

Case Officer: Nathanael Stock

Applicant: Mr G Ashraf

Proposal: Single and two storey front extensions, first floor side extension and single and two storey rear extensions, removal of chimney on south-west elevation (revised scheme of 22/03323/F, 23/01059/F and 23/01952/F)

Ward: Banbury Calthorpe And Easington

Councillors: Cllrs Ian Harwood, Kieron Mallon and Lynne Parsons

Reason for Referral: Called in by Councillor Lynne Parsons for the following reasons:

- over-development
- out of keeping with area and street scene

Expiry Date: 18 December 2023

Committee Date: 7 December 2023

SUMMARY RECOMMENDATION: GRANT PERMISSION SUBJECT TO CONDITIONS UPON THE EXPIRY OF THE PUBLICITY PERIOD (14 DECEMBER)

1. APPLICATION SITE AND LOCALITY

1.1. The application relates to a two-storey detached dwelling located within the built form of Banbury. It is set within a spacious plot and bounded by residential neighbours to the north, east and south set in similar size plots. The highway lies to the west/north-west beyond a generous grass verge, which includes trees. There are slight levels differences across the site but none that has a bearing on the assessment of the application.

2. CONSTRAINTS

2.1. The dwelling is not a listed building nor is the site located within a designated conservation area or sited within the setting of a listed building.

3. DESCRIPTION OF PROPOSED DEVELOPMENT

3.1. The application seeks planning permission for single and two storey extensions to front side and rear.

3.2. Permission was first granted for similar works under reference 22/03323/F. There were then two subsequent applications 23/01059/F refused under delegated powers, and then 23/01952/F refused by planning committee on grounds of residential amenity and design, overturning an officer recommendation for approval.

3.3. The changes from the last refused scheme (23/01952/F) are: (1) reduction of 1.0m in depth of two-storey rear projection and (2) change from Juliet balcony and full length window in the first floor rear element to two standard size windows.

4. RELEVANT PLANNING HISTORY

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

22/03323/F - Part single/part double storey front extension, first floor side extension and single storey rear extension and removal of chimney on south west elevation.
Approved

23/01059/F - Single and two storey front extensions, first floor side extension and single and two storey rear extensions and removal of chimney on south west elevation (revised scheme of 22/03323/F) – **refused** under delegated powers, for the following two reasons

1. By reason of its design, scale and siting the proposed development would adversely impact on the character and appearance of the area. The proposed development is therefore contrary to Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policies C28 and C30 of the Cherwell Local Plan 1996, the CDC Home Extensions and Alterations Design Guide (2007) and Government guidance contained within the National Planning Policy Framework.
 2. By reason of its scale, siting and design the proposal development would adversely impact the amenity of No.3 Elizabeth Rise through loss of outlook, and an imposing and overbearing form of development. The proposed development is therefore contrary to Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy C30 of the Cherwell Local Plan 1996, the CDC Home Extensions and Alterations Design Guide (2007) and Government guidance contained within the National Planning Policy Framework.
- 4.2. The element of that proposal which led to Refusal Reason 1 was the centrally placed two-storey gable projection to the front elevation. The element of that proposal which led to Refusal Reason 2 was the outer two of the three first floor gable projections to the rear. Both have been omitted in the current proposals.
- 4.3. 23/01952/F - Single and two storey front extensions, first floor side extension and single and two storey rear extensions, removal of chimney on south-west elevation (revised scheme of 22/03323/F and 23/01059/F) – **refused** by planning committee, for the following reason:
1. By reason of its scale, form and massing, the proposal would result in overdevelopment of the site and would therefore adversely affect the character and appearance of the area. In addition, the proposal would result in excessive hardstanding exceeding the car parking capacity of the property, which would cause water problems and localized flooding due to water run off. The proposal would therefore be contrary to Policy ESD15 of the Cherwell Local Plan 2011-2031.

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 (amend as appropriate). The final date for comments was **14 August 2023**, although comments received after this date and before finalising this report have also been taken into account.

