

**Case Officer:** Bob Neville

**Applicant:** Mr Balbir S Dhesi

**Proposal:** Alterations, rear extension, removal of chimney and conversion of existing 3 bed dwelling into 2 independent flats

**Ward:** Banbury Ruscote

**Councillors:** Cllr Cherry, Cllr Richards and Cllr Woodcock

**Reason for Referral:** Application submitted by a relation of a CDC Councillor (Cllr Dhesi)

**Expiry Date:** 28 July 2020

**Committee Date:** 16 July 2020

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## **EXECUTIVE SUMMARY OF PROPOSALS AND RECOMMENDATION**

### **RECOMMENDATION: GRANT PERMISSION SUBJECT TO CONDITIONS**

#### **Proposal**

The application seeks planning permission for the extension of the existing residential dwelling and its conversion to provide 2no flats (1-bedroom and 1no. 2-bedroom). The proposed extension would be to the rear of the property, with a flat-roof extension extending ~5.17m off the rear elevation at a height of ~2.85m and width of ~4.75m. Materials to be used are proposed to match those on the existing building. Hardstanding would be retained at the front of the site for the parking of two vehicles and access onto the adjacent highway.

#### **Consultations**

No consultee **objections** to the application have been received:

The following consultees have raised **no objections** to the application:

- CDC Building Control, OCC Highways

No letters of objection or support have been received at the time of the preparation of this report.

#### **Planning Policy and Constraints**

The application site is not within a conservation area and there are no listed buildings within the vicinity of the site. A Public Right of Way (ref. Footpath 120/15/20) runs along the northern boundary. The site is located within an area known to be affected by Radon gas and naturally occurring elevated levels of arsenic; as seen across much of the district. There are no other notable site constraints relevant to planning and this application.

The application has also been assessed against the relevant policies in the NPPF, the adopted Local Plan and other relevant guidance as listed in detail at Section 8 of the report.

#### **Conclusion**

The key issues arising from the application details are:

- Principle of development

- Design, and impact on the character of the area
- Residential amenity
- Highway safety

The report considers the key planning issues in detail, and Officers conclude that the proposal is acceptable subject to conditions.

**Members are advised that the above is a summary of the proposals and key issues contained in the main report below which provides full details of all consultation responses, planning policies, the Officer's assessment and recommendations, and Members are advised that this summary should be read in conjunction with the detailed report.**

## **MAIN REPORT**

### **1. APPLICATION SITE AND LOCALITY**

- 1.1. The application relates to an existing residential dwelling located within the suburbs of Banbury. The area is predominantly residential with Princess Diana Park to the rear (north) of the site. St Josephs Catholic Primary School lies to the north-west of the site and a small parade at Orchard Way Shopping Parade being approximately 400m to the north-east.
- 1.2. The existing dwelling is a mid-terraced property of brick construction with under a concrete tiled roof. Land levels drop into the site from the adjacent highway. The property has garden areas to rear and front of the property, with part of the front garden laid to a raised area of hardstanding for parking and access onto the adjacent highway. The rear garden is bounded by close boarded and mature hedgerow planting and trees along the rear (northern) boundary.

### **2. CONSTRAINTS**

- 2.1. The application site is not within a conservation area and there are no listed buildings within the vicinity of the site. A Public Right of Way (ref. Footpath 120/15/20) runs along the northern boundary. The site is located within an area known to be affect by Radon gas and naturally occurring elevated levels of arsenic; as seen across much of the district. There are no other notable site constraints relevant to planning and this application.

### **3. DESCRIPTION OF PROPOSED DEVELOPMENT**

- 3.1. The application seeks planning permission for the conversion and extension of the existing residential property to provide 2no. flats (1-bedroom and 1no. 2-bedroom). The proposed extension would be to the rear of the property, with a flat-roof extension extending ~5.17m off the rear elevation at a height of ~2.85m and width of ~4.75m. Materials to be used are proposed to match those on the existing building. Hardstanding would be retained at the front of the site for the parking of two vehicles and access onto the adjacent highway.

