

09/00529/FUL: TWO ONE-BEDROOM FLATS AT LAND TO THE REAR OF 53 WILLES DEN AVENUE AND 36 PASTON LANE, WALTON, PETERBOROUGH

VALID: 14 MAY 2009

APPLICANT: MR MARK CROWN

AGENT: MR GEORGE KNOWLES

REFERRED BY: CLLR SANDFORD

REASON: THE PROPOSAL HAS ADDRESSED ALL THE REASONS FOR THE REFUSAL OF THE PREVIOUS PROPOSAL AND THE TWO STOREY BUILDING WOULD NOT BE OUT OF CHARACTER WITH THE SURROUNDING AREA

DEPARTURE: NO

CASE OFFICER: MRS J MACLENNAN

TELEPHONE: 01733 454438

E-MAIL: janet.maclennan@peterborough.gov.uk

## 1 SUMMARY/OUTLINE OF THE MAIN ISSUES

The main considerations are:

- Whether the proposal is in keeping with the character and appearance of the surrounding area
- Whether the proposal will harm the amenity of occupiers of neighbouring properties.
- Whether the proposal will provide an adequate level of amenity for the future occupiers of the property
- Whether the proposal will result in any adverse highway implications.

The Head of Planning Services recommends that the application is REFUSED.

## 2 PLANNING POLICY

In order to comply with section 38(6) of the Planning and Compulsory Purchase Act 2004 decisions must be taken in accordance with the development plan policies set out below, unless material considerations indicate otherwise.

### Development Plan Policies

Key policies highlighted below.

#### **The Peterborough Local Plan (First Replacement)**

- DA1 Townscape and Urban Design** - Seeks development that is compatible with or improves its surroundings, creates or reinforces a sense of place and would not have an adverse visual impact.
- DA2 The effect of Development on the character and amenity of an area** - Planning permission will only be granted for development if it can be satisfactorily accommodated on the site itself, would not adversely affect the character of the area and would have no adverse impact on the amenities of the occupants of nearby properties.
- DA6 Tandem, Backland and Piecemeal Development** - Permission will only be granted if development can be satisfactorily accommodated within a site in terms of scale and density, would not affect the character of an area, would have no adverse impact upon the amenities of occupiers of nearby properties, can be satisfactorily accessed from the public highway and would not prejudice the comprehensive development of a larger area.

- H7 Housing Development on Unallocated Sites** - Housing development on unallocated sites should make efficient use of the site and respect the character of the surrounding area.
- H16 Residential Design and Amenity** - Seeks residential development if the following amenities are provided to a satisfactory standard; daylight and natural sunlight, privacy in habitable rooms, noise attenuation and a convenient area of private garden or amenity space.
- H20 Range of Accommodation to meet Housing Needs** - Seeks proposals with a variety of both size and types of accommodation. Also seeks suitable provision of accommodation for single person households, young people, and homeless, those with learning or physical disability, older people and large family groups
- IMP1 Securing satisfactory development** - Planning permission will not be granted for any development unless provision is secured for all additional infrastructure, services, community facilities, and environmental protection measures, which are necessary as a direct consequence of the development.
- T1 The Transport implications of new development** - Seeks development that would provide safe and convenient access to site and would not result in an adverse impact on the public highway.
- T10 Car and Motorcycle parking** - Planning permission will only be granted for development outside the city centre if it is in accordance with approved parking standards.

### **Material Planning Considerations**

Decisions can be influenced by material planning considerations. Relevant material considerations are set out below, with the key areas highlighted:

**Planning Policy Statement 3: Housing** – States ‘A key objective is that Local Planning Authorities should continue to make effective use of land by re-using land that has been previously developed....Good design is fundamental to using land efficiently. Local Planning Authorities should facilitate good design by identifying the distinctive features that define the character of a particular local area’.

**ODPM Circular 05/2005 “Planning Obligations”**. Amongst other factors, the Secretary of State’s policy requires planning obligations to be sought only where they meet the following tests:

- i) relevant to planning;;
- ii) necessary to make the proposed development acceptable in planning terms;
- iii) directly related to the proposed development; (in the Tesco/Witney case the House of Lords held that the planning obligation must at least have minimal connection with the development)
- iv) fairly and reasonably related in scale and kind to the proposed development;
- v) reasonable in all other respects.

In addition Circular 05/2005 states the following principles:

The use of planning obligations must be governed by the fundamental principle that **planning permission may not be bought or sold**. It is therefore not legitimate for unacceptable development to be permitted because of benefits or inducements offered by a developer which are not necessary to make the development acceptable in planning terms.

Similarly, planning obligations should never be used purely as a means of securing for the local community a share in the profits of development.

### **3 DESCRIPTION OF PROPOSAL**

The proposal is to demolish existing garage blocks to the rear of 53 Willesden Avenue and to the rear of 36 Paston Lane; and to erect 2 no. one-bedroom flats in the form of a two storey development fronting Churchfield Road. The footprint of the building is 11m x 5m with a height of 7m and the plot size is approximately 16m wide by 9.2m deep with an additional area of 7m x 3.5m to the rear. The development will provide one small flat at ground floor and one at first floor. Parking is provided each side of the building which will serve both the new flats and the existing dwellings.

