

**Case Officer:** Michael Sackey**Recommendation:** Approval**Applicant:** Ryan Jones**Proposal:** Variation of Condition 2 (plans) and 8 (Landcaping Scheme) of 21/00026/F**Expiry Date:** 26 January 2024**Extension of Time:**

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

- 1.1. The application relates to land associated with 13 Blackwood Place, a large two-storey detached dwelling located on a residential street in the south-east of Bodicote, to the south of Banbury, and further an area of highway verge. The existing dwelling (recently extended and altered) at the site is externally faced in a mixture of facing red brick and painted render elevations with grey powder coated aluminium windows and doors under a plain tile roof. The existing site benefits from a large area of hardstanding to the front with access taken off Blackwood Place.
- 1.2. The property also benefits from a big plot with a substantial large rear garden, with patio and grass areas, and recently constructed flat-roofed outbuilding. The site shares boundaries with neighbours to the north and south. The rear boundary backs onto the Oxford Road (A4260). Boundary treatments are a mixture of vegetation and timber fencing.
- 1.3. The site is not, nor does it contain, a listed building and is not located within a designated conservation area. There are no other significant site constraints relevant to planning and this application.

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

- 2.1. The application is a revised scheme of planning permission (ref.21/00026/F) for the erection of one new dwelling.
- 2.2. This application seeks to vary conditions 2 (plans) and 8 (landscaping scheme) of that permission.
- 2.3. The proposed changes are the following –
  - A new front porch measuring approximately 0.9m depth, 2.5m width with an overall roof height of 3.5m sloping down to an eaves height of 2.3m.
  - The re-configuration of the permeable paving with the omission of the patio area around the garage replaced with grass and newly proposed patio area to the rear and side of the dwelling.

§ New shed
- 2.4. In addition, several changes from scheme approved under 21/00026/F are shown on the submitted, but which were approved under application ref. 23/03116/NMA:

- Repositioning and realigning of the four rooflights within the roof at rear elevation
- Replacement of the triple pane bi fold doors with a four-pane window
- Omission of the chimneys
- New flue

2.5. The application relates to the submission of additional plans received on (29.01.2024) at 12:29hrs reference "SK/102" from the applicant's agent (Martin Walker) providing details of the proposed shed. The assessment and determination of this application is based on the amended plans.

### 3. RELEVANT PLANNING HISTORY

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

**Application: 19/01813/F** Permitted 19 November 2019

Demolish garage. Replacement roof (eaves and ridge to be as existing).  
Erection of single storey and two storey extensions to front, side and rear.  
Enlargement of parking/turning area.

**Application: 20/02152/F** Application 29 September 2020  
Withdrawn

Erection of dwelling house, garage and associated vehicular access off Oxford Road A4260.

**Application: 21/00026/F** Permitted 26 July 2021

Erection of dwelling house, garage and associated vehicular access off Oxford Road A4260 - re-submission of 20/02152/F

**Application: 22/03642/DISC** Permitted 17 February 2023

Discharge of Conditions 4 (Construction Traffic Management Plan), 5 (means of access), 6 (turning areas/parking), 7 (Arboricultural Method Statement), 8 (landscaping scheme), 9 (acoustic insulation scheme) and 11 remediation strategy) of 21/00026/F

**Application: 23/01243/DISC** Permitted 14 July 2023

Discharge of Condition 3 (schedule of materials and finishes for the external walls and roofs) of 21/00026/F

**Application: 23/03116/NMA** Permitted 5 December 2023

The omission of two chimney stacks and insertion of a metal flue. Rooflights at the rear of the property in a different position. A window instead of a patio door at the rear of the property (proposed as non-material amendments to 21/00026/F)

#### **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, by advertisement in the local newspaper expiring and by letters sent to properties adjoining the application site that the Council has been able to identify from its records. The overall final date for comments was **6 January 2024**.

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.

##### BODICOTE PARISH COUNCIL

6.2. No objections

##### OTHER CONSULTEES

6.3. Ward Councillors (Adderbury, Bloxham And Bodicote) - Consulted on (07.12.2023); no comments received.

6.4. Building Control - Consulted on (07.12.2023); no comments received.

6.5. Arboriculture - With clarification of no Excavation will be carried for the proposed shed, this minimises any Arboricultural concern, no further comments.

