

**Case Officer:** Tomaz Akhter

**Applicant:** Mr and Mrs R Parshad

**Proposal:** First floor extension with associated internal and external work (follow-up to 23/01073/F)

**Ward:** Kidlington West

**Councillors:** Cllr. Jean Conway, Cllr. Lesley McLean and Cllr. Dorothy Walker

**Reason for Referral:** Called in by Cllr. Dorothy Walker for the following reasons:

- Government Policy and Guidance
- Drainage
- Parking Provision
- Design, Appearance and Materials
- Public Amenity

**Expiry Date:** 11 July 2024

**Committee Date:** 11 July 2024

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

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

2.1. The application relates to an end of terrace stone dwelling. It abuts the entrance to the main parking area serving the village centre. The property sits behind 75 High Street and its rear elevation forms the boundary with the car park. There is a small garden area to the front of the property.

### **2. CONSTRAINTS**

2.2. The application site is within an archaeological alert area and is in a contaminated land buffer zone.

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

3.1. The application seeks planning permission for a first floor extension above a single storey garage and the conversion of the garage into additional living space. The application also includes the five windows in the north-west elevation and the widening of a doorway in the southeast elevation.

3.2. The proposal is a follow up to planning permission 23/01073/F where planning permission was granted for a roof extension.

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

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

<b>Application: 23/01073/F</b>	Permitted	19 June 2023
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Proposed roof extension with associated internal and external works.

## 5. PRE-APPLICATION DISCUSSIONS

5.1. No pre-application discussions have taken place regarding this proposal.

## 6. RESPONSE TO PUBLICITY

6.1. This application has been publicised by way of 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 **6 June 2024**, although comments received after this date and before finalising this report have also been considered.

6.2. The comments raised by third parties are summarised as follows:

- Height of the eaves do not match the plans.
- Lack of car parking space and contradiction to reasoning of previous planning consent.
- The materials used for roof do not match the existing.
- The extension will semi enclose the adjacent property.
- Raising the wall by 2 metres the applicant has attached his wall to the neighbouring wall.
- The application form states that the works has not already been started when work has started.
- The application documents states that owners of the property are Mr and Mrs Parshad, the owners are Parshad Ltd.
- The same company own another company which is advertised as an Air BnB business, should this property have, the same intention will this property require a change of use.
- Rainwater drains historically from (No. 77) onto the roof of No. 73 and the owner of No. 73 has a prescriptive right for this and any drainage solutions should be at the cost of No. 73. No plans have been submitted to show the solution of the drainage issues.

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.

7.2. KIDLINGTON PARISH COUNCIL: The Council **objects** to this proposal on the basis of overdevelopment and impact on the residential amenity of the area. The Council objects to the lack of off-street parking for this property.

7.3. OCC HIGHWAYS: **Do not object subject to condition** The proposals include a location for cycle parking. However, no details have been disclosed regarding the elevations or access to the cycle parking.

## **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
- PSD1 – Presumption in Favour of Sustainable Development

### 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 Design Guide (2018)
- Cherwell 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
- Highways
- Neighbour comments

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

#### *Policy Context*

- 9.2. 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. Paragraph 139 of the NPPF states that planning 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.
- 9.3. These aims are also echoed within Policy ESD15 of the CLP 2015 which looks to promote and support development of a high standard which contribute positively to an area’s character and identity by creating or reinforcing local distinctiveness.
- 9.4. 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 CLP 1996 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.

- 9.5. The Council's Residential Design Guide (2018) seeks to ensure that new development responds to the traditional settlement pattern, character, and context of a village. This includes the use of traditional building materials and detailing responding to the local vernacular.

#### *Assessment*

- 9.6. Although a relatively wide gable, the proposed extension is considered to be of an acceptable design, particularly as it shows subserviency to the existing dwelling by having a lower ridge height than the principal part of the dwelling. The extension also has the same depth as the two-storey brick extension to the adjoining property, 77 High Street, further limiting any potential visual harm.
- 9.7. The extension's stonework is largely complete and is considered to have been laid in a traditional way and in keeping with the host dwelling. The roof would be covered in materials to match the roof of the existing dwelling which has recently been re-roofed. The proposed openings are considered to be a sympathetic design mimic the design of the windows on the existing property.
- 9.8. The proposed development is therefore considered to comply with Policy ESD15 of the CLP 2015, Policy C28 of the CLP 1996 and Government guidance contained within the NPPF.

