

**8 Tubb Close  
Bicester  
OX26 2BN**

**17/00585/F**

**Applicant:** Ardour Ltd

**Proposal:** Change of use from one dwelling to a house in multiple occupation

**Ward:** Bicester West

**Councillors:** Cllr Les Sibley  
Cllr Jolanta Lis  
Cllr Debbie Pickford

**Reason for Referral:** Referred to Planning Committee by Cllr Les Sibley

**Expiry Date:** 7<sup>th</sup> July 2017      **Committee Date:** 6<sup>th</sup> July 2017

**Recommendation:** Approval

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

- 1.1. The application site is a two storey detached 5 bed dwelling located on Tubb Close in Bicester. The area is residential in character and Tubb Close is a small cul-de-sac of modern housing, with a mix of 2 storey and single storey detached properties.

## **2. DESCRIPTION OF PROPOSED DEVELOPMENT**

- 2.1. The current application seeks permission to change the use of the dwelling to a house is multiple occupation with 6 lettable rooms. The proposal would have shared kitchen facilities, bathrooms and living spaces. The plans have been amended during the course of the application, reducing the number of lettable rooms from 7 to 6 along with other minor alterations to the internal layout.
- 2.2. The only alteration to the exterior of the building would be the conversion of the garage to a bedroom with the insertion of a new window and wall in place of the garage door and new external door.
- 2.3. Parking would be located to the front of the property which is already laid to hard standing. The two access points from Tubb Close which currently exist either end of the frontage would be closed and a new central access point formed.

## **3. RELEVANT PLANNING HISTORY**

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

<u>Application Ref.</u>	<u>Proposal</u>	<u>Decision</u>
04/01851/F	Erection of conservatory to the rear.	Application Permitted

#### **4. PRE-APPLICATION DISCUSSIONS**

4.1. No pre-application discussions have taken place with regard to this proposal.

#### **5. RESPONSE TO PUBLICITY**

5.1. 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 16.06.2017, although comments received after this date and before finalising this report have also been taken into account.

5.2. The comments raised by third parties are summarised as follows

- A HMO is not similar to any other property so is not in keeping with the character of the area.
- Detrimental impact to established family area with many older residents.
- Increase in anti-social behaviour.
- More transient residents will harm the sense of community which has built up since Tubb Close was developed as single plots.
- The proposal could be occupied by up to 14 people.
- Increase in traffic and associated safety concerns.
- Increase in comings and goings and younger population would be detrimental to the amenity of the neighbouring properties many of which house older residents.
- Increase in noise and disturbance would be contrary to paragraph 69 of the NPPF.
- Conflict with residents human rights.
- Poor up keep of the property.
- Overdevelopment of the site.
- Inadequate waste disposal.
- Inadequate car parking and difficult manoeuvring.
- Is there a proven housing need for this type of accommodation?
- Car parking spaces would not be independently accessible.
- Parking would dominate the frontage and the loss of the boundary wall would make this worse.
- Increase in on-street parking in area where on-street parking is already limited.

- Increase in on-street parking leading to accesses being blocked and problems for emergency services.
- Pedestrian safety issues with parking and vehicle movements.
- Such uses would be better accommodated within new developments.
- Loss of privacy through use of flat roof on rear extension and windows in first floor bedrooms.
- The new ground floor door to the bedroom is unacceptable.
- 21 Tubb Close is also to be used as a HMO. The cumulative impact should be considered.
- Inadequate cooking facilities for residents.
- Inadequate water, waste and electricity supply.
- Lack of disabled person's access.
- Inadequate fire escapes.
- Proposal will set a precedent.
- A large pond in the rear garden is a hazard and it is unclear who will care for the fish.
- Proposal will breach covenants on the deeds to the property.
- Loss of property value .
- Lack of notification on planning application.

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

## 6. RESPONSE TO CONSULTATION

6.1. 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.

### WARD COUNCILLOR COMMENTS

6.2. COUNCILLOR LES SIBLEY– **Objects.** *As a local Bicester West Ward member I would like to request a call in of the above planning application for determination by the CDC planning committee as the proposals are an over development of the site, is not in keeping with the street scene, adversely impact on neighbouring properties, noise and air pollution, safety concerns regarding the ever increasing numbers of on - street parking and vehicle movements in a quiet residential area.*

### PARISH/TOWN COUNCIL AND NEIGHBOURHOOD FORUMS

6.3. BICESTER TOWN COUNCIL: **Object.** The proposal is an overdevelopment of the site. There are potential issues that may arise with parking and its effect on the street scene.