6.2. Two letters of objection have been received and one letter of comment received; their comments are summarised as follows:

- The rapid evolution in the scale and form of the development has the potential to disrupt the established character and appearance of the area
- The visual impact of the proposals remains a significant concern
- The applicant destroyed/removed all existing mature trees – this has significantly impacted the privacy and amenity of neighbouring properties
- The alteration from ‘French’ windows to regular windows does not fully address the concerns regarding overlooking and the impact on neighbouring properties remains significant
- Increased number of cars that would park at the property as a result of this proposal; potential impact on on-street parking.
- The additional bedroom would lead to an increase in services demand, including energy, drainage and sewerage, as well as other publicly provided services and costs.
- The proposal would result in overdevelopment
- The previous three applications on the site have all been refused on grounds of overdevelopment. *(Officer note: this is incorrect; the first application of the three was approved; the overdevelopment referred to in the second application/first refusal related to a central gable to the front elevation, whereas the overdevelopment referred to in the last application/second refusal related to the rear gable projection.)*
- No material difference between last (refused) proposal and this proposal
- The Council should consider developing a planning policy for the Easington area to address the broader issue of overdevelopment.

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. BANBURY TOWN COUNCIL: **No objections**

OTHER CONSULTEES

7.3. Ward Councillor (Cllr Mallon) - I would like to object as the local member for the reasons I outlined in the last application. All the policies I put forward at the last planning meeting are still relevant.

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)

- 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 / impact on amenity

8.3. Other Material Planning Considerations

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

9. APPRAISAL

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

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

Impact on the character and appearance of the area

- 9.2. The proposed development would be of significant size and would not be set down or set back from the existing dwelling and given its scale and massing it would not be a subservient addition.
- 9.3. However, the proposed front/ side extension would be similar to those at Nos. 3 and 5 adjacent to the south as well as no. 6 opposite. In this context the proposal is considered to not disrupt the street pattern significantly to warrant refusal. It is also identical to that approved under application 22/03323/F.
- 9.4. Given its siting, the proposed rear extension is considered acceptable in terms of its impact to the character and appearance of the surrounding area. The first floor element would not be visible from within the street scene and could not reasonably be said to result in any harm to the character and appearance of the area.
- 9.5. The previously proposed central gable projection to the front elevation, which was the basis for the first reason for refusal of the second application, has again been

omitted from the current proposals. The rooflight to the approved single storey front element has also been omitted, resulting in a simpler, less cluttered appearance.

- 9.6. The proposed materials, including facing brick, tiled roof and aluminium door would all match those of the existing dwelling.
- 9.7. The proposed removal of the chimney would not adversely affect the character and appearance of the surrounding area and was approved under 22/03323/F.
- 9.8. There is no difference in the hardstanding forward of the front elevation from that shown on the plans approved under 22/03323/F. In any case, the hardstanding does not form part of this planning application and any refusal on the basis of excessive hardstanding would not be reasonable on the part of the LPA.
- 9.9. For these reasons the proposal is not considered to be demonstrably harmful to the visual amenity of the character of the area, and the proposal therefore accords with saved Policies C28 and C30 of the CLP 1996, Policy ESD15 and Government guidance contained within the NPPF.

Impact on residential amenity

- 9.10. The neighbour situated closest to the proposed extensions is No. 3 Elizabeth Rise to the south-west. The two-storey side extension would be sited close to the common boundary. However, No. 3 has a primarily front and rear facing aspect, i.e. no primary purpose habitable room windows facing north. The first floor element to the rear is the only difference from the approved scheme that would be experienced by this neighbour but it would be set well off the common boundary with the neighbour, would not conflict with the 45 degree rule measured from the centre point of the neighbour's nearest windows, and has been reduced in depth to 3 metres – such that, if the single storey elements were not constructed, the two-storey rear projection would constitute permitted development.
- 9.11. It is therefore considered that the proposal would not adversely affect the amenities of No. 3 through loss of outlook nor would it be imposing or overbearing to that neighbour.
- 9.12. No windows are proposed to the south-west side elevation and so no overlooking would result. Given its siting to the north-east of the neighbour the proposal would not result in loss of light to this neighbour. Overall, therefore, the proposal is considered acceptable in amenity terms with regard to No. 3 Elizabeth Rise.
- 9.13. The outer two of the three previously proposed gable projection to the rear elevation, which were the basis for the second reason for refusal of the second application, have again been omitted from the current proposals, satisfactorily addressing that second refusal reason.
- 9.14. The rear extensions may be seen by the neighbours (Nos 1 and 3) on Queensway to the north/north-east of the site but given the separation distance between the proposed development and these neighbouring properties (in the case of No. 3, c.19.5m to the single storey element, c.22m to the two-storey element, with No. 1 further than that, whereas the Council's guidance expects 14m), the proposals would not adversely affect the living conditions of these neighbours either through loss of light, privacy or outlook or through an imposing or overbearing form of development.
- 9.15. The rear extensions may also be seen by the neighbours (Nos 126 and 128) on Bloxham Road to the south-east of the site but given the separation distance