#### **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 (CLP 2015) was formally adopted by Cherwell District Council on 20th July 2015 and provides the strategic planning policy framework for the District to 2031. The CLP 2015 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)

- PSD1: Presumption in Favour of Sustainable Development
- Villages 1: Village categorisation
- SLE4: Improved Transport and Connections
- BSC1: District Wide Housing Distribution
- ESD1: Mitigating and Adapting to Climate Change
- ESD3: Sustainable Construction
- ESD5: Renewable Energy
- ESD7: Sustainable Drainage Systems (SuDS)

- 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
- ENV1: Environmental pollution
- ENV12: Potentially contaminated land

#### 7.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF) (July 2021)
- Planning Practice Guidance (PPG)
- Cherwell Residential Design Guide (2018) (CRDG)

### **8. APPRAISAL**

#### 8.1. The National Planning Policy Practice Guidance (PPG) advises:

*In deciding an application under Section 73, the local planning authority must only consider the disputed condition/s that are the subject of the application – it is not a complete re-consideration of the application. A local planning authority decision to refuse an application under Section 73 can be appealed to the Secretary of State, who will also only consider the condition/s in question. (Paragraph: 031, Reference ID: 21a-031-20180615)*

8.2. As such, the assessment in this case is limited to considering the merits of the applicant's request for the revision of Condition 2 of 21/02884/F (approved plans condition), to be varied to allow for alterations to the proposals' design as set out in the description of development.

8.3. Given the context of the site and nature of the proposed amendment to the approved scheme, it is considered that the only impacts would be those on the overall appearance of the dwelling, the visual amenities of the area and residential amenity.

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

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

#### Principle of development

8.5. The principle of the development has already been assessed as being acceptable under the original planning application reference (21/00026/F). The permission remains extant. The current proposal does not significantly alter the character of the development and it is considered that the proposed change does not impact on the acceptability of the principle of development.

#### Impact upon the Character and Appearance of the Area

8.6. Policy ESD15 of the CLP 2015 states new development will be expected to complement and enhance the character of its context through sensitive siting, layout and high-quality design. Saved Policies C28 and C30 of the CLP 1996 seek to ensure the layout, scale and design of development is sympathetic to its context.

- 8.7. The proposed changes which relate to the repositioning of the rooflights, replacement of the bi fold doors with new windows, new front porch, the reconfiguration of the permeable paving, replacement of the chimneys with a flue and a new shed would have an impact on the design and appearance of the building. However, the proposed additions would be of a scale and design that would be subservient to the proposed dwelling and would be in keeping with character and appearance of the area in which the proposed dwelling would be located. The proposed alterations would not change the conclusion of the previous officer that the proposal's visual impact would be acceptable.
- 8.8. Overall, for these reasons, it is considered that the amended proposal would not result in significant or demonstrable harm to the character or appearance of the area.

#### Residential amenity

- 8.9. The proposed changes would not significantly increase the footprint or extent of the previous approval. Some of the changes would be perceived / seen by neighbours to the west and north but the proposal would not have any significant impact on neighbours relative to that of the approved development.
- 8.10. Overall, the amended proposal would provide for an acceptable standard of amenity for the future occupiers of the dwelling and its neighbours. The proposal therefore complies with Policy ESD15 of the CLP 2015, saved Policy C30 of the CLP 1996 and Government guidance in the NPPF.

#### Other matters

- 8.11. There are not considered to be any other matters that would lead to a different conclusion being reached since the earlier permission was granted.
- 8.12. Condition 10 of (21/00026/F) which required electrical vehicle charging infrastructure to serve the development is no longer applicable in relation to this type/scale of development, because electrical vehicle charging infrastructure now forms part of the Building Control requirements, and therefore this condition would not be re-imposed.

### **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. For the reasons set out above, the proposed development is considered to comply with the Development Plan, and it is recommended that planning permission be granted.

### **10. RECOMMENDATION**

That permission is granted, subject to the following conditions:

1. Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the application form and drawings numbered 02 REV B, 03 REVB, 06 REV D and SK/102

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.

2. The development shall not be carried out other than in full accordance with the schedule of the materials and finishes approved under application ref. 23/01243/DISC and shall be retained as such thereafter. The approved schedule of the materials and finishes shall be:

Brick – Forterra Hampton Rural Blend  
Roof – Primera Capimor natural slate  
Barge Boards - FREEFOAM :White & Colour, max. 100mm width  
Windows UPVC - Eurocell – Flushfit – White  
Rainwater goods - General Building Plastics 4M Gutter Black Round Freeflow

In accordance with emails to the local planning authority from Ryan Jones dated 05.07.2023 at 1634 hrs, 14.07.2023 at 1200 hrs, 14.07.2023 at 1206 hrs and 14.07.2023 at 1231 hrs.

Reason: To ensure and retain the satisfactory appearance of the completed development and in the interests of the character and appearance of the area and to comply with 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.

