

## East Area Planning Committee

-3rd June 2015

**Application Number:** 15/00324/FUL

**Decision Due by:** 31st March 2015

**Proposal:** Change of use from dwelling house (Use Class C3 ) to Large House in Multiple Occupation (HMO). Erection of single storey rear extension and insertion of 3No rooflights in association with loft conversion. Replacement of door to window to front elevation and alteration to existing windows and doors (Amended plans)

**Site Address:** 30 Westbury Crescent (Site Plan at **Appendix 1**)

**Ward:** Rose Hill And Iffley Ward

**Agent:** Mr Matthew Hollingsworth

**Applicant:** Mrs Alex Marsh

**Application Called in –** by Councillors – Paule, Lygo, Simm, Price for the following reasons – the nature of expanded accommodation and size of the HMO. It risks creating traffic and parking problems. The size of the HMO would be deleterious to the character of the street of family-occupied properties.

---

### Recommendation:

APPLICATION BE APPROVED

For the following reasons:

- 1 The proposed change of use to a House in Multiple Occupation complies with the relevant policies the Oxford Local Plan, The Core Strategy and the Sites and Housing Plan. The proposed change of use will not have a detrimental impact on the character of the area, and the proposal meets the criteria set out in policy HP7 to avoid a saturation of 20% of HMOs within a 100 metres street frontage. The proposed layout has had regard to the good practice guidelines set out in the Council's Amenities and Facilities for Houses in Multiple Occupation Good Practice Guidance for Landlords.
- 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.

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

- 1 Development begun within time limit
- 2 Develop in accordance with approved plans
- 3 Cycle parking details required
- 4 Details of refuse storage and removal
- 5 Limit to 8 persons

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

#### **Oxford Local Plan 2001-2016**

**CP1** - Development Proposals

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

#### **Core Strategy**

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

### **Sites and Housing Plan**

**MP1** - Model Policy

**HP7** - Houses in Multiple Occupation

**HP9** - Design, Character and Context

**HP14** - Privacy and Daylight

**HP15** - Residential cycle parking

**HP16** - Residential car parking

**HP1** - Change of use from existing homes

### **Other Material Considerations:**

National Planning Policy Framework

Planning Practice Guidance

Amenities and Facilities for Houses in Multiple Occupation; Good Practice Guidance for Landlords

### **Relevant Site History:**

The house has had four previous planning applications. Two refer to a garage outbuilding in 1963. The more recent applications are as follows:

78/00678/A\_H – Side and rear extension including garage

96/00108/NF – Single-storey side extension

### **Representations Received:**

1. Comments on the application have been received from the following:  
6, 12, 15, 17, 18, 19, 21, 24, 25, 26, 27, 29, 31, 32, 34, 36, 38 Westbury Crescent. 2 comments were also received from 2 properties in Westbury Crescent where the respondent did not provide their address. Comments were also received from Chancellors Estate Agents, Spirit Architecture and Martin & Co. Letting Agents. Comments were also received from Nigel Kitching (no address given); Phil Kelly (no address given); 50 Firs Meadow; Jana Swan (no address given); and 25 Glendale Road, Hove.

### Access

2. Representations about access (particularly in relation to access to the rear of the property) were made by the majority of objectors. The main argument in relation to the access at the rear of the property was that it was off a public footpath and that several of the other properties had restrictions about gaining access to said footpath (through restrictive covenants on the deeds to their properties).

### Cycle Storage

3. A linked objection to the issue of rear access, also made by a number of respondents was that of the storage area being to the rear of the property could not be accessed from the rear of the property.

### Amount of development on site

4. A number of respondents were concerned that the HMO could have up to 10 people living in the property as two of the bedrooms are large enough to accommodate two people. The original property was a three bedroom semi-detached property.

### Bin storage

5. A number of respondents expressed concern about the location of the bin store and that fact that it might reduce the amount of on-plot car parking that was available.

### Effect on adjoining properties

6. A number of respondents stated that there would be an effect on adjoining properties as a result of the development. This appears from the representations, to be in relation to on-street parking and parking provision and as such will be dealt with under the relevant headings below.

### Effect on character of the local area/ Existing HMOs

7. A number of respondents pointed out that there are already several HMOs present in the street. They considered that an additional HMO in the street would have a detrimental impact on the character of the area.

### Effect on privacy

8. This was mentioned by a number of respondents however it was not elaborated upon in the text of their responses.

#### Effect on traffic

9. A large number of respondents were concerned about the impact of the development on traffic. Respondents referred to Westbury Crescent as a “rat-run” and that cars often travel faster than the 20mph speed limit. Their concerns related to how increased car parking on the street as a result of the development would impact on road safety.

#### Effect on local ecology/ biodiversity

10. The respondent did not provide any additional comments in relation to this particular objection.

#### Noise and Disturbance

11. A number of respondents considered that there would be a likely increase in noise and disturbance as a result of increasing the occupancy of the property. One respondent expressed concern about friends coming round at the weekends for barbeques and parties.

