

**Site Address: 19 Meadowsweet Way,
Banbury**

12/01752/F

Ward: Banbury Hardwick

District Councillor: John Donaldson, Tony Ilott and
Nicholas Turner

Case Officer: Rebekah Morgan

Recommendation: Approval

Applicant: Mr and Mrs A Watts

Application Description: Single storey extension and internal alterations to extend existing kitchen – re-submission of 12/01336/F

Committee Referral: Member Request – Cllr Nicholas Turner

1. Site Description and Proposed Development

- 1.1 The application property is a detached, two storey dwelling located within a residential area of Banbury.
- 1.2 The application seeks consent for a single storey flat roofed rear extension measuring 3.4m (d) x 4.6m (w) with a height of 2.5m. The roof includes a glazed lantern measuring 3m x 1m which would have a maximum height of 3.1m.

2. Application Publicity

- 2.1 The application has been advertised by way of neighbour letter. The final date for comment was the 17th January 2012.

2 letters have been received. The following issues were raised

Impact on light to neighbour's patio and kitchen
Homes are north facing, therefore any loss of light is a significant issue
Minimal reductions to previous application
Overbearing
Extension too close to fence to provide sufficient access for maintenance
Permitted development rights were removed to protect neighbours' amenity
Flat roof not in keeping with the neighbouring properties
Glazed lantern is totally incongruous and unnecessary
Glazed lantern has the potential to cause light pollution and/or glare and will further block light
Does not fit with the character of the building or the rest of the estate
Objector does not consider the design to be contemporary

3. Consultations

- 3.1 Banbury Town Council: Objects. 'There has been insufficient change from the previous application. As such the Council remains concerned that the extension extends too far out and blocks neighbour's light'.
- 3.2 Cllr Surinder Dhesi: Objects. 'I have great concerns regarding the impact this would have on the neighbouring property especially the blocking of natural lighting. The revised application has only been reduced fractionally by 10cm and I believe that all the concerns from the original application have not been addressed. Permitted Development rights from Hanwell Fields were removed specifically to protect the

amenities of neighbouring properties from extensions which would have detrimental effect'.

Cherwell District Council Consultees

3.3 Environmental Protection Officer: No Objections

4. Relevant National and Local Policy and Guidance

4.1 Development Plan Policy

Adopted Cherwell Local Plan (Saved Policies)

C28: Layout, design and external appearance of new development

C30: Design of new residential development

4.2 Other Material Policy and Guidance

National Planning Policy Framework

Cherwell Local Plan – Proposed Submission Draft (August 2012)

The draft Local Plan has been through public consultation and although this plan does not have Development Plan status, it can be considered as a material planning consideration. The plan sets out the Council's strategy for the District to 2031.

5. Appraisal

5.1 The key issues for consideration in this application are:

- Relevant Planning History
- Visual Amenity
- Neighbouring Amenity

Relevant Planning History

5.2 The application is a re-submission of application 12/01336/F; the previous application was withdrawn on 14 November 2012. The current revised proposal has been slightly reduced in size in comparison to the previous submission.

5.3 The property the subject of this application is part of phase 3 of the Hanwell Fields Development granted consent (04/01203/REM refers.) on 29 November 2004. Permitted Development rights were removed by way of a number of planning conditions attached to that consent.

5.4 Condition 25 of 04/01203/REM is relevant to this application and states:

That, notwithstanding the provisions of Class A to E (inc) of Part 1, Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 and its subsequent amendments, the approved dwellings shall not be extended (nor shall any structure be erected within the curtilage of the said dwellings) without the prior express consent of the Local Planning Authority.

Reason – To enable the Local Planning Authority to retain planning control over the development of this site in order to safeguard the amenities of the occupants of the adjoining dwellings in accordance with Policy G2 of the Oxfordshire Structure Plan 2011 and Policies C28 and C30 of the adopted Cherwell Local Plan.

- 5.5 The proposal set out in this application requires planning permission due to the removal of permitted development rights at the property.

Visual Amenity

- 5.6 The proposed single storey extension is of a modern design with a glazed lantern set within the flat roof. The materials proposed for the construction of the walls would match those used on the existing dwelling.
- 5.7 Concerns have been raised by contributors commenting that the design does not fit with the rest of the estate. However, a number of properties within the surrounding residential area have been extended and a variety of designs have been approved. Extensions like the proposal are typical in residential areas and it is your officers' opinion that the design will not appear out of keeping.
- 5.8 The proposed extension will be situated to the rear of the property and therefore will not be visible from the public realm or have an impact on the street scene.
- 5.9 The proposal will not have a detrimental impact on visual amenity and accords with government advice on good design contained within the National Planning Policy Framework and Policy C28 of the adopted Cherwell Local Plan.