3. The development shall not be carried out other than in strict accordance with the Construction Traffic Management Plan reference “Construction Traffic Management Plan For Proposed New dwelling to Rear Of 13, Blackwood Place, Bodicote For Mr R Jones Planning Reference 21/00026/F Revision 1 (February 2023 - Project No 21/146)” approved under application ref. 22/03642/DISC.

Reason: In the interests of highway safety and to mitigate the impact of construction vehicles on the surrounding network, road infrastructure and local residents, particularly at peak traffic times, and to safeguard the living conditions of neighbouring residents, and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy C30 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

4. The development shall not be carried out other than in strict accordance with the full details of the means of access to the public highway, including provisions for surfacing, drainage and vision splays approved under application ref. 22/03762/DISC. The means of access to the public highway, including provisions for surfacing, drainage and vision splays shall be provided on the site in accordance with the said details prior to the first occupation of the development and shall be retained as such thereafter.

Reason: In the interests of highway safety 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.

5. The development shall not be carried out other than in full accordance with the full specification details of the turning area and parking spaces within the curtilage of the site in drawing ref. 06 Rev D prior to the first occupation of the development, arranged so that motor vehicles may enter, turn round and leave in a forward direction and vehicles may park off the highway, and shall be retained for the parking and manoeuvring of vehicles at all times thereafter.

Reason: In the interests of highway safety, to ensure the provision of off-street car

parking and to comply with Government guidance contained within the National Planning Policy Framework.

6. The development shall not be carried out other than in full accordance with the Arboricultural Method Statement (AMS) reference "ARBORICULTURAL METHOD STATEMENT (13 Blackwood Place, Banbury – December 2021 approved under application ref. 22/03642/DISC, drawing "SK/102" and an email to the local planning authority received on (29.01.2024) at 12:29hrs from the applicant's agent (Martin Walker).

Reason: To ensure the continued health of retained trees/hedges and to ensure that they are not adversely affected by the construction works, in the interests of the visual amenity of the area, to ensure the integration of the development into the existing built environment and to comply with saved Policy C28 of the Cherwell Local Plan 1996, Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

7. The development shall not be carried out other than strictly in accordance with the landscaping scheme set out in drawing ref. 06 Rev D. The hard landscape elements shall be carried out prior to the first occupation of the development and shall be retained as such thereafter.

All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in accordance with BS 4428:1989 Code of Practice for general landscape operations (excluding hard surfaces), or the most up to date and current British Standard, in the first planting and seeding seasons following the occupation of the building(s) or on the completion of the development, whichever is the sooner. Any trees, herbaceous planting and shrubs which, within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the current/next planting season with others of similar size and species.

Reason: In the interests of the character and appearance of the area, to maintain biodiversity opportunities at the site and to ensure the creation of a pleasant environment for the development and to comply with Policies ESD10 and 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.

8. The development shall not be carried out other than in strict accordance with the details of the scheme for acoustically insulating all habitable rooms within the dwelling such that internal noise levels do not exceed the criteria specified in Table 4 of the British Standard BS 8233:2014, 'Guidance on sound insulation and noise reduction for buildings' reference "MDR/J4963a" approved under application ref. 22/03642/DISC and shall be retained and maintained as such thereafter.

Reason: To ensure the creation of a satisfactory environment free from intrusive levels of noise and to comply with saved Policy ENV1 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

9. If, during development, contamination not previously identified is found to be present at the site, no further development shall be carried out until full details of a remediation strategy detailing how the unsuspected contamination shall be dealt with has been submitted to and approved in writing by the Local Planning Authority. Thereafter the remediation strategy shall be carried out in accordance with the approved details.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with saved Policy ENV12 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

10. Prior to the first occupation of the dwelling hereby approved the approved rooflights in south-west facing roof slope shall be glazed, using manufactured obscure glass that is impenetrable to sight (at least level 3 only and not an applied adhesive film), before the development is first occupied and shall be retained as such thereafter.

Reason: To safeguard the privacy and amenities of the occupants of the adjoining premises and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy C30 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

**Informative Notes to Applicant:**

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.
2. The applicant's and/or the developer's attention is drawn to the requirements of the Control of Pollution Act 1974, the Environmental Protection Act 1990 and the Clean Air Act 1993, which relate to the control of any nuisance arising from construction sites. The applicant/developer is encouraged to undertake the proposed building operations in such a manner as to avoid causing any undue nuisance or disturbance to neighbouring residents. Under Section 61 of the Control of Pollution Act 1974, contractors may apply to the Council for 'prior consent' to carry out works, which would establish hours of operation, noise levels and methods of working. Please contact the Council's Environmental Protection Team Leader for further advice on this matter.

Case Officer: Michael Sackey

DATE: 31.01.2024

Checked By: Nathanael Stock

DATE: 01.02.2024

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