

West Area Planning Committee

9<sup>th</sup> September 2014

**Application Number:** 14/01601/FUL

**Decision Due by:** 21st August 2014

**Proposal:** Erection of single storey rear extension (retrospective)

**Site Address:** 21 Regent Street Oxford

**Ward:** St Marys Ward

**Agent:** Mr Steve Wright

**Applicant:** Mrs Carolina Hamid

**Application Called in –** by Councillors - van Nooijen, Fry, Upton and Clarkson

for the following reasons - design, context, parking, cycle parking and refuse arrangements, and because of local concern about differences between the executed work and the retrospective application.

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## **Recommendation:**

APPLICATION BE APPROVED

For the following reasons:

- 1 The development forms an acceptable visual relationship with the existing building and local area and will not have an unacceptable effect on the current and future occupants of adjacent properties. Concerns over flooding and private amenity space can be dealt with by condition and the proposals therefore comply with Policies CP1, CP8 and CP10 of the adopted Oxford Local Plan 2001 - 2016, Policies CS11 and CS18 of the Core Strategy and Policies HP9 and HP14 of the Sites and Housing Plan.
- 2 Officers have considered carefully all objections to these proposals. Officers have come to the view, for the detailed reasons set out in the officers report, that the objections do not amount, individually or cumulatively, to a reason for refusal and that all the issues that have been raised have been adequately addressed and the relevant bodies consulted.
- 3 The Council considers that the proposal accords with the policies of the development plan as summarised below. It has taken into consideration all other material matters, including matters raised in response to consultation and publicity. Any material harm that the development would otherwise give rise to can be offset by the conditions imposed.

subject to the following conditions, which have been imposed for the reasons stated:-

- 1 Protection of private amenity space
- 2 Sustainable drainage

### **Main Local Plan Policies:**

#### **Oxford Local Plan 2001-2016 (OLP)**

**CP1** - Development Proposals

**CP8** - Design Development to Relate to its Context

**CP10** - Siting Development to Meet Functional Needs

### **Core Strategy**

**CS11\_** - Flooding

**CS18\_** - Urban design, town character, historic environment

**CS19\_** - Community safety

### **Sites and Housing Plan (SHP)**

**MP1** - Model Policy

**HP9\_** - Design, Character and Context

**HP14\_** - Privacy and Daylight

**HP16\_** - Residential car parking

### **Other Material Considerations:**

National Planning Policy Framework

Planning Practice Guidance

The Town and Country Planning (General Permitted Development) Order 1995. As amended. (GPDO).

### **Relevant Site History:**

02/02034/FUL - Change of use from house in multiple occupation to 2 x 1 bedroom flat and 1 x 2 bedroom flat (Retrospective).. PER 19th December 2002.

05/00481/PDC - PERMITTED DEVELOPMENT CHECK - Demolition of garage. Creation of new hardstanding for cars. PRQ 2nd June 2005.

05/00552/FUL - Demolition of garage Formation of parking area for 3 cars and alterations to access to Denmark Street. REF 6th May 2005.

### **Representations Received:**

A considerable number of comments and objections have been received. Other than the use of painted render, these relate mainly to matters other than the extension itself and focus on the removal of the boundary wall and resultant visual amenity and

security issues, the lack of bin and cycle storage and the loss of the lawned rear garden to gravel and potential car parking.

**Statutory Consultees:**

Local Highways Authority: No comments received

Local Drainage Authority: Drainage should be SUDs compliant

**Issues:**

Visual impact

Effect on adjacent occupiers

**Officers Assessment:**

Site Description and Background

1. 21 Regent Street is a brick built end of terrace house that has been divided into three flats under permission granted in 2002. That permission was conditional on the satisfactory provision of cycle parking and bin stores, but no records have been found indicating that these conditions have been complied with.
2. Permission was sought in 2005 for the demolition of a garage to the rear of the site, the formation of parking area for 3 cars and alterations to access to Denmark Street. This was refused for the following reason:
3. *The proposal to widen/alter the existing access will mean the loss of two on-street parking bays and create a cross-over vehicular access point of approximately 10m in width. The use of the proposed access would be likely to cause undue interference with the safety of pedestrians using this section of the public highway (footway) and cause an inconvenience to other road users of the adjoining highway.*
4. The Planning, Design and Access Statement included with the application makes it clear that the 2002 permission has been implemented and that the development will provide improved bathroom facilities for the lower of the flats.

Proposal

5. The current application seeks permission for the retrospective replacement of part of a single storey rear outrigger with a slightly larger single storey outrigger finished in painted render. The application also makes clear that an area of the rear garden has been dug out around the outrigger and retaining walls provided to the remaining garden.
6. The plans show the retention of the boundary wall to Denmark Street, with a new opening through the wall at the rear of the outrigger. Officers note that this wall has been removed in its entirety.

7. It is further noted that the former garage has been removed from the site and the remaining rear garden has been surfaced with gravel.
8. An enforcement enquiry early in 2014 established that a rear extension had been constructed that did not have the benefit of Permitted Development rights under Part 1 of Schedule 2 of the GPDO because the building is in use of flats. It was also established that the boundary wall had been removed following advice from a Building Control surveyor that it was unsafe, and that this would be replaced with a 1 metre high fence, which would be Permitted Development under Part 2 (Minor Operations) of the GPDO.
9. In dialogue with officers, the applicant's agent has indicated that a condition requiring details of a more permanent boundary treatment would be acceptable.