### **4. RELEVANT PLANNING HISTORY**

- 4.1. There is no planning history directly relevant to the proposal.

### **5. PRE-APPLICATION DISCUSSIONS**

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

### **6. RESPONSE TO PUBLICITY**

- 6.1. 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 is **13 July 2020**.
- 6.2. No letters of objection or support have been at the time of preparation of this report. Given that consultation period has not expired at the time of preparation of this report any further comments, and any implications of such, received post finalisation of this report will be fully assessed and reported to planning committee by way of written update prior to the commencement of the committee meeting.

## **7. RESPONSE TO CONSULTATION**

- 7.1. 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

- 7.2. BANBURY TOWN COUNCIL: No comments received.

### OTHER CONSULTEES

- 7.3. BUILDING CONTROL: **No objections**. Proposals will require a separate building regulations approval.
- 7.4. OCC HIGHWAYS: **No objections** subject to a standard condition in respect of securing cycle parking, in the interest of promoting sustainable forms of transport.

## **8. RELEVANT PLANNING POLICY AND GUIDANCE**

- 8.1. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.
- 8.2. 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)

- PSD1: Presumption in Favour of Sustainable Development
- SLE4: Improved Transport and Connections
- BSC1: District Wide Housing Distribution
- BSC2: The Effective and Efficient Use of Land
- ESD1: Mitigating and Adapting to Climate Change
- ESD3: Sustainable Construction
- ESD5: Renewable Energy
- ESD7: Sustainable Drainage Systems (SuDS)
- ESD15: The Character of the Built and Historic Environment

### CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- C28: Layout, design and external appearance of new development
- C30: Design Control

- 8.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- Cherwell Residential Design Guide SPD 2018 (CRDG)

## 9. APPRAISAL

9.1. The key issues for consideration in this case are:

- Principle of development
- Design, and impact on the character of the area
- Residential amenity
- Highway safety

### Principle of Development

9.2. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that any application for planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan for the District comprises the adopted Cherwell Local Plan 2011-2031 and the saved policies of the Cherwell Local Plan 1996.

### *Policy Context*

- 9.3. Government guidance contained within the NPPF explains that the purpose of the planning system is to contribute to the achievement of sustainable development. This is defined as meeting the needs of the present without compromising the ability of future generations to meet their own needs.
- 9.4. Paragraph 8 of the NPPF sets out the Government's view of what sustainable development means in practice for the planning system. It is clear from this that sustainability concerns more than just proximity to facilities, it clearly also relates to ensuring the physical and natural environment is conserved and enhanced as well as contributing to building a strong economy, through the provision of new housing of the right type in the right location at the right time.
- 9.5. Policy PSD1 contained within the CLP 2031 echoes the Framework's requirements for 'sustainable development' and that planning applications that accord with the policies in the Local Plan (or other part of the statutory Development Plan) will be approved without delay unless material considerations indicate otherwise.
- 9.6. Cherwell District Council can demonstrate a 4.6-year supply of deliverable housing sites (i.e. less than the 5-year supply required in the NPPF). Notwithstanding this, the Written Ministerial Statement of 12th September 2018 provides for a 'temporary change to housing land supply policies as they apply in Oxfordshire'. Until the adoption of the Joint Statutory Spatial Plan, the Oxfordshire Authorities are required to demonstrate a 3-year supply of deliverable housing sites (as well as meeting their requirements in respect of the Housing Delivery Test).
- 9.7. As such, policies for determining the application are only to be considered out of date (in accordance with paragraph 11d – footnote 7 of the NPPF) where a 3-year supply of deliverable sites cannot be demonstrated. A 3-year supply can be demonstrated in this case and so the presumption in favour of sustainable development, as advised by the NPPF, will need to be applied in this context.

