

Householder Delegated Report



Cherwell
DISTRICT COUNCIL
NORTH OXFORDSHIRE

Application No.	23/02174/F
Site Address	Rosemary Cottage, Somerton Road, North Aston, OX25 6HX
Proposal	Replacement windows to annexe at Rosemary Cottage; door with glass side panels to be fitted with a new aluminium floor rail, added bottom rail/false bottom rail and security lock/handle
Amended Plans	None received

A. How the Application is Assessed

Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. The assessment below has taken into account all relevant policies within the development plan along with the material considerations related to the proposal.

B. Relevant Planning Policy Documents and Considerations

Development Plan <ul style="list-style-type: none">• Cherwell Local Plan 2011-2031 Part 1 (CLP 2015)• Cherwell Local Plan 1996 (CLP 1996)• Mid-Cherwell Neighbourhood Plan (MCNP)	Material Considerations <ul style="list-style-type: none">• National Planning Policy Framework (NPPF)• Planning Practice Guidance (PPG)• Supplementary Planning Guidance and Documents• Conservation Area Appraisal• CDC Residential Design Guide 2018• Cherwell Home Extensions and Alterations Design Guide (2007)• Site Constraints• Planning History• Neighbour/Consultation Responses
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C. Constraints and Relevant Planning History

Constraints	CONA2 - Conservation Area, Name: North Aston - Distance: 0m LIST - Listed Building, Grade: II, Name: ROSEMARY COTTAGE, HE Ref: 1369833 - Distance: 0m
Site history	23/01275/LB – Replacement windows to annexe at Rosemary Cottage; door with glass side panels to be fitted with a new aluminium floor rail, added bottom rail/false bottom rail and security lock/handle – Yet to be determined.
Pre-application advice	None sought.

D. Summary of Responses

Below is a summary of the 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.

Consultees	<ol style="list-style-type: none">1. Clerk to North Aston PC - No response.2. Mid Cherwell Neighbourhood Forum – No response.3. Ward Councillor - No response.4. Conservation (CDC) – Objection. See below.
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	<ul style="list-style-type: none"> • Further information has been submitted which does demonstrate that the proposed windows would have true integrated glazing bars, would be flush fitted and would generally be traditionally designed and detailed. • However, it is still proposed to have double glazed units as opposed to single glazing. As commented previously double glazing is usually only ever acceptable when there is a visual benefit to the listed building and there does not appear to be a real benefit to the listed building in this instance as the existing window designs are not necessarily inappropriate or harmful in their design. • As such, although the proposed windows would appear to be traditionally designed, it is the double glazing itself, and resulting visual appearance/impact, where there are concerns. This is because double glazing can give double reflections and appear non-traditional, resulting in a visual disparity. • Consequently, it is considered that there would be a low-level of less than substantial harm to the heritage asset.
Neighbours	No responses.

E. Appraisal of Application

In order to be acceptable, the application needs to be assessed against the following topics:

