

**Case Officer:** Rebekah Morgan

**Applicant:** B-Hive Living Ltd

**Proposal:** Demolition of existing dwelling and erection of new building to be used as a 9 bedroom House in Multiple Occupation. Widening of dropped kerb

**Ward:** Bicester West

**Councillors:** Councillor John Broad, Councillor Harry Knight and Councillor Les Sibley.

**Reason for Referral:** Called in by Councillor Les Sibley for the following reasons: Public interest, impact on parking and highway safety and number of HMOs in the area.

**Expiry Date:** 9 October 2023

**Committee Date:** 5 October 2023

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**SUMMARY RECOMMENDATION: GRANT PERMISSION SUBJECT TO NO NEW MATERIAL CONSIDERATIONS BEING RAISED BEFORE THE EXPIRY OF THE CONSULTATION PERIOD ON 6<sup>th</sup> OCTOBER 2023**

**1. APPLICATION SITE AND LOCALITY**

- 1.1. The application site comprises of a two storey, semi-detached property that has been previously extended to the side with the addition of a single storey extension. The dwelling is constructed of red brick with a plain tile roof. There is a pre-fabricated, single storey, detached garage to the side of the property. The site has an existing vehicle access with a driveway. The front boundary is a hedgerow which has a wooden fence to the front of it.
- 1.2. The property is located within a predominantly residential area of Bicester. There is a pedestrian path/alleyway along the side of the property. The site is adjacent to a school site.

**2. CONSTRAINTS**

- 2.1. The application site is adjacent to a Public Right of Way (Footpath 129/1/10).
- 2.2. It is noted there is an existing telegraph pole located centrally on the front boundary of the site.

**3. DESCRIPTION OF PROPOSED DEVELOPMENT**

- 3.1. The application seeks to demolish the existing dwelling and replace it with a new dwelling (still attached to the neighbouring dwelling) which is proposed to be used as a House in Multiple Occupation (HMO). The proposed floor plans show a total of 9 individual bedrooms (7 are shown as 1 person rooms and 2 are shown as two person rooms) able to accommodate a total of 11 occupants. The application also proposes to widen the dropped kerb at the front of the site.
- 3.2. The proposed building would have a width of approximately 11.3m, with an eaves height of 4.7m and a ridge height of 6.9m. The two storey part of the building is designed in a 'L' shape with one side extending further back; the depth of the building

is approximately 7m at the shallowest part and 11.9m at the deepest part. At ground floor level there is a flat roof section that fills the gap along the rear elevation.

- 3.3. The applicant has submitted an amended proposed block plan that shows two sections of dropped kerb with a section of standard pavement in the centre. Parking is provided to the front and side of the proposed dwelling; the drawing shows six car parking spaces, however one space is sat in tandem behind another space. Cycle and bin storage are proposed to the side behind access gates.

#### **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 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 **7 July 2023**, but this has now been extended to **6<sup>th</sup> October 2023** following a re-consultation on a revised description (removing reference to Use Class C4 and referring instead to 9 bedroom HMO)

- 6.2. Four letters of objection were received. The comments raised by third parties are summarised as follows:

- Two existing HMO's adjacent to this property already cause parking problems, drainage issues, noise pollution, rubbish due to bins not being managed.
- Insufficient parking provision will impact on street parking.
- Impact on highway safety.
- Concerns that rear garden fence would be removed to create a larger shared communal space with adjacent HMO's.
- Existing issues with sewers – network cannot cope with an additional building with a large number of en-suite bathrooms.
- The houses should be retained as family homes.
- Will the occupants be vetted due to proximity to a school?
- The Council should have written to more properties in the local area.

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

#### **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. BICESTER TOWN COUNCIL: Councillor Les Sibley, will call this planning application in at the next CDC Planning Committee meeting due to the lack of communication from CDC to BTC councillors and no details being made available in the public domain.