### *Assessment*

9.8. There are no adopted Local Plan policies relating specifically to housing development within Banbury, however, the Cherwell Local Plan Part 1 states that housing growth will be directed towards the urban areas of Banbury and Bicester. Paragraph B.88 states: '*By focussing development in and around the towns of*

*Bicester and Banbury we aim to ensure that the housing growth which the District needs only takes place in the locations that are most sustainable and most capable of absorbing this new growth’.*

- 9.9. Policy BSC 1 of the CLP 2031 sets out the distribution of housing growth throughout the Cherwell District Council area up to 2031, stating 22,840 homes are to be delivered during the plan period, with 7,319 of those to be delivered within Banbury.
- 9.10. The site is located in an established residential area of Banbury, with good accessibility to a wide range of services and facilities, including public transport. The proposals are for the extension and subdivision of the existing property to provide two flats. The general principle of such development, in sustainability terms, is generally considered acceptable. However, the acceptability of the proposal is also subject to other considerations such as the impact of the proposal on both the visual amenity of the site and surrounding area, impact on neighbours and highway safety.

#### *Conclusion*

- 9.11. The site is within an established residential area of Banbury. The dwelling would be extended and subdivided to provide an additional residential unit. It is considered that the principle of new development may be considered acceptable in general sustainability terms of the location but having regard to other policies in the development plan and further considerations, discussed further below.

#### Design, and impact on the character of the area

##### *Policy Context*

- 9.12. The Government attaches great importance to the design of the built environment within the NPPF. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. These aims are also echoed within Policy ESD15 of the CLP 2031 which looks to promote and support development of a high standard which contributes positively to an area’s character and identity by creating or reinforcing local distinctiveness.
- 9.13. Saved Policy C28 of the CLP 1996 states that control will be exercised over all new development to ensure that standards of layout, design and external appearance are sympathetic to the character of the context of that development. Further, saved Policy C30 of CLP1996 states control will be exercised to ensure that all new housing development is compatible with the appearance, character, layout, scale and density of existing dwellings in the vicinity.

##### *Assessment*

- 9.14. The existing street largely consists of brick built two storey semi-detached and terraced properties, with a varying colour of brick and some use of render to the front elevations. On-site parking to the front is a prominent feature within the area.
- 9.15. The dwelling, which is mid-terraced, would be extended and converted to provide 2no flats. Both flats would be accessed via the existing front door entering into a communal hallway, removing the need for any external alterations to provide any additional entrances. There would be little no significant alteration to the front of the dwelling as a result of the proposed development.
- 9.16. The rear extension is proposed to be externally faced in materials to match existing and given existing boundary treatment there would very limited opportunity to view this element from the public domain. In this respect it is considered that the proposals would not appear out-of-place or to the detriment of the visual amenities of the local area.
- 9.17. The front garden of the existing dwelling has an existing raised area hardstanding that provides parking, and this is an existing feature of several properties within the

street-scene. This arrangement would be retained going forward and again would not result in any significant changes to the general character of the site.

- 9.18. Land levels drop down into the site and this would allow for waste and recycling bins to be stored to the rear of the parking area, out of view from the wider street-scene.

#### *Conclusion*

- 9.19. It is considered that the proposed development would not adversely affect the character and appearance of the area and is therefore considered acceptable in this regard; according with the provisions and aims of Policy ESD15 of the Cherwell Local Plan 2011 - 2031 Part 1 and retained Policy C30 of the Cherwell Local Plan 1996 and relevant paragraphs of the NPPF.

#### Residential amenity

##### *Policy Context*

- 9.20. Policy C30 of the CLP 1996 requires that a development must provide standards of amenity and privacy acceptable to the Local Planning Authority. These provisions are echoed in Policy ESD15 of the CLP 2031 which states that: '*new development proposals should consider amenity of both existing and future development, including matters of privacy, outlook, natural lighting, ventilation and indoor and outdoor space*'.