Principle of Development – Policies: PSD1, ESD14 (CLP 2015) C28 (CLP 1996), NPPF	Y/N
a) Is the application site within the settlement confines of town or village, or open countryside and not in the Green Belt and therefore the principle of development is considered acceptable? <i>(as the policies at local and national level permit extensions and alterations to dwellings and appropriate development in their curtilage)</i>	Y
b) Is the application site within the Green Belt? <i>If Y then the principle of development will be determined by assessing the proposal against the Green Belt policies at the local and national level</i>	N
<i>Comments (if any):</i>	
Impact on Character of Host Dwelling and Surrounding Area – Policies: ESD15 (CLP 2015); C28, C30 (CLP 1996); CDC Residential Design Guide (2018); Cherwell Home Extensions and Alterations Design Guide (2007), NPPF;	Y/N
Section 12 of the NPPF explains that the Government attaches great importance to the design of the built environment and that good design is a key aspect of sustainable development. The importance of high-quality responsive design also forms a central component of the policies of the development plan and local guidance. Therefore, to be supported development proposals should meet the following design tests:	Y/N
a) Does the development use matching materials?	Y
b) Is the design in keeping (use of similar style windows and architectural detailing, fencing/walling) with the host dwelling and the surrounding area?	Y
c) Is the development in scale with the existing dwelling, its curtilage and the character of the street scene?	Y
d) Is the extension subservient to the existing dwelling?	Y
e) For two storey side extensions, does the dwelling avoid a terracing effect?	N/A
f) Is the development consistent with the CDC Residential Design Guide and Cherwell Home Extensions and Alterations Design Guide (2007)?	Y
<i>Comments (if any):</i>	
Impact On Residential Amenity – Policies: ESD15 (CLP 2015); C30 (CLP 1996); CDC Residential Design Guide (2018), Cherwell Home Extensions and Alterations Design Guide (2007); NPPF	Y/N
a) Does the development comply with the separation guidelines of the CDC Residential Design Guide (2018) and Cherwell Home Extensions and Alterations Design Guide (2007)?	N/A
b) Does the development provide an acceptable garden size along with suitable amenity and utility space?	N/A
c) Would the development dominate or have an overbearing impact upon a neighbour's garden or property?	N/A

d) Would the development cause adverse degree of overshadowing or loss of light to a neighbouring property?	N/A
e) Would the development cause an adverse degree of overlooking to the any neighbouring residents	N/A
f) Would the development provide an acceptable standard of living for future occupiers , including noise, privacy, daylight, outlook, air quality etc?	N/A
g) Would the development adversely affect neighbouring non-domestic uses?	N/A
<i>Comments (if any):</i>	
Impact on Highway Safety – Policies: ESD15 (CLP 2015); NPPF	Y/N
a) Would the development have an adverse impact on highway safety?	N
b) Does the development result in an appropriate number of parking spaces ?	N/A
c) Does the layout of the parking accord with OCC Standards?	N/A
d) Does any new access proposed meet highway standing advice/OCC response (width, visibility splays etc)?	N/A
<i>Comments (if any):</i>	
Impact on Heritage – Policies: ESD15 (CLP 2015);C21, C23, C28, C30 (CLP 1996); NPPF	Y/N
a) Is the application property a listed building or does the proposal affect the setting of a listed Building ? ¹	Y
b) Is the development in or adjacent to a Conservation Area ? ²	Y
c) Does the development affect a Scheduled Ancient Monument (SAM) ?	N
d) Is the development within or adjacent to an Historic Park or Garden ?	N
e) Is the development within or adjacent to Registered Battlefield ?	N
f) Does the development affect a non-designated heritage asset ?	N
g) Is the site within a known area of archaeology , or does the development have the potential to impact on archaeology ?	N
Impact on Listed Building and/or its Setting - Policies: C18, C21 (CLP96), ESD15 (CLP1); NPPF	
Understanding the Impact	Y/N
Development to or affecting the setting of a listed Building, needs to first meet the following tests regarding understanding the significance of the affected listed building(s) and/or their setting:	
a. Has the application had special regard to the preservation of the Listed building or its setting or historic interest which it possesses? ³	Y
b. Has the application submission demonstrated the significance of the listed building/and or its setting?	Y
c. If so, is the application sufficient so as to understand the potential impact of the proposal on the significance of the asset?	Y
<i>Comments (if any):</i>	
Assessment of the Impact	Y/N
Proposals to alter or extend a listed building or development within its setting will be permitted where they meet the following tests :	
d. The proposal contributes to the preservation of the building and is not detrimental to its significance and would not result in the loss of any historic fabric	Y
e. The proposal is of an appropriate scale, form, massing and design and use appropriate materials and methods of construction which are compatible with the character and construction of the building	Y
f. The proposal has regard to the historic layout of the building and other internal features of significance	Y
g. The proposal preserves the setting of the heritage asset	Y
<i>Comments (if any):</i>	