## STATUTORY CONSULTEES

- 6.4. OCC HIGHWAYS: **No objections** subject to conditions regarding the parking to be provided and requiring cycle parking. The proposal is to convert an existing five-bedroom dwelling to a HMO. The predicted number of occupants is not given. The bays may just meet the absolute minimum guideline dimensions of 4.8m x 2.4m, although the space nearest the house in the south-east corner should be 2.7m wide. Given that the number of bedrooms has been reduced from seven to six, the parking provision is still considered acceptable for the HMO.
- 6.5. The new layout utilises a single footway crossover, rather than the two that currently exist. If the application is approved, the new access arrangement will require that a central dropped kerb is created, and the two existing dropped kerbs are raised, under a S184 agreement. Approval for this must be obtained from the OCC Licensing and Streetworks Team. It should be noted that any S184 application is separate to any planning approval given
- 6.6. In order to promote sustainable travel, and as Bicester town centre is easily reached by cycle, secure cycle parking facilities should be provided at the new development. OCC guidelines do not cover the number of cycle spaces for HMOs, but it is reasonable to assume that the provision should be around one per bedroom, and at least equivalent to the number of car parking spaces. Therefore, six cycle parking spaces (equivalent to three stands) are requested as a condition.
- 6.7. The proposals are unlikely to have any adverse impact upon the local highway network from a traffic and safety point of view, therefore no objection.

## NON-STATUTORY CONSULTEES

- 6.8. CDC HOUSING: **No objections.** The amended plans address the earlier concerns. There may be better ways to utilise the kitchen space.

## **7. RELEVANT PLANNING POLICY AND GUIDANCE**

- 7.1. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.
- 7.2. 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 2031 Part 1)

- BSC2 - Effective use of land and housing density
- ESD1 - Mitigating and adapting climate change
- 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 Control

### 7.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- Sub Division of Buildings for Residential Use (Feb 2011) – CDC Informal planning guidance

## 8. APPRAISAL

### 8.1. The key issues for consideration in this case are:

- Principle of development
- Design, and impact on the character of the area
- Residential amenity
- Highways

#### Principle of development

- 8.1. Paragraph 14 of the National Planning Policy Framework states that a presumption of sustainable development should be seen as a golden thread running through decision taking. There are three dimensions to sustainable development, as defined in the Framework, which require the planning system to perform economic, social and environmental roles. These roles should be sought jointly and simultaneously through the planning system.
- 8.2. Paragraph 12 of the Framework notes that the development plan is the starting point for decision making. Proposed development that accords with an up-to-date Local Plan should be approved and proposed development that conflicts should be refused unless other material considerations indicate otherwise. Cherwell District Council has an up-to-date Local Plan which was adopted on 20th July 2015. Cherwell District Council can demonstrate a five-year supply of deliverable housing sites therefore the presumption in favour of sustainable development, as advised by the Framework, will need to be applied in this context.
- 8.3. Paragraph 17 of the NPPF states that planning should actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling and focus significant development in locations which are or can be made sustainable. Paragraph 111 states that Local Planning Authorities should encourage the effective use of land by re-using land that has been previously developed.
- 8.4. Policy ESD1 of the Cherwell Local Plan (2011-2031 Part 1) states that measures will be taken to mitigate the impact of development within the District on climate change. This includes development which seeks to reduce the need to travel and which encourages sustainable travel options including walking, cycling and public transport to reduce dependence on private cars.
- 8.5. Paragraph B.88 of the Cherwell Local Plan (2011-2031 Part 1) sets out the principle of development in Bicester. It states that the aim of the Plan is to focus development “in and around the towns of Bicester and Banbury...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”.
- 8.6. Given the above, it is considered that the principle of converting the existing dwelling on this site to a house in multiple occupations (HMO), which is a different but higher

density form of residential accommodation, is acceptable. However, the acceptability of the proposed development in this case is also clearly dependent on it not causing adverse harm to the visual amenities of the locality, residential amenities, or highways safety. These issues are discussed below.