##### *Assessment*

- 9.21. The proposals would provide units of modest internal floorspace, with outdoor garden/amenity space. Officers consider that overall the scheme would adequately provide for the day to day requirements of its intended future occupiers and would result in acceptable living conditions in this respect.
- 9.22. With regard to potential impacts on the amenity of neighbouring properties, the residential nature of the use of the site would not change as a result of the proposed development, albeit that use would be intensified with the additional units.
- 9.23. By virtue of its depth, the proposed extension would have an impact on the outlook of the adjoining neighbour to the west. However, given its single storey nature (~2.85m high) and the orientation of the dwellings officers consider that the proposed extension would not have any significant impact on the residential amenity of neighbouring properties in terms of loss of light, outlook or privacy. It is also to be noted that the same extension could be developed under permitted development rights, had such works been undertaken whilst the property remained as a single residential property and had a larger homes prior notification application been submitted. It is noted that neither of the adjoining neighbours has objected on grounds of the impact of the extension. The design of the scheme is such that there would be no greater opportunity for over-looking through new window openings above ground floor level, thereby sustaining levels of privacy.

#### *Conclusion*

- 9.24. Given the context of the site, the nature, scale and massing of the development and its relationship with surrounding properties discussed above, officers consider that the proposals would not adversely affect the living conditions of neighbours and would provide for an acceptable standard of living for potential future occupants. It is therefore considered that the proposed development accords with saved Policy C28 of the Cherwell Local Plan 1996 and Policy ESD15 of the Cherwell Local Plan 2011 - 2031 Part 1 in this respect.

#### Highway safety

##### *Policy Context*

9.25. The NPPF (Para. 108) advises that in assessing specific applications for development, it should be ensured that:

- a) appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;
- b) safe and suitable access to the site can be achieved for all users; and
- c) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.

9.26. Both Policies ESD15 and SLE4 of the CLP 2031 reflect the provision and aims of the NPPF. Policy ESD15 of the CLP 2031 states that: *“New development proposals should be designed to deliver high quality safe, attractive, durable and healthy places to live and work. Development of all scales should be designed to improve the quality and appearance of an area and the way it functions”*; whilst Policy SLE4 states that: *“All development where reasonable to do so, should facilitate the use of sustainable modes of transport (and) development which is not suitable for the roads that serve the development and which have a severe traffic impact will not be supported”*.

#### *Assessment*

9.27. The LHA has assessed the proposals and raises no objections subject to specific details of cycle storage being secured.; commenting that the proposals are unlikely to have any significant adverse impact upon the local highway network from a traffic and safety point of view. Officers see no reason to disagree with the LHA’s assessment.

9.28. The site has existing hardstanding for parking to the front of the site which would be retained for use for the proposed flats. Whilst the level of parking provision (2 spaces) is below the level usually required for the level of accommodation proposed, the site is considered to be in a relatively sustainable location in Banbury, and therefore a moderate relaxation of parking standards is considered acceptable.

9.29. The LHA advises that ensuring the provision secure cycle storage would also look to encourage the use of more sustainable forms of transport; and that this could be secured through an appropriate condition attached to any such permission.

9.30. Paragraph 110(e) of the NPPF states that development should be designed to enable charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations. These aims are echoed within Policies SLE 4, ESD 1, ESD 3 and ESD 5 of the CLP 2031, which look to maximise opportunities for sustainable transport modes. Whilst no consideration appears to have been given with regards to the future need for Electrical Vehicle (EV) charging at the site, it is considered that appropriate infrastructure details could be secured through an appropriate condition; to ensure that potential future needs could be met and to comply with both local and national policy requirements.

#### *Conclusion*

9.31. Subject to appropriately worded conditions, it is considered that proposals would not be detriment of the safety and convenience of highway users and would accord with Local Plan Policy ESD15 and the relevant paragraphs of the NPPF and are therefore acceptable in terms of highway safety.

## **10. PLANNING BALANCE AND CONCLUSION**

10.1. The development is considered to cause no significant harm to neighbour amenity or highway safety; further the design and scale of the proposed development are such that it would not detrimentally impact on the visual amenities of the site;

sustaining its appearance within the street-scene and preserving the character and appearance of the surrounding area, whilst providing standards of amenity which are considered acceptable.

