

Case Officer: Gemma Magnuson

Recommendation: Permitted

Applicant: Mr. Sheng Yue

Proposal: Change from residential care home (C2) to a single-family dwelling (C3)

Expiry Date: 4 December 2020

1. APPLICATION SITE AND LOCALITY

- 1.1. The application relates to Orchard House, a vacant building that currently falls within Use Class C2 as a residential care home. The building is not listed, although Grade II listed buildings lie in close proximity to the south-east and south-west. The site is not in a Conservation Area, although it is of archaeological interest. A number of trees protected by a TPO are within the site. Flood Zones 2 and 3 lie to the north of the building, although the building itself is not within them. The Wendlebury Meads SSSI is within 2km of the site, and a pond has been identified. Protected and notable species the swift has been identified in the vicinity of the site, and it is understood that there may also be great crested newts and bats in the area.
- 1.2. The existing building appears to have been vacant for some time and is in a poor state of repair.

2. DESCRIPTION OF PROPOSED DEVELOPMENT

- 2.1. The proposed development would involve the change of use of the building from C2 residential care home to C3 as a single-family dwelling.
- 2.2. The original proposal included extensions, alterations and the erection of a detached outbuilding, although these have all now been removed and a change of use only is sought. The woodland area to the north of the site has also been omitted from the red line following indication that the change of use of this land to domestic curtilage was unlikely to be supported.

3. RELEVANT PLANNING HISTORY

- 3.1. The following planning history is considered relevant to the current proposal:

Application: 08/01230/F Permitted 17 July 2008

Change of use from single family dwelling (C3) to a residential care home (C2)

Application: 92/00290/S

Change of use from residential to residential home for up to 10 children aged 15-19 while they continue their "A" level education

4. PRE-APPLICATION DISCUSSIONS

4.1. No pre-application discussions have taken place with regard to this proposal.

5. RESPONSE TO PUBLICITY

5.1. This application has been publicised by way of a site notice displayed near the site, by advertisement in the local newspaper, and by letters sent to all properties immediately adjoining the application site that the Council has been able to identify from its records. The final date for comments was **30 November 2020**, although comments received after this date and before finalising this report have also been taken into account. Five responses were received; one comment and four objections.

5.2. The comments raised by third parties are summarised as follows:

- Substantial increase in occupancy, adding considerably to vehicular traffic in Church Lane and making it less safe for pedestrians – highway safety concerns
- Substantial enlargement, increased roof height, new garage would impact upon daylight, sunlight, privacy and amenity for The Old Rectory
- Loss of privacy
- Does not form an appropriate relationship with and enhance the character and appearance of area
- Close outlook in for rural location
- Surely more appropriate to consider starting again with a good, well thought out design that does not overlook and overbear upon neighbouring properties?
- Negative impact on surrounding character properties and village as a whole, including listed buildings
- Not subservient, overwhelming
- Negative impact on neighbourhood amenities
- Impact upon TPO trees
- Large scale garage, reducing daylight/sunlight
- Flood risk

5.3. The comments received can be viewed in full on the Council's website, via the online Planning Register.

6. RESPONSE TO CONSULTATION

6.1. Below is a summary of the consultation responses received at the time of writing this report. Responses are available to view in full on the Council's website, via the online Planning Register.

PARISH/TOWN COUNCIL AND NEIGHBOURHOOD FORUMS

- 6.2. Wendlebury Parish Council – *While the Council was not opposed to the change of use to a family dwelling, having heard comments from neighbours, the Council objects to the proposal on the grounds that there were concerns about the outlook to neighbouring properties, particularly their right to light; the position of the re-sited garage which was of a much greater scale to the previous garage; and the fact that the area is prone to flooding. Regarding the potential to flood, the applicant is the riparian owner of the land immediately behind the development, shown in red on the site plan, which is a major flood plain, and which has contributed to the flooding of the curtilages of Old Rectory Court, Rectory Close and the old Manor House in the last few years. Attached is the Environment Agency project note from January 2019 for information. Due to this continuous problem, the Council believed that a flood risk assessment should be carried out.*

STATUTORY CONSULTEES

- 6.3. None.

NON-STATUTORY CONSULTEES

- 6.4. OCC Highway Authority – no objection subject to condition.
- 6.5. OCC Archaeology – *The site is located in an area of archaeological interest however the development is of a relatively small scale and as such there are no archaeological constraints to this scheme.*
- 6.6. CDC Arboriculture – require an Arboricultural report including impact assessment and method statement.
- 6.7. CDC Building Control – Development would require a building regulations application. Escape windows required to bedrooms.
- 6.8. CDC Ecology – *Due to its location and type there is potential for bats to be present within the building and affected by the works. The presence of bats is a material consideration and therefore a preliminary roost assessment for bats (and further surveys as required) should be submitted along with any mitigation information required prior to determination. In addition the site is in a 'red zone' for great crested newts which denotes an area of highly suitable habitat where their presence is likely, with two water bodies on site. There is some risk of harm and disturbance to great crested newts and habitat therefore. The applicant should submit an assessment of the risk to Great crested newts and whether a licence and mitigation is required. The easiest route for this would be to apply for a district licence through Nature Space (our delivery body) however acceptance on to the scheme needs to be gained prior to determination. Alternatively they can gain an assessment from an ecologist to state whether GCN are present and whether they are likely to be harmed and outline reasonable avoidance measures if these are possible. be able to obtain a district level licence by contacting nature space to be accepted onto the scheme. We should also seek biodiversity enhancement from all developments. In this case this could take the form of features for birds or bats integrated into the extension. Whilst this can be conditioned it is helpful to have any suggested enhancements up front for discussion.*
- 6.9. CDC Environmental Health – No comments aside from provision of electric vehicle charging points.