(approx. 45 metres, which is twice the 22 metres expected in the Council's guidance) between the proposed development and these neighbouring properties, the proposals would not adversely affect the living conditions of these neighbours either through loss of light, privacy or outlook or through an imposing or overbearing form of development.

- 9.16. In addition, the Juliet balcony and full length window shown on the last application have been replaced by two, regular sized windows.

Impact on highway safety

- 9.17. The proposed development would result in one additional bedroom, and this may have an impact on parking requirements for the occupiers of the property. However, the Council's parking standards (two parking spaces) are no different between three bedroomed dwellings and four bedroomed dwellings. In any case, there is sufficient space between the dwelling and the footpath for at least three parking spaces. It cannot therefore be reasonably concluded that the current proposal would adversely impact on the safety or convenience of the local highway network.

Other matters

- 9.18. In addition to matters covered above, the letters of objection refer to (1) the proposals' impact on infrastructure, (2) that the proposal would set an unwelcome precedent for future development at adjacent properties, and (3) the proposal would result in overdevelopment of the site.
- 9.19. In relation to the proposals' impact on infrastructure, it is considered that the proposal would have no materially greater impact than the approved scheme, and it is noted that a development of one metre less in depth could likely be carried out under the property's permitted development rights.
- 9.20. In relation to the setting of precedent, every case is assessed on its own merits. However, the fact that similar side extensions have been approved at Nos 3 and 5 means that any objection to the principle of the two-storey side extension would be unreasonable. The additional two-storey rear element proposed here would not be harmful in terms of visual or residential amenity or highway safety.
- 9.21. In relation to whether or not the proposal would result in overdevelopment of the site, the two-storey side element reflects that approved and constructed at four other properties in the immediate locality including Nos. 3 and 5 Elizabeth Rise, and is identical to that approved under planning application 22/03323/F. The only difference in volume between that approval and this current application is the two-storey rear projection, which would not be visible from within the street scene and would not result in overdevelopment of the site, and would constitute permitted development if the single storey rear elements were not constructed.

10. PLANNING BALANCE AND CONCLUSION

- 10.1. For the reasons set out above, 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

- i. **THE CONDITIONS SET OUT BELOW (AND ANY AMENDMENTS TO THOSE CONDITIONS AS DEEMED NECESSARY), AND**
- ii. **UPON THE EXPIRY OF THE PUBLICITY PERIOD (14 DECEMBER)**

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 drawings numbered 00-ST-02 A, 00-ST-01 A, 00-PR-EL-01 A, 00-PR-FP-01 A, 00-PR-FP-02 A and 00-PR-FP-03 A all submitted with this application.

Reason – For the avoidance of doubt, to ensure that the development is carried out only as approved by the Local Planning Authority and to safeguard the character and appearance of the area and the living conditions of neighbouring occupiers and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031, saved Policies C28 and C30 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

3. The materials and architectural detailing to be used in the construction of the external surfaces of the development hereby permitted shall fully match, in material and colour, those used in the existing building, and shall be retained as such thereafter.

Reason - to safeguard the character and appearance of the area and to comply with Policy ESD15 of the Cherwell Local Plan 2011 - 2031 Part 1 and Government guidance contained within the National Planning Policy Framework.