

Case Officer: Rebekah Morgan

Applicant: Mrs Jenny Surtees

Proposal: Part retrospective - Change of Use from 6 bedroom HMO to 8 bedroom HMO (*Sui Generis*).

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

SUMMARY RECOMMENDATION: GRANT PERMISSION SUBJECT TO CONDITIONS

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 two storey extension. The dwelling is constructed of red brick with a plain tile roof. The site has an existing vehicle access with a driveway. The front boundary is open across the full width of the site.
- 1.2. The property is located within a predominantly residential area of Bicester.

2. CONSTRAINTS

- 2.1. The application site is identified as being close to an area of potential contaminated land. Protected and notable species are identified on the constraints data within close proximity of the site.
- 2.2. There are no heritage constraints to the site.

3. DESCRIPTION OF PROPOSED DEVELOPMENT

- 3.1. The application seeks a Change of Use of the property from a 6 bedroom House in Multiple Occupation (HMO) to an 8 bedroom House in Multiple Occupation (HMO).
- 3.2. The applicant has a HMO licence for the property to accommodate a maximum of 8 people. The bedroom sizes range from 9.74m² to 12.5m² and all include en-suite bathrooms. Internal alterations have been completed to provide the 8 en-suite bedrooms and communal kitchen/living room; however, the applicant has stated that only 6 bedrooms are currently occupied.

4. RELEVANT PLANNING HISTORY

- 4.1. The following planning history is considered relevant to the current proposal:
21/00362/F: Single storey rear extension – double storey side extension. REFUSED.

21/02687/F: Single storey rear extension and two storey side extension. APPROVED.

22/01918/F: Change of Use from 6 bedroom HMO to 8 bedroom HMO. WITHDRAWN.

22/03530/F: Change of Use from 6 bedroom HMO to 8 bedroom HMO sui generis – re-submission of 22/01918/F. WITHDRAWN.

- 4.2. The two previous applications (22/01918/F and 22/03530/F) were withdrawn following objections raised by the Local Highway Authority.

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 **4 October 2023**, although comments received after this date and before finalising this report have also been taken into account.

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

- Insufficient parking
- Impact on highway safety
- Noise disturbance from existing and future residents
- Rubbish and unwanted items are already being left outside the property
- Garden is too small for the property

- 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: **strongly objects** on the grounds of high levels of public interest; objections raised by neighbours; highway safety and parking concerns; pedestrian safety; a full width dropped kerb has been installed without approval; not in keeping with street scene; requires parking restrictions (double yellow lines) to be implemented for safety; concerns over location of bins and waste collection arrangements; concerns regarding location of cycle parking.

CONSULTEES

- 7.3. OCC HIGHWAYS: *No objections, The parking bays now meet the requirements set out within my previous response. The emergency access to the property is also sufficient.*

- 7.4. CDC HOUSING: *No comments.*

- 7.5. CDC ENVIRONMENTAL HEALTH: *No comments in relation to noise, contaminated land, air quality, odour or light.*
- 7.6. CDC BUILDING CONTROL: *A building regulations application 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

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 converting the existing dwelling on this site to 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 highways 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 application seeks a change of use only. The property has previously been extended to the side (planning permission 21/02687/F) and the current application does not propose any external alterations to the building.

- 9.12. The frontage is currently open with hard surfacing/parking across the full width. The waste bins and cycle storage would be located at the front of the property and therefore visible within the street scene. It is noted that many of the residents in this area store waste bins at the front of their properties, so this would not be out of place and conditions can be imposed to ensure suitably designed cycle/bin storage is constructed.
- 9.13. Subject to the condition identified above, it is considered that the proposed development would be acceptable with regard to the impact it would have on the character and appearance 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

- 9.14. 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.
- 9.15. There are no external changes proposed to the building that would result in any material impact on the residential amenity of the neighbouring residents. Both the existing and proposed uses are residential uses, and it is not concluded therefore that the proposal would have any additional impact in respect of in overlooking or loss of privacy to the neighbouring residents.
- 9.16. Concerns have been raised about potential noise impacts on neighbouring dwellings. With regard to noise, the proposal would result in an increase in potential occupants of the building to create higher density form of residential accommodation. However, the Environmental Health Officer has not raised any concerns that excess noise from the development is likely to be an issue. If such anti-social behaviour did prove to be a problem in the future the Environmental Health Team has legislative powers to take the necessary action.
- 9.17. In respect of the amenities of residents of the HMO. The sizes of the bedrooms range from 9.75m² to 12.5m², which exceed the minimum size for a single occupancy room to be used by a person over the age of 10 years (6.51m²) and the national standard of 7.5m². The shared kitchen/lounge is 42.9m². The HMO requirement for a 6-10 person HMO (1 to 2 storey) of 24m², and therefore the proposed communal area far exceeds this requirement. The bedrooms are all en-suite and are in accordance with the Council's requirements set out in the CDC HMO Standards (2018).
- 9.18. 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. It is noted that the applicant has already been granted a HMO licence that would allow the property to be occupied by a maximum of 8 people.
- 9.19. On the basis of the above, the development would provide 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 the proposed HMO. 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

- 9.20. 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.
- 9.21. 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.
- 9.22. 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”*.
- 9.23. The OCC Parking Standards for new developments document states that HMOs are required to allow for 0.5 vehicle spaces per bedroom, which is 4 spaces in this instance which are provided on the front of the property. Cycle storage is proposed to the front of the property with full details of of the cycle storage being secured via a planning condition.
- 9.24. The dropped kerb extension is retrospective and provides access to the parking spaces at the front of the development. A Local Highways Authority (LHA) Officer visited the site to assess the acceptability of a dropped kerb. They have advised the dropped kerb has been extended by approximately 5.6m, however there are no issues with the construction of the dropped kerb and that the location of the dropped kerb, in close proximity to the junction with Market End Way, which is a no through road, is considered acceptable given the reduction in the speed limit to 20mph in the area.
- 9.25. 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 is provided. 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

GRANT PERMISSION, SUBJECT TO THE CONDITIONS SET OUT BELOW

CONDITIONS

1. 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:

- Design and Access Statement
- Site Location Plan
- Drawing number SLP – [Site and Location Plans]
- Drawing number OX262EDFP02 – [Floor Plan Layout]

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.

2. Within 3 months of the date of this decision, Secured by Design measures shall be installed in accordance with details which shall have first 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 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.

3. The parking and manoeuvring areas, shown on approved plan SLP shall be retained in perpetuity and be kept 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.

4. Within 3 months of the date of this decision, the enclosures along all boundaries of the site and any additional enclosures required to make the development acceptable shall be erected in accordance with details which shall have first been submitted to and approved in writing by the Local Planning Authority. The boundary treatment so provided shall thereafter be permanently retained.

Reason: 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.

5. Within 3 months of the date of this decision, 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.

6. Within 3 months of the date of this decision, the 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.

Planning Notes

1. The applicant is notified of the requirement to retrospectively seek Section 184 consent from the Local Highway Authority (Oxfordshire County Council) for works to the highway associated with the extension to the dropped kerb.

CASE OFFICER: Rebekah Morgan