#### Residential amenity

##### *Policy Context*

- 9.9. Government guidance contained within the NPPF requires development to create places that are safe, inclusive and accessible, promoting health and well-being, and with a high standard of amenity for existing and future users. Policy ESD15 of the CLP 2015 requires all development to consider the amenity of both existing and future development. Saved Policy C30 of the CLP 1996 seeks standards of amenity and privacy acceptable to the Local Planning Authority.

##### *Assessment*

- 9.10. The proposed extension would not protrude beyond the existing rear elevation of the adjoining neighbouring dwelling, 77 High Street and therefore would not conflict with the 45-degree rule to any habitable window in this neighbouring property. Given the relationship to the other closest residential properties, the proposed development, including the proposed windows which either face onto to the car park or the access road, would have no impact on residential amenity of these neighbours in terms of overlooking, loss of privacy, loss of light, loss of outlook or by being overbearing.
- 9.11. The proposed development is therefore considered to comply with Policy ESD15 of the CLP 2015, Policy C28 of the CLP 1996 and Government guidance contained within the NPPF.

#### Highway safety

##### *Policy context*

- 9.12. Paragraph 114 of the NPPF 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.*

9.13. Both Policies ESD15 of the CLP 2015 reflect the provisions and aims of the NPPF. Policy ESD15 of the CLP 2015 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”.

#### *Assessment*

9.14. The proposal would increase the number of bedrooms at the property from two to three. Whilst the plans also show the conversion of the existing garage, this work could be undertaken without the need for planning permission. As a result, given the limitations of the site, there would therefore be no opportunity to provide any off-street parking.

9.15. However, the site is located in the centre of Kidlington within walking distance of shops, restaurants, and other community facilities. There are good public transport links both to Oxford and heading north. The proposal would also include the provision of cycle parking facilities to encourage active travel.

9.16. Given this accessibility to facilities, the Highways Officer concluded that it was appropriate that the dwelling could become car free. They have however required additional details in respect of the cycle parking provision for which a condition is recommended.

9.17. As the proposal promotes active travel and would not be detrimental to the safety and convenience of highway users it is considered to accord with Policy ESD15 of the CLP 2015, Policy C28 of the CLP 1996 and Government guidance contained within the NPPF.

#### Third party comments

9.18. Aside from the issues raised which have previously been addressed in this report, the neighbour, whose property adjoins the application dwelling, raised concerns that the works would have an undue impact on their extension. During the application process the applicant was required to serve notice on the adjoining neighbour as the extension required works which had a direct impact on this neighbour’s property (e.g. the stonework linked into the neighbour’s wall). This is a legal matter between the two property owners and does not have a bearing on the acceptability of the proposal in planning terms, other than the acceptability of the appearance of what it constructed which is considered to be acceptable. An informative is recommended which reminds the applicants of their legal responsibilities in respect of land ownership.

9.19. It is regrettable that the works undertaken prior to approval being granted and have not been constructed in accordance with the originally submitted plans. The discrepancies with the plans have subsequently been addressed and the revised plans are considered to be an accurate reflection of what is being built. Assuming planning permission is granted, the Planning Enforcement Team would monitor the site closely to ensure compliance with the approved plans.

9.20. Concern has been expressed as to the future use of the building. It is argued that the applicant currently owns another property in Kidlington which is being used as an Airbnb. Officers, however, cannot consider hypothetical future uses of a property; if the applicant wishes to use the property for a different purpose in the future, and that use requires planning permission, an assessment of the acceptability of such a proposal would be made at that time.

9.21. The issue relating to the drainage of rainwater has been addressed. The Council's Building Control Team has agreed a solution with the applicants as part of a building regulations application.

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

10.1. The proposal is considered acceptable in principle and though it represents a significant extension to the original building this has not been found to cause harm to the character, appearance of the area, subject to recommended planning conditions. There are no residential amenity concerns, highway safety issues or ecological constraints.

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),**

### **Compliance with Plans**

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::
  - Location/block/site plans; P 23 042 001-E
  - Proposed elevations/floor plans: P 23 042 003-E

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. Prior to the first use or occupation of the development hereby permitted, access to 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.

3. The window on the first floor of the north-west elevation serving the bathroom

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 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 the neighbouring properties are not adversely affected by 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.

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 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. The natural stone to be used on the walls of the roof extension shall be of the same type, texture, colour and appearance as the stone on the existing building and shall be laid dressed, coursed and pointed to match that of the existing 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.

#### Planning Informative

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.

CASE OFFICER: Tomaz Akhter