### Principle

10. The removal of the boundary wall would have been Permitted Development under Class B, Part 31, Schedule 2 of the GPDO, whilst the erection of the 1 metre high fence would be Permitted Development under Class A, Part 2, Schedule 2 of the GPDO. There is no change to the access from the highway to the site of the former garage and therefore no need for consent.
11. The removal of the garage could potentially have been Permitted Development under Class A, Part 31 if the relevant conditions were complied with, whilst the covering of the garden with gravel would not generally need consent, but cannot be taken as the creation of hardstanding under Class F, Part 1, as this class relates only to dwelling houses and not to flats.
12. The apparent failure to comply with the conditions of the 2002 permission cannot be a material matter as it is now impossible to enforce compliance with these conditions due to the passage of time.
13. The main issues for consideration are therefore the effect of the single storey extension on visual and residential amenity and the potential use of the rear garden as hardstanding.

### Visual Impact

14. Oxford City Council requires that all new development should demonstrate high quality urban design where the siting, massing and design creates an appropriate visual relationship with the built form of the local area. The Local Development Plan provides policies to support this aim and CP1, CP8, CS18 and HP9 are key in this regard.
15. The extension is easily visible from the public domain. The proposed painted render finish reflects the existing finish to the lower part of the original side wall and is similar to other extensions in the area. Overall, the extension is not materially detrimental to visual amenity and complies with Policies CP1 and

CP8 of the OLP, Policy CS18 of the Core Strategy and Policy HP9 of the SHP.

- 16.NB: Whilst the removal of the garage could potentially have been Permitted Development under Class A, Part 31 if the relevant conditions were complied with, officers consider that the previous garage structure was of a form and materials detrimental to visual amenity and taking these issues in isolation, its loss is therefore welcome.

#### Effect on Adjacent Occupiers

17. Oxford City Council requires development proposals to safeguard the privacy and amenities of adjoining occupiers and policies CP1 and CP10 of the OLP and Policy HS14 of the SHP support this aim.
18. Appendix 7 of the SHP sets out the 45 degree guidance, used to assess the effect of development on the windows of neighbouring properties.
19. The proposal complies with the 45-degree guidance, is considered unlikely to have a material effect on adjacent properties, and complies with Policies CP1 and CP10 of the OLP and Policy HP14 of the SHP.

#### Private amenity space

20. Policy CP10 of the OLP states that permission will only be granted where developments are sited to ensure that outdoor needs are properly accommodated, including private amenity space. Policy HP13 of the SHP also addresses garden space, but this policy relates only to new dwellings.
21. The demolition of the garage, along with the provision of a gravel surface to the rear garden may create the temptation to use the area beyond the former garage for car parking. This would remove the provision of an area for the drying of clothes or sitting out and it is considered reasonable for any grant of planning permission to be conditional on the approval and provision of a means to physically prevent car parking on this area of garden as well as reinstatement of the boundary wall to protect the privacy and availability of the remaining garden space and ensure the development complies with Policy CP10 of the OLP.

#### Flooding

22. Policy CS11 of the Core Strategy seeks to limit the effect of development on flood risk and expects all developments to incorporate sustainable drainage systems or techniques to limit or reduce surface water run-off.
23. The development will add to the level of non-porous surfaces on the site, resulting in an increased level of rain water run-off. However the increase is relatively modest and subject to a condition to ensure the provision of drainage to the rear yard compatible with Sustainable Urban Drainage

Systems, the development will not result in an unacceptable risk of flooding and comply with Policy CS11 of the Core Strategy.

**Conclusion:**

**24. The development forms an acceptable visual relationship with the existing building and local area and will not have an unacceptable effect on the current and future occupants of adjacent properties. Concerns over flooding and private amenity space can be dealt with by condition and the proposals therefore comply with Policies CP1, CP8 and CP10 of the adopted Oxford Local Plan 2001 – 2016, Policies CS11 and CS18 of the Core Strategy and Policies HP9 and HP14 of the Sites and Housing Plan.**

**Human Rights Act 1998**

Officers have considered the Human Rights Act 1998 in reaching a recommendation to grant planning permission, subject to conditions. Officers have considered the potential interference with the rights of the owners/occupiers of surrounding properties under Article 8 and/or Article 1 of the First Protocol of the Act and consider that it is proportionate.

Officers have also considered the interference with the human rights of the applicant under Article 8 and/or Article 1 of the First Protocol caused by imposing conditions. Officers consider that the conditions are necessary to protect the rights and freedoms of others and to control the use of property in accordance with the general interest. The interference is therefore justifiable and proportionate.

**Section 17 of the Crime and Disorder Act 1998**

Officers have considered, with due regard, the likely effect of the proposal on the need to reduce crime and disorder as part of the determination of this application, in accordance with section 17 of the Crime and Disorder Act 1998. In reaching a recommendation to grant planning permission, officers consider that the proposal will not undermine crime prevention or the promotion of community safety.

**Background Papers: 14/01601/FUL**

**Contact Officer:** Tim Hunter

**Extension:** 2154

**Date:** 29th August 2014