#### Design and impact on character of area

- 8.7. Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 states new development will be expected to complement and enhance the character of its context through sensitive siting and layout and states all development will be required to meet high design standards. It goes on to state development should respect the traditional pattern of plots and also respect the form, scale and massing of buildings. Development should be designed to integrate with existing streets and buildings clearly configured to create defined active public frontages. Saved Policy C28 and C30 of the 1996 Local Plan also seek to ensure high quality development, consistent with Paragraphs 58 and 60 of the NPPF which state that development proposals should respond to the local character and surroundings and reinforce local distinctiveness. Paragraph 64 states permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area.
- 8.8. In the current application no extensions are proposed to the dwelling and the only alteration to the external appearance of the building is the conversion of the existing integral garage to living accommodation and the creation of a new external door and window to serve this accommodation. These alterations are in keeping with the character and appearance of the existing building and therefore the impact of these alterations on the character and appearance of the area is considered to be acceptable. Full details of the proposed door need to be secured by condition as these have not been included in the application.
- 8.9. In relation to other visual impacts of the development, the entire frontage of the site is already hard surfaced and provides parking for the existing dwelling. Whilst the access point to the parking area will be altered the visual impact of this will be limited and it is proposed to condition a new front boundary treatment to the site to limit the visual impact. Whilst the parking layout would dominate the frontage of the site, given the existing arrangement already dominates and the size of the property is such that multiple vehicles are very likely to be already present at the site this is not a matter which is considered to justify refusal.
- 8.10. Many of the concerns raised in respect of the application relate to the opinion that the conversion of the property to a house in multiple occupations would change the character of the area and be out of keeping with the family housing and older residents housing in the locality. The Development Plan is the starting point for determining applications, but Cherwell's Local Plan does not have any specific policy regulating the subdivision of properties and the Council's informal guidance is now dated and does not have the same weight as adopted Policy. It is important to note that paragraph 50 of the NPPF encourages planning decisions to create inclusive and mixed communities. The area does have an established residential character and the character of the proposed use would continue to be residential and appropriate for a residential area. Whilst the type of occupant may be different from the neighbouring properties this in itself is not considered to be harmful to the character of the area and would positively contribute towards creating mixed communities. This is also reflected in the permitted development rights that apply nationally (i.e. development which benefits from automatic planning permission and so does not require a planning application) which allow for single dwellings to be converted into houses in multiple occupations with up to 6 residents without the requirement for planning permission.

- 8.11. Whilst it is accepted that large numbers of property conversions can change the character of an area, as the current application would only result in the conversion of one property in the street to a house in multiple occupations, with minimal external alteration, it is not considered that it could be argued that the proposal would have a significant adverse impact on the character of the area. This is particularly the case given the conclusions regarding the visual impacts of the development. Furthermore although residents state a further property at 21 Tubb Close is being used for a HMO this is likely to be authorised under the property's permitted development rights which the Council has no control over and it is considered that even if this property were to be used as a house in multiple occupation that the character of the area would not be significantly impact upon. Each case has to be considered on its own merits and therefore the concerns regarding the development setting a precedent are not considered to weigh significantly against the proposal.
- 8.12. Concerns have also been raised that the change of use would impact on the upkeep of the property. However this is rather a generic statement and there is no empirical evidence to suggest that occupiers of a HMO or landlord of such a property would not maintain the property to the same standard as a single dwelling.
- 8.13. Overall, having regard to the minor changes required externally and what can be achieved under national permitted development rights, it is therefore considered the proposed development would be acceptable with regard to the impact it would have on the character and appearance of the area.

#### Residential amenity

- 8.14. Both the NPPF and Policy ESD15 of the Local Plan 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.
- 8.15. The proposed alterations to the external appearance of the building are minor and would not result in any material impact on the amenity of the neighbouring properties given the scale and position of the changes, the distance to neighbouring properties and their orientation.
- 8.16. Objections have been raised regarding the loss of privacy and increase in overlooking associated with the proposal. However the physical changes are limited to some minor alterations on the front elevation. The existing and proposed uses are both residential uses and it is not considered that the proposal would lead to any significant increase in overlooking or loss of privacy to neighbouring properties. Concerns have also been raised over the potential for the flat roof rear extension of the property being used as a balcony. It is unclear whether the existing roof is used as a balcony. There appears to be a door onto the roof but no railings around it. A condition could be imposed to ensure the roof is not used as a balcony.
- 8.17. A number of neighbouring properties have raised concerns over an increase in anti-social behaviour and noise and disturbance. However there is no clear evidence that the occupants of a HMO are any more likely to be the perpetrators of anti-social behaviour than residents of a conventional dwelling house. Whilst the potential increase in use of the garden by a potentially larger group of adults may result in some increase in noise and disturbance, this is not considered to be significantly more than the existing use of the property as a 5 bedroom dwelling which may accommodate a large family and the application property has a fairly generous sized garden. Furthermore it must be borne in mind that the application property could be altered to a 6 person HMO under national permitted development rights without planning permission.

- 8.18. The Housing Team initially raised a number of issues relating to the internal layout of the site and the Council's HMO Standards (2012). The applicant has amended the plans in order to address these concerns and revised comments are awaited. However it must be noted that the Council's HMO Standards (2012) are not adopted planning policy and so only carry limited weight in planning decisions. The main issue to consider is whether the proposal would provide a good standard of amenity for future residents. In this case the proposed development is considered acceptable in this regard.