Assessment of Harm and any Benefits		
Having assessed the impact of the development above, assess below the level of harm being caused by the development		Y/N
h.	The proposed development would result in no harm to the listed building and/or its setting	N
i.	The proposed development considered to result in less than substantial harm to the significance of the Listed Building and/or its setting?	Y
j.	The less than substantial harm identified (such as loss of historic fabric or modest extensions or to its setting) would be outweighed by the public benefits of the proposal	Y
k.	The proposed development is considered to result in substantial harm to the significance of the Listed Building and/or its setting?	N
l.	If substantial harm will be caused, has it been demonstrated that this is necessary to achieve substantial public benefits that outweigh harm or loss , or that the tests and considerations in the NPPF have been met?	N/A

Comments (if any):

Impact on Conservation Area and/or Its Setting - Policies: ESD15 (CLP1); C28, C30 (CLP96); Conservation Area Appraisal; NPPF

Understanding the Impact		
Development to or affecting the setting of a conservation area, needs to first meet the following tests regarding understanding the significance of the affected conservation area and/or their setting:		Y/N
a.	Has the application had regard to the preservation or enhancement of the character or appearance of a conservation area ? ³	Y
b.	Has the application submission demonstrated the significance of this part of the conservation area?	Y
c.	If so, is the assessment sufficient so as to understand the potential impact of the proposal on the significance of the asset?	Y

Comments (if any):

Assessment of the Impact		
Within a conservation area , proposals for development including alteration, extensions and change of use will normally be permitted where they meet the following tests :		Y/N
d.	the development would respect the character and appearance of the area in terms of, scale, form, massing, design, materials and detailing ; and	Y
e.	preserve or enhance the significance of the Conservation Area and/or its setting; and	Y
f.	in the case of an intensification of use or a change of use the proposal would be in scale with and not harm the established character of the area.	N/A
g.	The proposal would not result in the loss of attractive buildings, walls, trees, hedges, open spaces and other features of importance to the significance of the area.	N
h.	The proposal is in accordance with the Conservation Area Appraisal	Y

Comments (if any):

Assessment of Harm and any Benefits		
Having assessed the impact of the development above, assess below the level of harm being caused by the development		Y/N
i.	The proposed development would result in no harm to the significance of the conservation area and any views into or out of it?	Y
j.	The proposed development would result in less than substantial harm to the significance of the conservation area and any views into or out of it?	N
k.	The less than substantial harm to the conservation area or any views into or out of it caused by the development would be outweighed by the public benefits of the proposal?	N
l.	The proposed development is considered to result in substantial harm to the significance of the Conservation Area and/or its setting?	N
m.	If substantial harm will be caused, has it been demonstrated that this is necessary to achieve substantial public benefits that outweigh harm or loss , or that the tests and considerations in the NPPF have been met?	N

Comments (if any): CDC Conservation have objected to the proposal as outlined above – design OK but potential for window glare.

The Planning Officer agrees with the Conservation Officer in that a low-level of less than substantial harm to the heritage asset would occur from the installation of the proposed windows. However, the Planning Officer disagrees with CDC Conservation that the double glazing itself and any double reflective glare resulting in modest visual appearance/impact would of itself be sufficient to substantiate a reasonable objection to the proposal and would not result in a substantive visual, non-traditional disparity.

The applicant has indicated that the windows would be manufactured in a suitable hardwood, with thin Pane double glazing units, Putty Beads/Ovolo glazing bar. Fitted with washer butt hinges, multi-lock furniture and trickle vents to help ventilate the building.

Such windows are considered appropriate in this case. They would allow the building to continue to be used for residential accommodation with improved energy efficiency.

As such, the LPA conclude that the proposed works, whilst resulting in a low level of the less than substantial harm, would be offset by the efficiency improvements to the residential building.

