

**Case Officer:** Astrid Burden

**Applicant:** Mrs Yasmin Kousar

**Proposal:** Erection of a single storey rear extension, to provide all necessary adaptations relating to works required at the above property, providing a ground floor bathroom (LAS) and a kitchen to be safe and usable for disabled occupant

**Ward:** Banbury Calthorpe And Easington

**Councillors:** Cllr Ian Harwood, Cllr Kieran Mallon, Cllr Lynne Parsons

**Reason for Referral:** Application submitted by a member of staff of CDC acting as agent.

**Expiry Date:** 10 June 2024

**Committee Date:** 6 June 2024

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**SUMMARY RECOMMENDATION: APPROVAL SUBJECT TO CONDITIONS**

**1. APPLICATION SITE AND LOCALITY**

- 1.1. The application relates to a semi-detached dwelling with means of access onto Broughton Road only, and a rear grassed area that is elevated by 0.2 metres in comparison to the dwelling.
- 1.2. The site is bounded by residential neighbours to the side and by a car park to the rear. The front facing boundary of the curtilage is marked by a small brick wall, the entire space in between the dwelling and the public footpath is cemented. The space in between the dwelling and the rear boundary is a long grass-covered garden and a patio space approximately 4.1 metres away from the dwelling rear.
- 1.3. The dwelling is externally built with cream-coloured brick and dark grey concrete roof tiling.
- 1.4. Wychwood Gardens is characterised by of large mature protected trees, hedgerows, and light-coloured detached dwellings, many of which have cladding as an exterior material. Woodgreen Avenue is characterised by a combination of terraced and semi-detached dwellings with similar materials to that of the proposal site, and a dual carriageway lined with trees in the centre. Broughton Road's built environment is characterised by large, detached dwellings with red or cream-coloured brick, and roadside landscaping.

**2. CONSTRAINTS**

- 2.1. Just outside of the site to its south-east are two trees, one smaller and one larger, and just to the south-west of the site is an Oak tree covered by a Tree Protection Order, with TPO reference 009/1991.
- 2.2. The vicinity of a pond within the curtilage of no. 109 Broughton Road and another source of standing water to the Southeast of that indicates the likely presence of Great Crested Newts.

- 2.3. There are several swift hotspots at a short distance from the proposal site, which are given further weight due to the vicinity of mature trees and number of protected trees.
- 2.4. There are Oxon Protected and Notable Species recordings for badgers, sparrowhawks, and swifts close to the proposal site.

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

- 3.1. The application relates to the proposed erection of a single storey rear extension, which would serve as a new kitchen. The submitted plans also show the conversion of existing kitchen to a new downstairs bathroom for increased accessibility, including new garden access and bathroom window.

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

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

**Application: 00/01932**                      Refused                      24 November 2000

Creation of a new driveway access to Broughton Road.

**Application: 98/01325/F**                      Refused                      17 September 1998

Construction of new vehicular access onto Broughton Road.

### **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 **22 February 2024**, although comments received after this date and before finalising this report have also been considered.

- 6.2. No comments have been raised by third parties.

### **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. BUILDING CONTROL: the proposed works are subject to building control regulations.
- 7.4. ARBORICULTURE: objection due to influencing distance from Protected Tree.

## **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

### 8.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- EU Habitats Directive
- Conservation of Habitats and Species Regulations 2017
- Circular 06/2005 (Biodiversity and Geological Conservation)
- Natural England’s Standing Advice
- CDC Residential Design Guide 2018
- Cherwell Home Extensions and Alterations Design Guide (2007)
- Site Constraints
- Planning History
- Neighbour/Consultation Responses

## **9. APPRAISAL**

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

- Impact on Character of Host Dwelling and Surrounding Area
- Impact on residential amenity
- Impact on Trees/Hedges/Landscaping
- Impact on Ecology

#### Impact on Character of Host Dwelling and Surrounding Area

9.2. The proposed extension would be set down in height and set to the rear of the dwelling, and externally facing materials are proposed to match those of the existing dwelling.

9.3. Overall, therefore, the proposed development would not negatively impact the character or appearance of the surrounding area.