Neighbouring Amenity

- 5.10 A number of concerns have been raised regarding the impact of the proposal on the neighbouring property in terms of loss of light and general outlook. The case officer has undertaken a site visit to the neighbouring property to fully assess the proposal.
- 5.11 The proposed extension is likely to have the greatest impact on the rear doors of the neighbour's living room and the side window of the kitchen. The rear of the properties are almost north facing and therefore, the proposal would only affect direct sunlight in the early morning.
- 5.12 When considering the impact in terms of loss of light, it was noted during the site visit that the living room of the neighbouring property is dual aspect with a south facing window on the front elevation and the kitchen benefits from three windows (two rear facing and one side facing). Given this situation, it is our opinion that the impact on light would not be significantly harmful and it would be difficult to defend a reason for refusal based on loss of light if the application went to appeal.
- 5.13 The neighbour has raised the issue of the proposed extension going beyond the '45° rule' (an angle taken from the mid-point of the nearest window in the neighbouring property). This is used as a guidance tool by officers to assess the potential impacts of a proposal; however it is not adopted as the policy of this Council.
- 5.14 The proposal would exceed the 45° line by approximately 40cm, however given the extension is single storey and flat roofed, your officers do not consider that the extension would cause harm.
- 5.15 With regards to the outlook and the extension being overbearing, the current outlook from the neighbouring property has to be considered. The rear of the properties in this area all face onto each other, therefore the current outlook is dominated by buildings. Although the extension would be more visible to the neighbour than the existing dwelling, it would only be partially visible above the existing intervening fence. The extension would be positioned over 2m away from the neighbour's rear living room doors and over 5m away from the side kitchen window. The extension would only be slightly visible from the rear kitchen windows.

- 5.16 Given the previous comments about the positioning of windows within the neighbour's property and the distance between the neighbour and the proposed extension, it is your officers' opinion that the proposal would not appear overbearing when viewed from the neighbouring property and would not have a detrimental impact on their general outlook.
- 5.17 Concerns regarding impact on outdoor space are not material planning considerations. Both the application site and the neighbouring property have large rear gardens with sufficient outdoor amenity space.
- 5.18 The proposal is considered acceptable as it would not cause harm to neighbouring amenity. The application complies with the Core Principles of the National Planning Policy Framework and Policy C30 of the adopted Cherwell Local Plan.

Engagement

- 5.19 With regard to the duty set out in paragraphs 186 and 187 of the Framework, no problems or issues have arisen during the application. It is considered that the duty to be positive and proactive has been discharged through the efficient and timely determination of the application.

Conclusion

- 5.20 On balance the application is considered acceptable as it would not cause harm to visual amenity or neighbouring amenity. Although a number of objections have been received, it is considered that the application could not be successfully defended at appeal based on the reasons raised by the contributors.

6. Recommendation

Approval, subject to the following 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 application forms and the following plans and documents: Drawing number 001, drawing number 002B, drawing number 003A, drawing number 004B, drawing number 005A and drawing number 006A received 12 December 2012.

Reason – For the avoidance of doubt, to ensure that the development is carried out only as approved by the Local Planning Authority and to comply with the National Planning Policy Framework.

3. Notwithstanding the provisions of Classes A, B and C of Part 1, Schedule 2 of the Town and Country Planning (General Permitted Development) (Amendment) (No. 2) (England) Order 1995 and its subsequent amendments, no new window(s) or other openings, other than those shown on the approved plans, shall be inserted in the walls of the west elevation of the extension without the prior express planning consent of the Local Planning Authority.

Reason - To enable the Local Planning Authority to retain planning control over the

development of this site in order to safeguard the amenities of the occupants of the neighbouring dwellings in accordance with Policies C28 and C30 of the adopted Cherwell Local Plan and 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.

SUMMARY OF REASONS FOR THE GRANT OF PLANNING PERMISSION AND RELEVANT DEVELOPMENT PLAN POLICIES

The Council, as local planning authority, has determined this application in accordance with the development plan unless material considerations indicated otherwise. The development is considered to be acceptable on its planning merits as the proposal pays proper regard to the character and appearance of the site and surrounding area and has no undue adverse impact upon the residential amenities of neighbouring properties or highway safety. As such the proposal is in accordance with Policies C28 and C30 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework. For the reasons given above and having proper regard to all other matters raised the Council considered that the application should be approved and planning permission granted subject to appropriate conditions as set out above.

STATEMENT OF ENGAGEMENT

In accordance with the Town and Country Planning (Development Management Procedure) (England) (Amendment No 2) Order 2012 and paragraphs 186 and 187 of the National Planning Policy Framework (March 2012), this decision has been taken by the Council having worked with the applicant/agent in a positive and proactive way as set out in the application report.