Concerns regarding this planning application area:

- Parking issues, restricted space
- Signs/concerns for pedestrians
- Access an issue
- Cycling and pedestrian route will become a problem
- Potential building dangerous

*Officer comment: The application was initially made invalid due to an incorrect drawing. Once this was received, all consultees (including the Town Council) were re-consulted with all of the plans being publicly available to view on the Council's website. No further comments were received from the Town Council following the re-consultation.*

### CONSULTEES

- 7.3. OCC HIGHWAYS: **no objections**, the revised plans have addressed my previous concerns regarding the parking provision, dropped kerb and emergency access to the dwelling, the plans now conform to OCC's Adopted Parking Standards and Dropped Kerb Policy respectively. The applicant has also amended the cycle parking provision to ensure it is capable of storing up to 10 cycles, however the applicant must still demonstrate, through a plan, the means of enclosure of this cycle store.

The conditions imposed on the original submission remain in place.

Subject to the conditions above, this proposal is unlikely to have a detrimental impact on the highway in terms of safety or convenience.

- 7.4. CDC ENVIRONMENTAL PROTECTION: Made the following comments:

- Noise: No comments
- Contaminated Land: No comments
- Air Quality: No comments
- Odour: No comments
- Light: No comments

- 7.5. CDC BUILDING CONTROL: The proposal will require a Full Plans Building Regulations application with a detailed fire strategy also sound insulation testing will be required.

## **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 2015)

- PSD1: Presumption in favour of Sustainable Development
- BSC1: District Wide Housing Distribution.
- ESD1: Mitigating and Adapting to Climate Change

- ESD3: Sustainable Construction
- ESD5: Renewable Energy
- 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 of new residential development
- ENV1: Development likely to cause detrimental levels of pollution

#### 8.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- Cherwell Design Guide (2018)
- Cherwell District Council HMO Standards 2018
- Oxfordshire County Council Parking Standards for New Developments

### 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 and parking
- Other matters

#### Principle of Development

- 9.2. In determining the acceptability of the principle of new dwellings regard is paid to Government guidance contained within the NPPF. This 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.
- 9.3. 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.
- 9.4. The CLP 2015 seeks to allocate sufficient land to meet District Wide Housing needs. There are no adopted Local Plan policies relating specifically to housing development within Bicester. However, the CLP 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'.
- 9.5. The development plan does not include any policies that specifically relate to Houses in Multiple Occupation (HMOs). HMOs provide affordable accommodation to rent (to individuals who are unrelated) within a shared dwelling with communal facilities. Such proposals are therefore assessed against policies relevant to residential development.

- 9.6. The site is positioned within the built-up limits of Bicester, which has good access to public transport links, local shops and amenities. It is considered that the site is in a sustainable urban location.
- 9.7. Given the above, it is considered that the principle of constructing a replacement building to be used as a HMO, which is a higher density form of residential accommodation, is acceptable. However, the overall acceptability of the proposed development is also clearly dependent on it not causing demonstrable harm to the visual amenities of the locality, residential amenities, or highway safety. These issues are discussed below.