### **4 DESCRIPTION OF SITE AND SURROUNDINGS**

53 Willesden Avenue is a two storey brick/tile detached house on the corner of Willesden Avenue and Churchfield Road. To the rear of the property is a large private amenity area which is bounded by a 1.8m fence beyond which is a single storey double garage/workshop. No 36 Paston Lane is a two storey semi detached property with rendered finish, also located on a corner plot and also benefiting by a large rear amenity space. The surrounding area is predominantly residential in character comprising detached, semi detached and terraced properties with an urban form created by parallel 'back to back' development with long and thin rear gardens.

### **5 PLANNING HISTORY**

Application Number	Description	Date	Decision
07/00036/REFPP	Erection of two flats with parking	21.08.2007	DISMIS
99/01262/FUL	Use as tutorial centre	24.12.1999	PER
05/01904/FUL	Change of use from commercial to residential	18.01.2006	PER
06/00929/FUL	Erection of two flats at rear with garaging and parking	22.08.2006	WDN
06/01713/FUL	Erection of two flats with parking	22.12.2006	REF
09/00068/FUL	Two one-bed flats	07.05.2009	WDN

### **6 CONSULTATIONS/REPRESENTATIONS**

#### **INTERNAL**

**Head of Transport and Engineering** – No objections to the proposal subject to conditions regarding the repositioning of a street lamp column and that the parking is laid out prior to occupation of the development and that area is thereafter retained for the purpose of parking.

#### **NEIGHBOURS**

At the time of writing the report, no objections have been received from neighbouring properties.

#### **COUNCILLORS**

Cllr Sandford does not consider that a two storey building is out of character as the predominant building type in the area comprising two storey terraced, semi-detached and detached houses.

### **7 REASONING**

#### **a) Introduction**

There have been a number of recent proposals for development on this site. A previous application (ref. 06/01713/FUL) for the erection of 2 no. flats, was refused due to the inadequate level of amenity that would be afforded to the future occupiers of the property, particularly the ground floor element, and the harm on the character and appearance of the area. The application was subsequently dismissed at appeal. This application is materially different to the previous scheme and has attempted to address some of the issues resulting in the previous refusal. The application is considered as backland

development and will be assessed primarily against policy DA6 of the Adopted Peterborough Local Plan (First Replacement).

**b) Impact on the character and appearance of the surrounding area**

The proposed development will replace two single storey flat roofed double garages fronting on to Churchfield Road. The proposed design is of no particular merit and materials will harmonise with those of properties in Willesden Avenue. The building is two storey, albeit lower than the surrounding two storey development. However, the development would result in the disruption of the otherwise open views across the 'back to back' gardens in this part of Churchfield Road; an issue which was raised with the previous submission and conceded by the Inspector at Appeal. In the Inspector's opinion 'the existing building is low key and not notably unsightly. Despite this and other low key buildings in the extensive garden areas between the more or less parallel rows of housing in Willesden Avenue and Paston Lane, this part of the street scene is relatively open with long views across the gardens. In this context, irrespective of detailed design and materials, the height and siting of the proposed two storey building would result in a highly prominent and incongruous feature, disrupting the regular pattern of development and the open views which are key elements of the areas character'. The proposal does not overcome this reason for refusal of the previous scheme and in your Officer's opinion would result in an intensification of development which would be harmful to the character and appearance of this part of Churchfield Road and is therefore contrary to policies H7(e), DA2(b) and DA6(b) of the Adopted Peterborough Local Plan (First Replacement).

**c) Residential Amenity**

The flatted accommodation will be able to achieve an adequate level of amenity for the future occupiers. The accommodation will have an acceptable level of daylight/natural light, privacy in habitable rooms and the configuration of and relationship of habitable rooms will avoid noise issues. There will be a private amenity area available for each flat of approximately 25sqm which accords with guidance within the Peterborough Residential Design Guide. Furthermore, there is space around the building providing a good separation between parking areas and boundary treatments; a significant concern raised by the previous scheme and one reason for refusal. The proposal therefore accords with policy H16 of the Adopted Peterborough Local Plan (First Replacement).

**d) Neighbouring Amenity**

The loss of garden area to the rear of no 53 will not result in an unacceptable level of private rear amenity space and an area in excess of 100sqm will remain. No 36 will also benefit with a remaining area of over 100 sqm. There is a separation distance of at least 16m from the side elevation of the development and the rear elevation of the dwelling at no 53. There is a first floor window within the side elevation which serves a stairwell to the flats however, given the secondary use of this area and the positioning of the stairs it is considered unlikely to result in any loss of privacy to the occupiers of number 53. There is a separation distance of 22m from the side elevation of the flatted development to the rear elevation of no. 36 Paston Lane which is considered acceptable. The development is positioned at an acceptable distance to neighbouring properties to avoid any overbearing impact, loss of light and loss of privacy, hence the proposal accords with policy DA2(c) and DA6(c) of the Adopted Peterborough Local Plan (First Replacement).

