

**WEST AREA PLANNING COMMITTEE**

10<sup>th</sup> December 2013

**Application Number:** 13/02745/FUL

**Decision Due by:** 17th December 2013

**Proposal:** Demolition of lock up garage and erection of 2 storeys, 2-bed dwellinghouse (Use Class C3). Erection of garden office to rear and provision of private amenity space and bins store. (amended plans)

**Site Address:** 7 Middle Way – Appendix 1

**Ward:** Summertown

**Agent:** Mr Robin Jones

**Applicant:** Mr Simon Hare

Application called in by Councillors McCready, Fooks, Brett and Wilkinson due to public concerns about the proposals.

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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.
- 2 The Council considers that the proposal accords with the policies of the development plan as summarised below. It has taken into consideration all other material matters, including matters raised in response to consultation and publicity. Any material harm that the development would otherwise give rise to can be offset by the conditions imposed.

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

- 1 Development begun within time limit
- 2 Develop in accordance with approved plans

- 3 Removal of Part 1 PD rights
- 4 Sample materials
- 5 Garden building incidental
- 6 Removal of Part 2 PD rights
- 7 Boundary treatment
- 8 Exclusion from CPZ
- 9 Bin and cycle storage to be laid out as approved prior to occupation
- 10 Phased contamination risk assessment required

### **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

#### **Core Strategy**

- CS2\_** - Previously developed and greenfield land
- CS18\_** - Urb design, town character, historic env

#### **Sites and Housing Plan**

- 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

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

63/13047/AA\_H - Office and storage buildings for builders – **Permitted 22.10.1963**

13/01886/FUL - Demolition of lock up garage and erection of 3-bed dwellinghouse (use class C3) with integral garage. Erection of garden office to rear and provision of private amenity space and bins store. (amended plans) – **Refused 12.09.2013**

### **Representations Received:**

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

- The proposed dwelling would project beyond the front of 9 Middle Way “engulfing” the property and invade the front courtyard;
- The height of the building would deprive 9 Middle Way of light to its living areas, main bedroom and kitchen;
- Effect on the south end of Middle Way is characterised by small Victorian cottages and a converted low level old slaughterhouse. This development infringes the open, almost rural ambience of this historic part of Summertown;
- The development extends the footprint of the existing garage to come out to the edge of the pavement. This will restrict the vision of drivers exiting the adjacent car park, putting, pedestrians and motorists at risk;
- The development could block the fire exit from the rear of the shop (number 7) on South Parade currently being refurbished;
- The size, bulk and height of the new proposed house means that this development would overwhelm our small cottage and rear courtyard garden;
- The garden office would completely block light to the sole kitchen window of the house at 8 South Parade and reduce outlook from it. It would also significantly reduce privacy for its occupiers using the kitchen given the proposed garden use;
- The plans are difficult to understand and do not easily convey the way in which the building projects towards the front of the site.

### **Statutory and Internal Consultees:**

Local Highway Authority – No objection subject to the removal of the site from eligibility for parking permits within the CPZ. The proposal demonstrates adequate vision splays for vehicular traffic and has a similar relationship with the footway/road to other properties within the street. There is adequate provision for refuse and cycle storage.

Environmental Development – Due to past industrial use of the land and neighbouring land, a phased contamination risk assessment should be carried out prior to commencement of development. A condition should be imposed to secure this.

### **Officers’ Assessment:**

#### Description of Site and Locality

1. The application site consists of part of an unusual L-shaped parcel of land in Summertown which is currently home to a number of single storey flat roof garage buildings used for storage purposes mainly in connection with surrounding residential properties. The site features a narrow vehicular access route which runs alongside the front garage and which allows access to the garages at the rear. 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. 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 streetscene.

3. The application site can be seen in its context on the site location plan attached as Appendix 1.

#### Description of Proposed Development

4. The application seeks permission for the demolition of the existing garages and the erection of a part two storey, part single storey two 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 and provision is also made to the front of the house for bin storage facilities.

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. The previous application on the site for a three storey dwelling with integral garage was refused in August 2013 for the following two reasons:

- The height of the proposed building would unacceptably reduce light and outlook for occupiers of the neighbouring 9 Middle Way;
- The garage proposed would not allow sufficient vision splays to enable safe egress out onto Middle Way.

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

- Principle of Development;
- Design and Appearance;
- Quality of Accommodation;
- Impact on Neighbouring Properties; and
- Highway Implications.