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

- 9.8. Government guidance contained within the NPPF requiring good design states that good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. Further, permission should be refused for development of poor design that fails to take the opportunities for improving the character and quality of an area and the way it functions.
- 9.9. Policy ESD15 of the CLP 2015 states that: "New development will be expected to complement and enhance the character of its context through sensitive siting, layout and high quality design. All new development will be required to meet high design standards."
- 9.10. Saved Policy C28 of the CLP 1996 exercises control over all new developments to ensure that the standards of layout, design and external appearance are sympathetic to the character of the context.
- 9.11. The proposed dwelling would be slightly wider than the existing property, however it would replicate the scale of No. 3 George Street which has been previously extended resulting in a similar appearance to the proposed development. The application site is a wide plot, and the new building would still only occupy approximately three quarters of the width of the plot.
- 9.12. In terms of impact on the street scene, the application site sits at the end of the street, so the proposal would not create a terracing effect (by filling a gap between properties) and would not significantly change the existing street scene which is characterised by similar properties that set a similar distance back from the road. The proposed materials and fenestration would match the adjoining property and therefore the building would not appear out of place.
- 9.13. The proposed building is an 'L' shape with the side elevation adjacent to the alleyway having the greatest depth. The proposed building is positioned approximately 4.4m away from the boundary with the adjacent footpath, therefore it would not appear overbearing when viewed from this location.
- 9.14. Overall, the design of the proposed replacement dwelling is considered to be in keeping with the character and would not have a detrimental impact on visual amenity of the area. In this respect, the proposal accords with Policy ESD15 of the CLP 2015 and Policy C28 of the CLP 1996 and Government guidance contained within the NPPF.

#### Residential amenity

- 9.15. Both the NPPF and Policy ESD15 of the CLP 2015 seek to ensure development proposals provide a good standard of amenity for both existing and proposed

occupants of land and buildings relating to privacy, outlook, natural light and indoor and outdoor space.

- 9.16. The design of the building is an 'L' shape at two storey level, so the main projection from the body of the house does not abut the adjoining property (No. 3). Because the projecting section is set away from the neighbour the proposal would not appear overbearing or overly dominant when viewed from the adjoining property. The placement of the windows would also not result in direct overlooking of the neighbouring properties.
- 9.17. The single storey, flat roof section of the development would only extend approximately 1.6m beyond the rear wall of the extension to the adjoining property. Therefore, this element of the scheme would not be overbearing or impact on general outlook from the adjoining property.
- 9.18. The relationship with the neighbouring properties would remain largely the same as the existing situation. The properties opposite would have a similar outlook and the windows in the proposed building would have similar views to those of the existing property. There would be some views over neighbouring gardens, but this would not be significantly different from the existing relationship between the residential properties in this area.
- 9.19. In respect of the amenities of future residents of the HMO, the sizes of the single bedrooms range from 10.58m<sup>2</sup> to 12.1m<sup>2</sup>, which exceed the minimum size for a single occupancy room to be used by a person over the age of 10 years (6.51m<sup>2</sup>) and the national standard of 7.5m<sup>2</sup>. There are two double rooms which measure 13.0m<sup>2</sup> and 15.3m<sup>2</sup> respectively which exceed the minimum size for a double occupancy room (11m<sup>2</sup>). The shared kitchen/dining/lounge for 11 people is 42.9m<sup>2</sup>. The HMO requirement for a 6-10 person HMO (1 to 2 storey) is 24m<sup>2</sup>, and therefore the proposed communal area far exceeds this requirement with only one additional occupant. The bedrooms are all en-suite and are in accordance with the Council's requirements set out in the CDC HMO Standards (2018).
- 9.20. The *CDC HMO Standards 2018* is a document used by the Council's Licencing Officers to determine the 'suitability for occupation' of HMOs for licencing purposes in accordance with the provisions of the Housing Act 2004, the Licencing and Management of Houses in Multiple Occupation and Other Houses (Miscellaneous Provisions) (England) Regulations 2006 (as amended), The Licencing of Houses in Multiple Occupation (Mandatory Conditions of Licences) (England) Regulations 2018, and its own HMO Licencing Policy.
- 9.21. In terms of privacy for future occupiers of the building, there is one window in the first floor corridor that has the potential to allow occupiers to view into room identified as no. 8, but if approved a condition could be imposed to ensure that this window, which serves a corridor, is obscurely glazed.
- 9.22. With regards to the rear garden, the plans show a small area of fencing to provide some private space for the ground floor occupant and prevent other occupiers of the development being able to look into their living space.
- 9.23. Concerns have been raised regarding the use of the rear garden, with speculation it would be combined with the neighbouring gardens. The proposal shows boundary fencing to retain the separation between gardens. If this was a particular concern, a planning condition could require details of all the boundary fencing and ensure it is installed and retained. As the plans are showing a separate garden for this development, the proposal has to be assessed on this basis.

