

West Area Committee

11 January 2012

Application Number: 11/02850/FUL

Decision Due by: 10th January 2012

Proposal: Alterations to garden building including the addition of a kitchen to enable it to be used as a self contained annexe ancillary to 109A Banbury Road (amended plan)

Site Address: 109A Banbury Road Oxford Oxfordshire OX2 6JX

Ward: St Margarets Ward

Agent: N/A

Applicant: Mr A Fiorentino

Reason: Application called in by Cllrs Campbell, McCreedy, Wilkinson, Jones and Brundin, on the grounds that "the inclusion of a kitchen in an annexe that was originally permitted for "ancillary" purposes could constitute a change of use".

Recommendation:

APPLICATION BE APPROVED

Reasons for approval:

1. The proposal is considered due to its use remaining ancillary to the occupation of 109A, the reinstatement of the boundary wall and the absence of any changes to the exterior of the building would preserve the character of the North Oxford Victorian Suburb Conservation Area. As a result of the ancillary use there would also be no adverse impact on neighbouring amenity, privacy, or highway safety. As such the proposal complies with policies CP1, CP6, CP8, CP10, HE7, HS19 and TR3 of the Adopted Oxford Local Plan 2001-2016
2. Officers have considered carefully all objections to these proposals and have come to the view, for the detailed reasons set out in the officers report, that the objections do not amount, individually or cumulatively, to a reason for refusal and that all the issues that have been raised have been adequately addressed and the relevant bodies consulted.

subject to the following conditions:-

- 1 Time Limit.

- 2 The accommodation hereby permitted shall be occupied only as an annexe, ancillary to the occupation of 109A Banbury Road, by persons closely related to the occupants of that property and shall not at any time be occupied as an independent dwelling.
- 3 Removal of Permitted Development. Classes A, B, C, D, E of Schedule 2, Part 1 or Classes A and B of Part 2.
- 4 In accordance with the submitted plans.
- 5 Closure of gap in boundary wall prior to occupation.

Main Local Plan Policies:

Oxford Local Plan 2001-2016

CP1 - Development Proposals
CP8 - Design Development to Relate to its Context
HE7 - Conservation Areas
HS19 - Privacy & Amenity
TR3 - Car Parking

Other Material Considerations:

This application is in the North Oxford Victorian Suburb Conservation Area.

Relevant Site History:

93/530/NFH – Rebuilding at side and rear, 3 storey extension. Formation of hardstanding to provide two off street parking spaces in the front garden. Approved.

97/0127 – Change of use from 6 flats to guest house (9 guest bedrooms and 1 bed flat for residential staff). Provision of 7 parking spaces plus 2 spaces for proprietor at 109A. Not Implemented.

01/1894 – Subdivision of rear garden and erection of 2 storey 3 bedroom detached house with integral garage accessed from Rawlinson Road. Refused

02/2261 – Erection of 6 bedroom house on 3 levels. Provision of 4 parking spaces to forecourt. Refused. Appeal dismissed.

The appeal was dismissed on the basis of the impact of the three storey building into the important open space between 109 Banbury Road and 2 Rawlinson Rd and the break in the important wall along the Rawlinson Road frontage.

06/01371 – Erection of detached single storey studio and ancillary accommodation in the rear garden. Approved.

Third party Comments:

13 letters of objection and 13 letters of support have been received.

The comments in the letters of objection are summarised as follows:

- To grant a permission would lead to further alterations to create a self contained house, the original intentions of the 2001 application.
- Impact on first floor flat 2B Rawlinson Road.
- Concern about the gap in the wall on Rawlinson Road

Oxford Civic Society – Consider that the ancillary use of the annexe should continue and object to the proposal.

The Victorian Group of the Oxfordshire Architectural and Historical Society - Object to the application and consider that the building is out of character in with the Conservation Area and should not have been allowed.

The comments in the letters of support are summarised as follows:

- The objector's comments are personal and not relevant.
 - The addition of a kitchen is sensible for such a detached annexe.
 - The accommodation will free up accommodation elsewhere
 - The accommodation will allow a family to live together but with some independence and should be encouraged.

Internal, statutory and other consultees:

Highways And Traffic – No objection, subject to a condition restricting the accommodation as ancillary to 109A.

Thames Water Utilities Limited – No objection.

Officers Assessment:

Site Location and description

1. The site is located on the North West corner of Banbury Road and Rawlinson Road, within the North Oxford Victorian Suburb Conservation Area.
2. 109 Banbury Road is a three storey building which is divided into flats, whilst 109A

is a three storey attached house located at the rear of 109 and occupied by the applicant. The property has its own access and vehicular parking and large rear garden which is occupied by the building to which this application relates. The rear garden has a boundary wall extending along the Rawlinson Road frontage.