#### Highways

- 8.19. As noted above the applicant proposes to provide parking to the front of the site using the existing hardstanding but amending the access. Originally no parking plan was provided but the applicant had stated they would provide 6 parking spaces for 7 lettable rooms. However the application has since been amended to reduce the number of lettable rooms to 6 and a parking plan has been provided in response to officer concerns that the applicant may not be able to provide 6 independently accessible spaces. The submitted parking plan show 3 parking spaces provided each side of a central access and the Highway engineer has raised no objection on this basis and considers the level of parking to be adequate.
- 8.20. Given the sustainable location of the site, close to services, facilities and public transport; and the type of accommodation proposed, it is unlikely that all residents would have access to a private car. It is further recommended that cycle parking provision be conditioned to encourage sustainable modes of transport for future occupiers. Furthermore it is considered there is some capacity for visitors to park on the street for short periods of time and it is noted some on-street parking already occurs in the area.
- 8.21. Subject to any further comments from the highway engineer the development is therefore considered acceptable in this regard.

#### Other matters

- 8.22. The property has a relatively generous rear garden where the waste and recycling facilities could be provided to serve the proposed use. Currently, waste and recycling bins are stored on the frontage but it is unclear whether this arrangement could continue with the revised single access arrangement.
- 8.23. Concerns have been raised regarding infrastructure capacity. Thames Water has been consulted with regard to water and sewage and no comments have been received. The Council therefore has no evidence to suggest that the existing facilities would not be adequate for the change of use. Concerns have been raised over the electricity supply to the property, ventilation and also the adequacy of fire escapes. However these matters are not planning considerations. The applicant would need to ensure they complied with the relevant legislation regarding these matters that sit outside of the planning system.
- 8.24. Concerns have also been raised that the proposal would breach covenants which exist in the deeds of the property. These are private matters and are not material planning considerations. Further the potential loss of property value is also not a material planning consideration.
- 8.25. In relation to the publicity of the application, this was carried out in the normal manner and included sending letters to all immediately adjoining neighbours and placing a notice at the site to publicise the application. This is in excess of the



Council's statutory responsibilities and given the number of responses it is clear these means of publication have been effective.

## **9. PLANNING BALANCE AND CONCLUSION**

- 9.1. 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.
- 9.2. The proposed application would result in the provision of a different type of residential accommodation within a geographically sustainable location and would contribute towards mixed communities. The proposal would not significantly impact on the amenity of the neighbouring properties and would provide a good standard of amenity for future occupants. The proposed development would provide adequate parking provision and would not result in any significant highway safety concerns. Whilst the visual impact of the parking is not ideal, it is not considered to be significantly more harmful than the existing arrangement. Therefore, and taking into account the permitted development rights that apply nationally for changing the use of single dwellinghouses to HMOs, the proposed development is considered to represent a sustainable form of development and it is recommended that planning permission be granted.

## **10. RECOMMENDATION**

That permission is granted, 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 following plans and documents: Application forms, Location Plan, drawing numbers 1271/2A, 1271/3 and 1271/4.

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 development hereby approved, full details of the design, position, height, and appearance of the external door to serve the new ground floor bedroom shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details.

Reason - To ensure the satisfactory appearance of the completed development and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policies C28 and C30 of the Adopted Cherwell Local Plan 1996, and Government guidance contained within the National Planning Policy Framework.

4. Prior to the occupation of any part of the development hereby approved, full details of the enclosures along all boundaries of the site including the front boundary treatment, shall be submitted to and approved in writing by the Local

Planning Authority. Thereafter, the approved means of enclosure shall be erected, in accordance with the approved details, prior to the first occupation of the use hereby permitted.

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 Adopted Cherwell Local Plan 1996, and Government guidance contained within the National Planning Policy Framework.

5. Prior to the first occupation of the development hereby approved, the parking areas shall be provided in accordance with the approved plan (Drawing No: 1271/4). Thereafter, the parking 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, to ensure the provision of off-street car parking 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.

6. Prior to the first occupation of the development hereby approved, full details of the location, type, design, and appearance of cycle parking to serve the use shall be submitted and approved in writing by the Local Planning Authority. The cycle parking shall be provided in accordance with the approved details prior to the first occupation of any part of the development and shall be retained for use in connection with the development thereafter.

Reason: To ensure the development provides opportunities for sustainable modes of transport in accordance with Policy SLE4 and ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and the NPPF.

7. No part of the flat roof of the existing single storey rear extension shall be used as an outdoor amenity area or balcony at any time whatsoever.

Reason: To safeguard the privacy and amenity of the occupants of the neighbouring properties in accordance with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework

**Planning notes:**

Please note that separate consent is required for the works to the access under the Highways Act 1980 (as amended). You should contact the Road Agreements Team at Oxfordshire County Council, as the Local Highways Authority in this instance, before commencing works. They can be contacted via email: [roadagreements@oxfordshire.gov.uk](mailto:roadagreements@oxfordshire.gov.uk), or telephone: 01865 815202.

The applicant is advised to discuss their proposal with the Housing Team at Cherwell District Council requiring the HMO Standards and management arrangements. Further details are available at <http://www.cherwell.gov.uk/index.cfm?articleID=4229>