9.24. Subject to the condition outlined above, the development provides a suitable level of residential amenity to the future occupiers. The proposals are not considered to result in detrimental harm to adjacent neighbours nor the existing or future amenities of the residents of this site. The proposals are therefore considered to accord with Policy ESD15 of the CLP 2015, Policy C30 of the CLP 1996 and Government guidance contained within the NPPF.

#### Highway safety

9.25. The NPPF (Para. 105) states that the planning system should actively manage patterns of growth in support of the achievement of promoting sustainable transport. However, notes that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in both plan-making and decision-making.

9.26. The NPPF (Para. 110) advises that in assessing specific applications for development, it should be ensured that:

- Appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;
- Safe and suitable access to the site can be achieved for all users; and
- 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.

9.27. Both Policies ESD15 and SLE4 of the CLP 2015 reflect the provisions and aims of the NPPF. Policy ESD15 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”*.

9.28. The application proposes to increase the width of the dropped kerb at the front of the property. Following discussions with the Local Highway Authority, the applicant amended the proposal to show two sections of dropped kerb (the existing dropped kerb and an additional section) with a small area of retained kerb in the centre, which also allows for an access path to the property. The proposed block plan shows 6 parking spaces, although it is noted that one sits in tandem behind another space, therefore only 5 spaces front the highway.

9.29. The OCC Parking Standards for new developments document states that HMOs should allow for 0.5 vehicle spaces per bedroom within a HMO, which in this case is 5 spaces (when rounded up). The proposed development meets this requirement.

9.30. The minimum cycle provision for HMO's is 1 space per bedroom, the current cycle storage is shown to the side of the property. There is sufficient space for the required cycle store (to accommodate at least 10 cycles) and the location would be convenient with unobstructed access to the highway. A condition is recommended requiring details of the cycle store to ensure it is secure and covered.

9.31. Following the amendments to the proposal, the Local Highway Authority Officer has advised that the proposal is unlikely to have a detrimental impact on the highway in terms of safety and convenience.

9.32. On the basis of the above, the proposal would not have detrimental impact on highway safety and is acceptable in this regard, complying with Policies ESD15 and SLE4 of the CLP 2015 and Government guidance contained within the NPPF.

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

10.1. 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.

10.2. The decision maker needs to undertake a balancing exercise to examine whether any adverse impacts of a development would be outweighed by the benefits such that, notwithstanding the harm, it could be considered sustainable development within the meaning given in the NPPF. In carrying out the balancing exercise it is, therefore, necessary to take into account policies in the development plan as well as those in the NPPF. It is also necessary to recognise that Section 38 of the Act continues to require decisions to be made in accordance with the development plan and the NPPF highlights the importance of the plan led system as a whole.

10.3. The application would provide additional residential development within the sustainable location of Bicester. The nature and scale of the development is compatible with the existing residential area and would not cause harm to residential amenity. Safe and adequate car parking and cycle parking provision would be provided. There would be some very minor short-term economic benefits during construction and the proposal would provide smaller, affordable accommodation within the private rented market. Overall, the proposal is considered to represent a sustainable form of development in accordance with the above-mentioned policies, as such the application is recommended for approval subject to the conditions set out below.

## **11. RECOMMENDATION**

**DELEGATE TO THE ASSISTANT DIRECTOR FOR PLANNING AND DEVELOPMENT TO GRANT PERMISSION SUBJECT TO NO NEW MATERIAL PLANNING CONSIDERATIONS BEING RAISED BEFORE THE EXPIRY OF THE CONSULTATION PERIOD ON 6<sup>th</sup> OCTOBER 2023 AND SUBJECT TO THE CONDITIONS SET OUT BELOW (AND ANY AMENDMENTS TO THOSE CONDITIONS AS DEEMED NECESSARY)**

### 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 information contained within the application form and the following approved plans:

- Site Location Plan
- Drawing number SU11 – [Existing site and location plan]
- Drawing number PL11 Rev E – [Proposed site plan]



- Drawing number PL10 – [Proposed plans and elevations]

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.