- 10.2. The proposal complies with the relevant Development Plan policies and guidance listed at section 8 of this report, and so is considered to be sustainable development. In accordance with Paragraph 11 of the NPPF, permission should therefore be granted.

**11. RECOMMENDATION - DELEGATE TO THE ASSISTANT DIRECTOR FOR PLANNING AND DEVELOPMENT TO GRANT PERMISSION, SUBJECT TO THE CONDITIONS SET OUT BELOW (AND ANY AMENDMENTS TO THOSE CONDITIONS AS DEEMED NECESSARY)**

**CONDITIONS**

**Time Limit**

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.

**Compliance with Plans**

2. Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the application form and drawings numbered: 00-ST-001/A, 00-ST-02/A, 00-PR-01/A and 00-PR-02/A

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.

**Transport**

3. Prior to the first occupation of the development hereby permitted, covered cycle parking facilities shall be provided on the site in accordance with details which shall be firstly submitted to and approved in writing by the Local Planning Authority. Thereafter, the covered cycle parking facilities shall be permanently retained and maintained for the parking of cycles in connection with the development.

Reason: In the interests of sustainability, to ensure a satisfactory form of development and to comply with Government guidance contained within the National Planning Policy Framework.

4. No development shall commence above slab level until a scheme for a system of ducting to allow for the future installation of electrical vehicle charging infrastructure to serve the dwelling has been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved details prior to the first occupation of the dwelling.



Reason: To comply with Policies SLE 4, ESD 1, ESD 3 and ESD 5 of the Cherwell Local Plan 2011-2031 Part 1 and to maximise opportunities for sustainable transport modes in accordance with paragraph 110(e) of the National Planning Policy Framework.

5. Prior to the first occupation of the development hereby approved, the parking area shall be provided in accordance with the plan approved and shall be constructed from porous materials or provision shall be made to direct run-off water from the hard surface to a permeable or porous area or surface within the curtilage of the site. Thereafter, the parking and manoeuvring area shall be retained in accordance with this condition and shall be unobstructed except for the parking and manoeuvring of vehicles at all times.

Reason: In the interests of highway safety, to ensure a proper standard of development and to comply with Government guidance contained within the National Planning Policy Framework.

Planning Notes:

1. Planning permission only means that in planning terms a proposal is acceptable to the Local Planning Authority. Just because you have obtained planning permission, this does not mean you always have the right to carry out the development. Planning permission gives no additional rights to carry out the work, where that work is on someone else's land, or the work will affect someone else's rights in respect of the land. For example, there may be a leaseholder or tenant, or someone who has a right of way over the land, or another owner. Their rights are still valid, and you are therefore advised that you should seek legal advice before carrying out the planning permission where any other person's rights are involved.
2. The applicant's and/or the developer's attention is drawn to the requirements of the Control of Pollution Act 1974, the Environmental Protection Act 1990 and the Clean Air Act 1993, which relate to the control of any nuisance arising from construction sites. The applicant/developer is encouraged to undertake the proposed building operations in such a manner as to avoid causing any undue nuisance or disturbance to neighbouring residents. Under Section 61 of the Control of Pollution Act 1974, contractors may apply to the Council for 'prior consent' to carry out works, which would establish hours of operation, noise levels and methods of working. Please contact the Council's Environmental Protection Team Leader for further advice on this matter.
3. The applicant shall draw to the attention of the Local Planning Authority the presence of any unsuspected contamination encountered during development. In the event of contamination to land, water or environment being encountered, no development shall continue until a programme for investigation and/or remedial work, to be performed by a competent person, has been submitted in writing and approved by the Local Planning Authority. No part of the development shall be occupied until remedial, monitoring and certification of works have been undertaken and a remediation and validation reports submitted to and approved by the Local Planning Authority. For further information please contact the Council's Environmental Protection Officer.