Impact On Natural Environment – Policy ESD6, ESD7, ESD10 (CLP 2015); NPPF	Y/N
a) Is the application site in Flood Zone 1 ?	Y
b) Is the application site in Flood Zone 2 or 3 ?	N
c) Are there mature trees / hedgerows with a high amenity value that the proposed development is adjacent to or in the Root Protection Area of?	N/A
d) Does the site or proposed development possess/impact on any of the features where protected species are likely to be present (assessed against Natural England's standing advice) and where species are likely to be found ?	N/A
e) Is the development within or adjacent to an Air Quality Management Area (AQMA)?	N

Impact on Flooding and Drainage in Flood Zone 1 - Policy: ESD6 (CLP 2015); NPPF	Y/N
a) Is the site subject to other sources , and forms, of flooding and/or where other bodies have indicated that there may be drainage problems , such as risk of surface water drainage ?	N
b) If, Y have you added a condition requiring details of surface water drainage ?	N/A

Comments (if any): As the site is in Flood Zone 1 the development is acceptable in flood zone terms.

Response to Comments

Nothing further to add.

Section 73 Applications	Y/N
a) Is this application made under Section 73 of the Town and Country Planning Act (to vary or delete conditions on a previous planning permission)?	N

F. Conclusion

Due to its design, I consider that the proposed development would be sympathetic to the context of the development, would be compatible with the appearance, character and design of existing listed structures in the area. The proposal therefore accords with the policies and considerations as set out at section E above.

G. Recommendation

The application is recommended for **APPROVAL** subject to the condition's reasons set out on the attached decision notice.

H. Authorisation

Case Officer:	Chris Wentworth	Date:	14 th March 2024
Authorising Officers:	Andy Bateson & Paul Seckington	Date:	14 th March 2024

Notes	
1	<p>Section 66 of The Planning (Listed Buildings and Conservation Areas) Act 1990 sets out the duty of Local Planning Authorities (when considering whether to grant planning permission for development which affects a listed building or its setting) to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.</p>
2	<p>Section 72 of The Planning (Listed Buildings and Conservation Areas) Act 1990 sets out the duty of Local Planning Authorities to pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area.</p>
3	<p>Section 40 of the Natural Environment and Rural Communities Act 2006 (NERC 2006) states that “every public authority must, in exercising its functions, have regard ... to the purpose of conserving (including restoring / enhancing) biodiversity”.</p> <p>Strict statutory provisions apply where European Protected Species (EPS) are affected, as prescribed in Regulation 9(5) of Conservation of Habitats and Species Regulations 2010. When determining a planning application that affects a EPS, local planning authorities must have regard to the requirements of the EC Habitats Directive which states that “a competent authority, in exercising any of their functions, must have regard to the requirements of the Habitats Directive so far as they may be affected by the exercise of those functions”.</p> <p>Under Regulation 41 of the Conservation Regulations 2010 it is a criminal offence to cause harm to a EPS and/or their habitats which includes damage or destruction of a breeding site or resting place. However, licenses from Natural England for certain purposes can be granted to allow otherwise unlawful activities to proceed when offences are likely to be committed, but only if 3 strict legal derogation tests are met which include:</p> <ol style="list-style-type: none"> 1) Is the development needed for public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature? 2) Is there any satisfactory alternative? 3) Is there adequate compensation being provided to maintain the favourable conservation status of the species? <p>In order for the local planning authority to discharge its legal duty under Reg 9(5) of the Conservation Regulations 2010 when considering a planning application where EPS are likely or found to be present at the site or surrounding area, local planning authorities must firstly assess whether an offence under the Regulations is likely to be committed. If so, the local planning authority should then consider whether Natural England would be likely to grant a licence for the development. In so doing to authority has to consider itself the 3 derogation tests above.</p> <p>In respect of planning applications and the Council discharging of its legal duties, case law has shown that if it is clear/ very likely that Natural England will not grant a licence then the Council should refuse planning permission; if it is likely or unclear whether Natural England will grant the licence then the Council may grant planning permission.</p>