3. Prior to the commencement of the development hereby approved, a Construction Traffic Management Plan (CTMP) shall be submitted to and approved in writing by the Local Planning Authority. The CTMP shall include a commitment to deliveries only arriving at or leaving the site outside local peak traffic periods. Thereafter, the approved CTMP shall be implemented and operated in accordance with the approved details.

Reason: In the interests of highway safety and to mitigate the impact of construction vehicles on the surrounding highway network, road infrastructure and local residents, particularly at morning and afternoon peak traffic times.

4. The materials to be used for the external walls and roof of the development hereby permitted shall match in terms of colour, type and texture those used on the existing adjoining building.

Reason: To ensure that the materials are appropriate to the appearance of the locality and to ensure the satisfactory appearance of the completed development in accordance with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

5. Full details of the enclosures along all boundaries of the site and any additional enclosures required to make the development acceptable shall be submitted to and approved in writing by the Local Planning Authority before the building hereby approved reaches slab level and such means of enclosure shall be erected prior to the first occupation of the building and retained in perpetuity.

Reason: In the interest of highway safety, to ensure the satisfactory appearance of the completed development, to safeguard the privacy of the occupants of the existing and proposed dwellings and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policies C28 and C30 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

6. Prior to the first occupation of the development hereby approved, the parking and manoeuvring area shall be provided in accordance with the plan approved (Drawing No. PL11 Rev E) 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 areas 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 and flood prevention and to comply with Policies ESD7 and ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

7. The development hereby approved shall not be occupied until details of how Secured by Design measures have been incorporated into the development

have been submitted to and approved in writing by the Local Planning Authority. For the avoidance of doubt the details of how the scheme accords with the secure by design principles shall include: details of all bedroom doors being certified to PAS24, with a door viewer installed; details of a secure postal strategy; and details of a visitor notification system (doorbell) for each bedroom. The Secure by Design measures shall be implemented in accordance with the approved detail and be retained and maintained in perpetuity.

Reason: In order to ensure the safety and security of any future occupants of the site and to comply with Government guidance contained within the National Planning Policy Framework and the Crime and Disorder Act 1998.

8. Prior to the first use or occupation of the development hereby permitted, covered cycle parking facilities shall be provided on the site in accordance with details which shall have first been submitted to and approved in writing by the Local Planning Authority. The covered cycle parking facilities so provided shall thereafter be permanently retained and maintained for the parking of cycles in connection with the development.

Reason: In the interests of promoting sustainable transport modes in accordance with Policy ESD1 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

9. Prior to the first use or occupation of the development hereby permitted, bin storage facilities shall be provided on the site in accordance with details which shall have first been submitted to and approved in writing by the Local Planning Authority. The bin storage facilities so provided shall thereafter be permanently retained.

Reason: In order that proper arrangements are made for the disposal of waste, and to ensure the creation of a satisfactory environment free from intrusive levels of odour/flies/vermin/litter in accordance with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1, Policies ENV1, C28 and C30 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

10. The first floor window in the 'blind side' elevation (serving the corridor) shall be obscure glazed, using manufactured obscure glass that is impenetrable to sight, (not an applied adhesive film) before the extension is first occupied and shall be permanently retained as such thereafter. The window shall also be non-opening, unless those parts which can be opened are more than 1.7m above the floor level of the room in which it is installed and shall be permanently retained as such thereafter.

Reason: To ensure that the amenities of the occupants of bedroom 8 and the neighbouring properties are not adversely affected by a loss of privacy in accordance with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy C30 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.