#### Principle of Development

8. The application site features a number of existing buildings on it that means it is predominantly classified as previously developed land as defined in Government guidance. The site itself and the building on it are having an adverse impact on the character and quality of the area with the site being of low environmental value. Consequently 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. The previously refused scheme (determined under delegated powers in August 2013) was not considered to be objectionable in urban design terms despite the new building being set higher than the house it would adjoin to. The current proposal is for a new house that is similar in height to the existing house that it would adjoin which would be more in keeping with the predominantly two storey scale of domestic properties at this end of Middle Way.

11. Officers are of the view that the reduced scale of the proposed house means that it is consistent with the more historic scale of houses within the street such that it would appear to sit comfortably within the streetscene. 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 mass of flat roof it still represents a significant improvement to the appearance of the site. Consequently officers are satisfied that the form, scale and appearance of the house 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.

#### Quality of Accommodation

12. Policy HP12 of the SHP requires new dwellings to provide reasonable quality internal living space with two bedroom houses being required to be at least 75sq m in floor space. The dwelling proposed has approximately 78sq m of internal living space such that it is, in quantitative terms, appropriate, though still being fairly small for a family dwelling. Each of the habitable rooms are considered to be of a reasonable quality layout with each benefitting from adequate natural lighting and outlook from windows.

13. Policy HP2 of the SHP requires all new dwellings to meet Lifetime Homes standard. The plot is rather narrow and, with the space allotted for the car port, there is relatively little space remaining on the ground floor. However, in new amended plans, the corridors and internal door widths have been widened such that they now meet the Lifetime Homes standard. Space is also required on the ground floor to allow conversion to a temporary bed space and, whilst there is such a space, it is not ideal that it would be part of the kitchen diner. Officers therefore recognise that the dwelling would not accord with all of the individual requirements of Lifetime Homes though it does, following the submission of amended plans, comply with the majority of its specifications. The supporting text to policy HP2 of the SHP makes it clear that the Council will take account of genuine practical constraints that make compliance unachievable. It should also be noted that the previous scheme was not refused in

relation to matters connected to Lifetime Homes. Officers, for these reasons, find the proposals acceptable in this respect.

14. Policy HP13 of the SHP requires all new dwellings be served by reasonable quality outdoor amenity space that is proportionate to the size and type of dwelling proposed. In this case, as a two bedroom house, the garden should be approximately equivalent to the footprint of the house though account needs to be taken of the size and shape of gardens in the immediate area.

15. The rear garden proposed to serve the house is relatively private and of a reasonable size comparable to the footprint of the house. It is also of a good usable layout. Whilst a garden building is proposed to be erected this will not take up a significant proportion of the garden and, in any event, could be considered as a form of amenity provision. A window serving the kitchen of 8 South Parade faces on to what would be the rear garden of the new house. However, whilst this would allow overlooking of the rear garden it would not reduce privacy for the majority of the usable garden. Officers therefore find the proposals to be acceptable both in terms of the indoor and outdoor environment it would provide for future occupiers.

#### Impact on Neighbouring Properties

16. Policy HP14 of the SHP states that planning permission will only be granted for new residential development where it provides reasonable privacy and daylight for occupants of existing homes as well as outlook both from the homes as well as the gardens. These policy requirements are supported by similar requirements set out in policies CP1 and CP10 of the Local Plan.

17. The proposed house would adjoin 9 Middle Way and has been designed such that it is at two storey level mainly where it directly adjoins the existing blank side wall of the main part of 9 Middle Way. Part of the proposed house will project to the front of 9 Middle Way by approximately 1.7m so that it abuts the street frontage though this will have only minimal impact on the quality of the outlook and daylight received into front windows of this adjoining house. The small front outdoor amenity area to this neighbouring house is mainly used for access and is not considered to represent outdoor space that is regularly used and enjoyed. No concern is therefore raised about the impact of the proposed house on the front of 9 Middle Way, a conclusion which is consistent with the previous refused scheme where, similarly, no concerns were raised in this respect.

18. The proposed house then drops down to single storey level with a height similar to that of the existing garage. As a consequence the outlook and daylight experienced from windows in 9 Middle Way facing on to the application site (in this case ground floor windows to a kitchen diner) will not be materially affected. Whilst the two storey element of the house would be sited to the south-west of 9 Middle Way and thus provide a barrier to some sunlight, officers are satisfied that it will still not significantly affect light levels to any ground floor habitable room with windows that face the site.