**e) Highway Implications**

The proposal is acceptable to the Local Highways Authority as parking within the Local Plan standards is provided for the flats and existing properties with adequate pedestrian visibility splays. There is however, a street lamp which would need to be repositioned in order to achieve visibility and an appropriate condition could be appended to achieve this. A condition would also be appended to ensure the parking spaces shall be retained as such in perpetuity and that visibility splays shall be kept free from obstruction. The proposal therefore accords with policies T1 and T10 of the Adopted Peterborough Local Plan (First Replacement).

**f) Range of Accommodation**

The applicant has argued that the development will provide low cost housing to rent within a community that needs this type of property. Policy H20 of the Adopted Peterborough Local Plan (First Replacement) seeks to provide a range of accommodation to meet a variety of needs and hence the proposal accords with this policy.

#### **g) Securing satisfactory development**

The S106 strategy would apply to this development, however the process was not commenced as it was clear from an early stage that the proposal would not be supported.

### **8 CONCLUSIONS**

The proposal has sought to address the reasons for refusal of the previous scheme and it is considered that an adequate level of amenity could be provided for the future occupiers of the proposed flatted development and the development would not unduly harm the amenity of occupiers of neighbouring properties. The proposal would also provide for a particular housing need. Notwithstanding the benefits of the scheme the overriding issue of the proposal's impact on the open character and appearance has not been addressed. The proposal would result in a feature within the street scene which is out of keeping with the building form of the immediate area which is considered to be harmful. The proposal is therefore contrary to policies H7(e), DA2(b) and DA6(b) of the Adopted Peterborough Local Plan (First Replacement)

### **9 RECOMMENDATION**

The Head of Planning Services recommends that this application is REFUSED

R1 The proposed two storey building, albeit lower than the surrounding two storey development, would be a prominent feature within the street scene which would not respect the pattern of development and would result in the disruption of the otherwise open views across the 'back to back' gardens in this part of Churchfield Road which is a key feature of the areas character and appearance. The proposal is therefore contrary to policies H7(e), DA2(b) and DA6(b) of the Adopted Peterborough Local Plan (First Replacement) which state:

**H7 Within the Urban Area residential development on any site not allocated in policy H3, including by infilling, redevelopment, and change of use of existing buildings, will be permitted where the site:**

- (a) is not allocated for any other purpose; and**
- (b) is not within a defined Employment Area; and**
- (c) is, or will be, well related to existing or proposed services and facilities necessary to meet residential needs, including public transport;**

**and where development would:**

- (d) make efficient use of the site or building in terms of density and layout; and**
- (e) respect the character of the surrounding area; and**
- (f) provide good quality living conditions for residents; and**
- (g) be acceptable in terms of highway safety and traffic flow; and**
- (h) not unacceptably constrain development of adjoining land for an allocated or permitted use; and**
- (i) not result in loss of open space of recreational or amenity value or potential.**

**DA2 Planning permission will only be granted for development if, by virtue of its density, layout, massing and height, it:**

- (a) can be satisfactorily accommodated on the site itself; and**

- (b) would not adversely affect the character of the area; and
- (c) would have no adverse impact on the amenities of occupiers of nearby properties.

**DA6** Planning permission will only be granted for tandem, backland or other piecemeal development if the application demonstrates that the proposed development:

- (a) can be satisfactorily accommodated on-site in terms of scale and density; and
- (b) would not unacceptably harm the character of the area; and
- (c) would have no unacceptably adverse impact on the amenities of occupiers of nearby properties; and
- (d) can be satisfactorily accessed from the public highway; and
- (e) would not prejudice the comprehensive development of a larger area.

**R2** The scheme has failed to secure the additional infrastructure and community facilities contribution which would be necessary as a consequence of the development and is therefore contrary to Policy IMP1 of the Peterborough Local Plan 2005 (First Replacement) which states:

**IMP1** Planning permission will not be granted for any development unless provision is secured for all additional infrastructure, services, community facilities and environmental protection measures, which are necessary as a direct consequence of development and fairly and reasonably related to the proposal in scale and in kind.

**The provision of such requirements shall be secured as part of development proposals or through the use of conditions attached to planning permissions, or sought through planning obligations.**

Informative:

- 1 Reason 2 of this refusal is based on Policy IMP1 of the Adopted Peterborough Local Plan (First Replacement) which seeks to secure equitable contributions to the community in respect of the impact on the community facilities which are attributable to the development, both on it's own and in combination with other developments. The reason relates to the absence of an agreement under Section 106 of the Town and Country Planning Act. The Local Planning Authority appreciate that the applicant has expressed his willingness to enter into such an agreement, however, if the decision is appealed against, the reason is necessary to enable the matter to be addressed.

Copy to Councillors Sandford