The Proposal

3. The application seeks planning permission to create a self-contained annexe within the garden of 109A by installing a kitchen into the building permitted in 2006 (06/01371/FUL). That consent gave permission for a single storey studio and ancillary accommodation comprising a studio, bathroom and guest bedroom. Condition 3 of the planning permission stipulated that the building shall not be used as self contained living accommodation.

4. Whilst the approved development is nearly completed the applicant now wishes to include a kitchen within the building to enable the building to be self-contained, though still ancillary.

The applicant has confirmed that it is intended to use the building for an elderly relative, and for it to still remain ancillary to the occupation of 109A Banbury Rd.

5. The access to the building would be via the entrance gates to 109A and the garden would be shared with that property. No external changes to the building are proposed and as such the only difference between the approved permission and this proposal is the inclusion of a kitchen, to allow for a greater degree of privacy and independence whilst retaining its ancillary link.

6. The applicant has confirmed that the existing gap in the wall, created to allow construction of the building, will be blocked up and the wall reinstated.

7. The application description has been amended to clarify the ancillary intention of the building. Officers consider the determining issues in this case to be:

- Principle of Development
- Design and Impact on the Conservation Area
- Impact on Neighbours
- Highways

The Principle

8. Whilst the annexe would be capable of independent living due to its range of facilities and its detached nature the proposal is, as outlined above, importantly for it to remain ancillary. The building would remain within the curtilage of 109A, as an ancillary building. It would have no separate vehicular or pedestrian access and no separate garden area. No additional boundaries are proposed.

9. Whilst there have been a number of objections to the proposal it is also noted that there are a number of letters of support received. The concerns raised by third parties in respect of the use of the property as an independent dwelling are noted, however, this application only seeks to provide ancillary self-contained accommodation for an elderly relative and not an independent dwelling. It is

considered that with appropriate conditions, including the removal of all "permitted" development rights, that the use would remain ancillary to 109A allowing a relative to live within the curtilage of the applicants property whilst retaining a greater degree of independence.

10. It is considered appropriate, as with the previous permission, to include a condition stipulating that the building shall be occupied only ancillary to 109A. Any future change to the current requirement would therefore require planning permission.

11. Planning permission has previously been refused and dismissed at appeal for an independent dwelling at this site (02/2261) that proposal related to a three storey dwelling with no links to 109A and with its own separate vehicular access and curtilage. This application is materially different to that proposal as it would have no vehicular access and no separate curtilage. Furthermore the building has already been approved and is single storey.

12. On the basis of the above, whilst noting the third party objections there is considered no justification to refuse in principle the proposal on planning grounds provided that it is restricted as ancillary, albeit self contained, accommodation within the curtilage of 109A Banbury Road.

Design and Impact on the Conservation Area

13. Policy CP1 of the Oxford Local Plan states that planning permission will only be granted for development that respects the character and appearance of the area and which uses materials of a quality appropriate to the nature of the development, the site and its surroundings.

14. Policy CP8 requires that new development should relate to its setting with a view to strengthening and enhancing local character. New development should seek to reflect the scale, mass, design and materials of the surrounding area to form an appropriate visual relationship.

15. The application site lies within the North Oxford Conservation Area, wherein Policy HE7 applies. Planning permission will only be granted where the development is considered to preserve or enhances the character and appearance of the Conservation Area.

16. The proposal makes no external changes to the approved building and includes the reinstatement of the gap in the Rawlinson Road boundary wall.

17. As such the proposed addition of a kitchen within the building would preserve the character and appearance of the Conservation Area.

Impact on Neighbours

18. Given that it is intended that the building would remain as an annexe in connection with the occupation of 109A the proposal would have no additional impact on the amenities of either 109a or the adjoining properties 2 Rawlinson Road and 111 Banbury Road than the consented building.

Highways

19. The proposal would retain the existing parking area and access serving 109 and 109A Banbury Road. The Highways Authority have raised no objection subject to there being a condition which ensures that the use of the building remains ancillary.

Conclusion

20. On the basis of the above the application is considered acceptable in principle, in respect of its impact on the Conservation Area, on neighbouring amenity and any highway considerations.

21. Committee is recommended to support the application subject to imposing appropriate conditions to ensure that the building remains ancillary to the use of 109A.

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:

Contact Officer: Mark Spragg

Extension: 2716

Date: 12th December 2011

APPENDIX 1



- 109A BANBURY ROAD
- 11/02850/FUL