19. The rear element of the building is, as already discussed, single storey in height and not materially greater in height or depth than the existing garage that it would replace. Consequently officers are satisfied that the proposed dwelling would not

overbear the small rear garden of 9 Middle Way. Whilst some rear facing upper floor windows in the proposed house would allow the potential for some additional overlooking, this is consistent with the existing relationships that dwellings have within the street already. Consequently officers have no concerns about the impact on the living conditions experienced by occupiers of 9 Middle Way with the proposals according with development plan policy requirements in this respect.

20. A window serving the kitchen of 8 South Parade faces on to the rear of the site. The kitchen was created following consent being granted in 1997 and has only one meaningful window. It is important therefore that any development does not impede significant levels of light from entering the window or overbear the outlook from it. The demolition of the existing garage at the rear of the site and its replacement with a smaller garden building set further away from the window will only improve matters for the occupiers of 8 South Parade. However, the general use of the land as a rear garden will occasionally result in some overlooking between the users of the kitchen and the garden. However, such overlooking can already occur between users of the garages on the site and those using the kitchen. Officers do not consider it reasonable to conclude that the proposals will significantly reduce privacy for the kitchen and that it would be wrong to effectively sterilise the site for development purposes as a result of this unusually positioned window.

21. However, to ensure that no new garden buildings or other structures (including walls and fences) can be erected that might block out light to the window or reduce the quality of its outlook, officers proposed to remove all permitted development rights by condition. Officers would look to secure a more appropriate long term solution for the window through a condition requiring prior agreement of the treatment of the site boundaries.

22. In summary, officers are satisfied that the proposals will not give rise to significant harm to neighbouring residential amenity subject to the conditions imposed and therefore find that the proposals accord with the requirements of policies CP1 and CP10 of the Local Plan as well as policy HP14 of the SHP.

#### Highway Implications

23. The proposals include a car port integrated within the new house that is of dimensions that accords with the County Council's standards as it also has sufficient room for the secure storage of two bicycles at the rear. A condition is recommended to be imposed requiring details of the mechanism for the secure storage of such bikes. One off-street parking space is considered to be sufficient to serve a two bedroom house that is close to Summertown district centre and with easy access by public transport to the city centre. The level of provision accords with the maximum standards set out in policy HP16 of the SHP.

24. Middle Way and its connecting residential roads are already subject to severe on-street parking pressure that makes parking for existing residents difficult and leaves the road awkward to navigate by car. Additional on-street parking within the street would further exacerbate existing parking problems and would, in officers' view, be unacceptable. Consequently officers propose to impose a condition removing the property's eligibility for residents and visitors parking permits with the controlled parking zone which would ensure that no additional on-street parking

would occur. The existing garages on the site are predominantly used for storage purposes rather than for vehicular parking. Consequently no material loss of off-street parking capacity will occur for local residents and, in any event, no objection to the previous scheme was raised on this matter.

25. Concern has been raised by third parties that the parking of a car within the car port would endanger pedestrian and vehicular safety when accessing and egressing the car port. Officers are however satisfied by the level of vision afforded by the proposals which is consistent with the relationship to the road exhibited by other properties in the street. Traffic within the road also tends to be travelling at a low speed given the constraints posed by parked cars, traffic calming measures and the enclosed nature of the road. Officers therefore concur with the views of the LHA and raise no objection to the proposals in highway terms.

#### Other Matters

26. Former industrial use of the neighbouring commercial site has the potential to have caused some contamination of the land. Consequently, and in line with the requirements of policy CP25 of the Local Plan, officers recommend a condition requiring a phased contamination risk assessment to be carried out before the commencement of development.

27. A number of third parties have raised concerns about the effect that the development would have on safe fire exit for employees of the neighbouring commercial premises. However, these matters are addressed under the building regulations where other appropriate fire egress solutions for the neighbouring occupier would be considered as would fire safety in the proposed dwelling. Obtaining planning permission is just one of a number of consents likely to be required to enable new development to be carried out and matters outside the legislative provisions of the planning system should be left to the relevant agencies responsible for such matters.

#### **Conclusion:**

28. On balance, the proposals are considered to provide a new house that forms an appropriate visual relationship with the surrounding area and provides a reasonable standard of accommodation for future occupiers. Officers are satisfied that the proposals will not give rise to significant harm to neighbouring residential amenity or highway safety subject to the conditions suggested. Consequently the proposals are considered to accord with all relevant policies of the development plan and, as such, Members are recommended to approve the application subject to the conditions set out the beginning of this report.

#### 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:**

63/13047/AA\_H

13/01886/FUL

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**Contact Officer:** Matthew Parry

**Extension:** 2160

**Date:** 28th November 2013

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