7. RELEVANT PLANNING POLICY AND GUIDANCE

- 7.1. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.
- 7.2. The Cherwell Local Plan 2011-2031 - Part 1 was formally adopted by Cherwell District Council on 20th July 2015 and provides the strategic planning policy framework for the District to 2031. The Local Plan 2011-2031 – Part 1 replaced a number of the ‘saved’ policies of the adopted Cherwell Local Plan 1996 though many of its policies are retained and remain part of the development plan. The relevant planning policies of Cherwell District’s statutory Development Plan are set out below:

CHERWELL LOCAL PLAN 2011 - 2031 PART 1 (CLP 2031 Part 1)

- ESD1 – Mitigating and Adapting to Climate Change
- ESD 6 – Sustainable Flood Risk Management
- ESD 7 – Sustainable Drainage Systems (SuDS)
- ESD10 – Protection and Enhancement of Biodiversity and the Natural Environment
- ESD15 - The Character of the Built and Historic Environment
- Villages 1: Village Categorisation

CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- C28 – Layout, design and external appearance of new development
- C30 – Design control

7.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- Cherwell Residential Design Guide (2018)
- Cherwell Council Home Extensions and Alterations Design Guide (2007)

8. APPRAISAL

- 8.1. The key issue for consideration in this case is the principle of the development.
- 8.2. Given the residential nature of the previous use and the lack of any external alterations, extension or development within the curtilage, I do not consider that there would be any impact upon the visual amenities of the area, neighbouring properties, highway safety, ecology or flood risk as a result of the proposed change of use that would be over and above that which may already be experienced as a result of the current authorised use as a residential care home.
- 8.3. Government guidance contained within the National Planning Policy Framework (NPPF) states that a presumption of sustainable development should be seen as a golden thread running through decision taking. There are three dimensions to sustainable development, as defined in the NPPF, which require the planning system to perform economic, social and environmental roles. These roles should be sought jointly and simultaneously through the planning system.
- 8.4. The NPPF notes that the development plan is the starting point for decision making. Development that accords with an up-to-date Local Plan should be approved, and proposed development that conflicts should be refused unless other material

considerations indicate otherwise. Cherwell District Council has an up-to-date Local Plan which was adopted on 20th July 2015. The Council's 2019 Annual Monitoring Report (AMR) confirms that the District can demonstrate a 4.4 years housing land supply. In the circumstances that a LPA cannot demonstrate a five year supply of deliverable housing sites (with the appropriate buffer), there is a presumption in favour of sustainable development and ordinarily the circumstances at paragraph 11d of the NPPF are engaged – in short development should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole.

- 8.5. However, in respect of the Oxfordshire Authorities including Cherwell there is a Written Ministerial Statement (“WMS”) made in September 2018 concerning the Housing and Growth Deal, which is a significant material consideration. This sets out the requirement for a 3 year (rather than 5 year) supply of deliverable housing sites (with the appropriate buffer) from the date it was made (12/09/2018) until the adoption of the Joint Statutory Spatial Plan in each area, providing the timescales in the Housing and Growth Deal are adhered to. Therefore, in this case, the tilted balance set out by Paragraph 11d is not engaged because the Housing Supply requirement for the District should be taken to be 3 years in accordance with the WMS.
- 8.6. Whilst the Council can demonstrate a 3 year housing land supply, significant weight is still afforded to benefits of providing housing to contribute towards meeting the requirements of Local Plan Part 1, meeting the housing needs of the area and contributing towards meeting the need of the Oxfordshire Growth deal.
- 8.7. There are no relevant policies in relation to the loss of residential institutions in the local plan. The principle of residential development in Wendlebury is assessed against Policy Villages 1 in the Cherwell Local Plan Part 1, and Wendlebury is recognised as a Category C village under Policy Villages 1. Category C villages are considered the least sustainable settlements in the District's rural areas and are inherently poor in terms of services and facilities. Within Category C villages, residential development will be restricted to the conversion of non-residential buildings and infilling. Infilling refers to the development of a small gap in an otherwise continuous built up frontage.
- 8.8. The site is considered to be within the built-up limits of the settlement of Wendlebury and the conversion of this building to a dwelling would therefore comply with Policy Villages 1. I therefore consider the principle of the development to be acceptable, in accordance with the above Policies.

9. PLANNING BALANCE AND CONCLUSION

- 9.1. The NPPF states that the purpose of the planning system is to contribute to the achievement of sustainable development. Paragraph 8 requires that the three dimensions to sustainable development (economic, social and environmental) are not undertaken in isolation, but are sought jointly and simultaneously.
- 9.2. The development would involve the conversion of a vacant residential care home in a poor state of repair to a single-family dwelling, with no external alterations. The principle of the development accords with local and national planning policies, having no greater impact upon its surroundings, particularly given its former use as a dwelling, than the existing authorised residential care use. I therefore recommend that the application is approved.

10. RECOMMENDATION

That permission is granted, subject to the following conditions:

1. The development to which this permission relates shall be begun not later than the expiration of three years beginning with the date of this permission.

Reason - To comply with the provisions of Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the application forms and the following plans and documents: Site location plan received with Agents email dated 03 December 2020, Existing floor plans and elevation plans received 02 December 2020

Reason – For the avoidance of doubt, to ensure that the development is carried out only as approved by the Local Planning Authority and comply with Government guidance contained within the National Planning Policy Framework.

Case Officer: Gemma Magnuson

DATE: 03 December 2020

Checked By: Paul Ihringer

DATE: 3/12/20