#### Impact on residential amenity

- 9.4. The proposed extension would be set away from the shared boundary with the adjoining neighbouring dwelling and would not project beyond the rear elevation of that dwelling. The proposal would also be set off the south-western side boundary and further from that boundary than the existing two-storey dwelling.
- 9.5. Overall, having regard for its spatial relationship with neighbouring properties, it is considered that the proposal would not adversely affect the living conditions of neighbours either through loss of outlook, light or privacy or through an imposing or overbearing form of development.

#### Impact on Trees/Hedges/Landscaping

- 9.6. The proposal is within the root protection area of an Oak tree, subject of a Tree Preservation Order, in the neighbouring dwelling's curtilage (7 Wychwood Gardens). The Council's Arboricultural Officer has been consulted on this application and has requested an Arboriculture Impact Assessment or method statement.
- 9.7. That said, it is noted that the application property's permitted development rights remain intact, and an extension could be carried out without the need to make a planning application.
- 9.8. It is therefore considered not reasonable to require an Arboriculture Impact Assessment or method statement; however, it would be appropriate to require by condition that a tree specialist is present during the foundation works to ensure the potential damage to the roots is intercepted.
- 9.9. The applicant's agent has noted the presence of the Oak tree and (i) advises that the foundation trench could be limited to 1 metre in depth below ground level, (ii) acknowledges that the situation requires additional controls on foundation depth given the proximity to the TPO tree and taking into account the soil type and (iii) agrees to the condition mentioned above.

#### Ecology Impact

- 9.10. Paragraph 175 of the NPPF states that when determining planning applications, local planning authorities should apply the following principles: a) if significant harm to biodiversity resulting from a development cannot be avoided, adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused; d) development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity.
- 9.11. Policy ESD10 of the CLP 2015 lists measures to ensure the protection and enhancement of biodiversity and the natural environment, including a requirement for relevant habitat and species surveys and associated reports to accompany planning applications which may affect a site, habitat or species of known ecological value.
- 9.12. Given its scale and siting, it is considered that the proposal would not adversely affect ecological interests or have impacts in this regard that warrant refusal of the application. It is considered that an informative note should be attached to any permission granted to make the applicant/developer aware of their responsibilities.
- 9.13. The proposal is therefore not contrary to Policy ESD10 of the CLP 2015, advice contained in the PPG and Natural England's Standing Advice, and section 15 of the National Planning Policy Framework.

## 10. PLANNING BALANCE AND CONCLUSION

- 10.1. The proposal complies with the relevant Development Plan policies and guidance listed at section 8 of this report, and so it is considered to be sustainable development. In accordance with Paragraph 11 of the NPPF, permission should therefore be granted.

## 11. RECOMMENDATION

### **TO GRANT PERMISSION, SUBJECT TO THE CONDITIONS SET OUT BELOW (AND ANY AMENDMENTS TO THOSE CONDITIONS AS DEEMED NECESSARY)**

#### CONDITIONS

##### **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 22-Ca-010778-P01 and 22-Ca-010778-P03.

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 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.

##### **Arboriculture**

3. No development shall take place below ground level unless an appropriately qualified arborist is present and all works in the vicinity of the root zones to the adjacent Oak tree must be carried out in accordance with the advice of a suitably qualified arborist. Subsequently, that is, in relation to all development above ground level, suitably qualified arborists shall (i) monitor the development at regular intervals and (ii) submit monitoring reports to the local planning authority, the frequency of which (in the case of both (i) and (ii)) shall be agreed in writing by the local planning authority before development commences.

Note to applicant: The development below ground level to which this condition refers includes any excavation work particularly the digging and cement foundation setting.

Reason – To ensure the protection of the trees and their root systems and to ensure that they are not adversely affected by the construction works, in the interests of the visual amenity of the area and to comply 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. This information is required prior to

commencement of the development as it is fundamental to the acceptability of the scheme.

4. The block paving to be used under the tree canopy must be of a porous material and shall be retained as such thereafter.

Reason – To ensure that the tree is retained in a safe and healthy condition and is not adversely affected by construction works.

CASE OFFICER: Astrid Burden