the potential for this impact and to determine how it could be mitigated. However, invasive ground investigations have since been carried out by archaeologists following the refusal of the previous application and established that the garden land of 28 Abberbury Road is undisturbed such that there is no possibility that the Anglo-Saxon burial ground or indeed any other historic development extended out to this location. Consequently officers are satisfied that the proposals will not result in harm to buried heritage assets. For this reason officers are of the view that the current proposals have successfully overcome the fourth reason for reason of the previous application.

Conclusion:

36. The proposals are considered to represent a form of inappropriate backland residential development that would be detrimental to the character and appearance of the area. Moreover the proposals would, if approved, set a clear precedent for the Council where it would prove very difficult to resist further new dwellings within rear gardens of Abberbury Road resulting in a long-term and fundamental change to the character of the area that would not be consistent with sustainability objectives set out in Government guidance. To compound matters officers also find the design of the proposed dwelling to be unacceptable as it fails to respond to the established form and scale of the more traditionally styled houses in the immediate area. For these reasons officers have concluded that the proposals would be contrary to policies of the development plan as well as Government guidance and, as such, Committee is recommended to refuse the application for the reasons set out at the beginning of this report.

Human Rights Act 1998

Officers have considered the implications of the Human Rights Act 1998 in reaching a recommendation to refuse this application. They consider that the interference with the human rights of the applicant under Article 8/Article 1 of Protocol 1 is justifiable and proportionate for the protection of the rights and freedom of others or the control of his/her property in this way is in accordance with the general interest.

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

Background Papers: 13/00279/FUL & 13/02419/FUL

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Date: 28th October 2013