

Case Officer: Michael Sackey

Recommendation: Approval

Applicant: Mr David Austin

Proposal: Widen an existing means of access

Expiry Date: 3 November 2020

Extension of Time: Yes

1. APPLICATION SITE AND LOCALITY

- 1.1. The application relates to a semi-detached bungalow, externally of facing brick with a tiled roof facing south on to Red House Road. There are no significant changes in levels across the site that would affect the application assessment. The site lies within the built form of Banbury and is bounded by residential neighbours to the north, east and west. The site is not within a designated Conservation Area and the application building is not listed.

2. DESCRIPTION OF PROPOSED DEVELOPMENT

- 2.1. The current application is for an extension of approximately 6 metres to the existing dropped kerb so that the dropped kerb would cover the full width of the property.

3. RELEVANT PLANNING HISTORY

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

Application: 13/00744/F Permitted 7 August 2013

Single storey extension and internal alterations forming new sun room, dining room, porch, WC and bedroom. Loft conversion forming additional bedroom with en-suite and extending the existing bedroom.

Application: 15/01139/F Permitted 13 August 2015

Single and two storey extensions and internal alterations

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 **28 September 2020**, although comments received after this date and before finalising this report have also been taken into account.

- 5.2. No comments have been raised by third parties

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.

BANBURY TOWN COUNCIL AND NEIGHBOURHOOD FORUMS

- 6.2. No objections

OTHER CONSULTEES

- 6.3. Local Highway Authority (21.09.2020) – objects, A Section 184 Agreement would need to be in place before any work may commence on the public highway. Please see <https://www.oxfordshire.gov.uk/business/licences-andpermits/dropped-kerbs> for further details. It should be noted that the S184 is separate from any planning permission that may be granted. One of the conditions of the S184 to be met is as follows:

A crossing will not be approved, or an existing crossing to be widened, so that it covers the full width of your property unless planning regulations require you to provide a number of dropped kerbs which would require you to drop the full width.

- 6.4. Having looked back through the planning history of the site, I cannot see any requirement to increase the number of off-road parking spaces. This current proposal would cover the full width of the site boundary so is contrary to the condition above. From the photos provided it would appear that the front garden has been resurfaced without any provision for drainage within the site. The slope of the parking area means that it will drain to the highway, which is not permitted.
- 6.5. Local Highway Authority (02.11.2020) - In hindsight, the dropped kerb provisions are probably not sufficient planning reason to recommend refusal. However, my comments below (Comments made on the 21.09.2020) still apply, and there is no guarantee that a S184 agreement will be allowed.

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)

- 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

- 7.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- Cherwell Residential Design Guide (2018)
- Cherwell Council Home Extensions and Alterations Design Guide (2007)
- National Design Guide (2019)

8. APPRAISAL

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

- Design, and impact on the character of the area
- Residential amenity
- Highway safety/parking provision

Design and Impact on the Character of the Area

- 8.2. Paragraph 56 of the NPPF makes clear that, *the Government attaches great importance to the design of the built environment*. This is reflected in Policy ESD15 of the CLP 2031 Part 1, which states that new development proposals should: *be designed to improve the quality and appearance of an area and the way it functions...contribute positively to an area's character and identity by creating or reinforcing local distinctiveness...(and) respect the traditional pattern of routes, spaces, blocks, plots, enclosures and the form, scale and massing of buildings*.
- 8.3. Saved Policies C28 and C30 of the CLP 1996 reinforce this, with Policy C30(ii) stating: *that any proposal to extend an existing dwelling (should be) compatible with the scale of the existing dwelling, its curtilage and the character of the street scene*.
- 8.4. Given its nature, the proposed extension of the existing dropped kerb would have limited visual impact.
- 8.5. Having regard to the presence of comparable means of access within the application site vicinity (e.g. at 10 Red House Road and also on Molyneux Drive to the east of the site), the proposal is considered not to adversely affect the character or visual amenity of the local area.
- 8.6. The proposal would thus accord with retained Policy C28 of the Cherwell Local Plan 1996 and Policy ESD15 of the Cherwell Local Plan 2011 - 2031 Part 1.
- 8.7. It is noted that the application is only for the extension on the means of access. The formation of hardstanding, not included here, may require planning permission and may be considered to have a more significant visual impact, the front gardens on the north side of Red House Road being an attractive element of the streetscape and sloping down to the road (the latter important for reasons of surface water run off / drainage, etc.).

Residential Amenity

- 8.8. Having regards to its nature, scale and positioning, the proposed development would not have any significant impact or affect the living conditions of neighbouring residents.
- 8.9. For these reasons, the proposed development would accord with retained Policy C30 of the Cherwell Local Plan 1996 and Policy ESD15 of the Cherwell Local Plan 2011 - 2031 Part 1.

Highway Safety/Parking Provision

- 8.10. Policy ESD15 of the CLP 2031 Part 1 states, amongst other matters, that new development proposals should: *be designed to deliver high quality safe...places to live and work in*. This is consistent with Paragraph 35 of the NPPF which states that: *developments should be located and designed where practical to...create safe and secure layouts which minimise conflicts between traffic and cyclists or pedestrians*.
- 8.11. The Local Highway Authority (LHA) initially objected to the proposal but upon further discussions and querying of the reasons for the objection, the LHA has removed the objection. Even if the objection had not been removed, their basis for objection is not something that necessarily means highway safety is adversely affected and appears to relate more to highways technical matters. Officers do not consider the proposals would adversely affect highway safety and no objection on that basis has been advanced by the LHA. Therefore, the proposal is considered to accord with Policy ESD15 of the CLP 2031 and relevant guidance in the NPPF.
- 8.12. The Highways Officer indicates that the proposal would also require a separate consent from the LHA and that the required consent is not likely to be forthcoming. However, this doesn't impact on the assessment of the planning application and the applicant has also been made aware of this situation.

9. PLANNING BALANCE AND CONCLUSION

- 9.1. For the reasons set out in this report, the proposal complies with the relevant Development Plan policies and guidance listed at section 7 of this report, and so is considered to be sustainable development. In accordance with Paragraph 14 of the NPPF, permission should therefore 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 not be carried out otherwise than in complete accordance with the approved plans: Location plan (SP46463762) and Block Plan (SP46463762).

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 Part 1 and Government guidance contained within the National Planning Policy Framework.

Notes

PN21 Third Party Interests

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.

S184 Agreement

I do not wish to object from a planning or highway safety point of view, but it must be noted that a S184 Agreement for the dropped kerb must be obtained before any works commence. Please see <https://www.oxfordshire.gov.uk/business/licences-and-permits/dropped-kerbs> for further details. The S184 is separate from the planning process, and it is not guaranteed even if planning approval is granted. One of the conditions to be met, as explained on the webpage, is as follows: • A crossing will not be approved, or an existing crossing to be widened, so that it covers the full width of your property unless planning regulations require you to provide a number of dropped kerbs which would require you to drop the full width. In this case there has been no previous planning permission that requires third parking space to be provided.

Case Officer: Michael Sackey

DATE: 03.11.2020

Checked By: Nathanael Stock

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