#### On street parking

12. A number of respondents were concerned about the amount of on-street parking that could come with this large HMO. The respondents are concerned about the increased dangers of additional on-street parking on a blind bend; about the amount of additional on-street parking that could arise as a result of the large 8-bed HMO (if all the residents owned a car); and the fact that the road is already full with cars at evenings and weekends. Some respondents expressed concern about the additional parking pressure caused by the creation of the HMO in light of existing parking issues – some were concerned that employees of the Nissan Garage parked their cars in the street during the daytime.

#### Parking provision

13. This is related to the previous consideration (on-street parking). Respondents were concerned that with only 3 on-plot spaces, the remaining 5 cars would be likely to be parked on-street. The respondents re-iterated concerns about existing parking pressures and considered that the application should be refused.

#### Resources impacts

14. A number of respondents raised the issue of 8 additional people putting a strain on resources including water supply, wastewater, doctor’s waiting times and infrastructure/ highways.

#### Other issues

15. A number of respondents wrote in in support of the application in question. There were several positive character references from previous tenants of the applicant as well as letters of support from letting and estate agents. There was one letter of support from a resident in Westbury Crescent who lives in the house next door (currently a licenced HMO). He noted that number 30 Westbury Crescent had been through some serious improvements and renovations since its purchase and considered that more HMO property was needed in the area as there were lots of people he worked with who were unable to find a property in Oxford.

**Statutory and Internal Consultees:**

Thames Water Utilities Limited: Thames Water has no objection with regard to sewerage infrastructure capacity for this development

Thames Water has no objection with regard to water infrastructure capacity for this development

Thames Water recommends the following informative:

*Thames Water will aim to provide customers with a minimum pressure of 10m head (approx. 1 bar) and a flow rate of 9litres/ minute at the point where it leaves Thames Water pipes. The developer should take account of this minimum pressure in the design of the development.*

Oxford Civic Society:

No evidence provided to demonstrate compliance with policies HP1 and HP7.

No details of the proposed cycle store to the rear of the property.

No details of access to proposed cycle store are provided

No access to the rear of the property from Westbury Crescent as such any access to rear not practical.

Consent should be refused pending confirmation with Council policies, submission of an acceptable design for a storage facility and demonstration of the practicality of this.

Natural England: Unlikely to affect any statutorily protected sites.

Natural England has not assessed application for impacts on protected species.

Oxfordshire County Council: Two enquires have been made in relation to rat-running/ speeding/ traffic calming over past 5 years. First was in December 2011. Second in July 2012

1. No funds to provide traffic calming in Westbury Crescent.
2. No speed-related injury accidents. 20mph speed limit introduced (2009). Police now enforcing (July 2012) 20mph speed limit

**Issues:**

Concentration of HMOs in the area

Compliance with Amenities and Facilities for HMOs

Cycle and Car Parking provision

Other issues raised by third parties

Single storey rear extension

**Sustainability:**

The officer considers that this is a sustainable location, close to bus stops, shops and other facilities.

## Officers Assessment:

### Access and Cycle Storage

16. Whether or not a property has a covenant restricting access is not a planning matter however, given the amount of objections, the officer has investigated this issue. The officer has found that 30 Westbury Crescent does not have a restrictive covenant on the deeds to the property in relation to access at the rear of the property. A number of representations were made about the legality of cyclists using the footpath to the rear of the property. It is not considered that this is material to the application however, has looked into the issue and found that it is not illegal to cycle along certain footpaths, including the one to the rear of the application property.
17. It is worth noting that the previous owners also had a rear access to the property. As stated above, it is considered that whether or not a restrictive covenant exists is not a planning matter however it has been demonstrated that one does not exist and therefore access to the rear of the property is considered acceptable and as such so is the location of the cycle storage area in the rear garden.
18. Policy HP.15 requires that there should be at least 1 cycle parking space per occupant. This proposed cycle shelter to the rear of the property should be able to accommodate these requirements. There is ample space at the rear of the property to accommodate such a facility however details have been requested through a condition. It is the officer's assessment that the enclosed cycle parking to be provided to the rear of the property complies with HP15 in this and all other respects.

### Amount of development on site

19. This was an objection made by third parties in relation to the number of occupiers that the HMO could house. The officer considers that the number of occupants should be limited to the number of bedrooms as this will restrict the maximum number of vehicles associated with the property. Parking provision is dealt with separately below. Officers consider that a condition limiting the occupancy to eight persons should be included as this should allay concerns expressed by respondents about the property being used for more occupants than the number of bedrooms provide for.

### Bin storage

20. The Amenities and Facilities for HMOs: Good Practice Guidance sets out, *inter alia*, how many bins should be provided for an HMOs based on the occupancy of the HMO. For 8 occupiers, the Amenities and Facilities Guide sets out the following:

	Residual Waste	Recycled Waste		
Number of occupiers	Green wheelie bin	Blue wheelie bin	Food caddy for kitchen	Food Waste Bin
<b>8</b>	<b>1x360</b>	<b>1x360 &amp; 1x240</b>	<b>1</b>	<b>1</b>

21. Officers consider that there is sufficient space for such a storage area at the

boundary of the site with number 28 Westbury Crescent at the front of the property. However details of this should be provided prior to the occupation of the HMO. A condition has been added to the application.

#### Effect on character of the local area/ Existing HMOs

22. There are three existing HMOs on Westbury Crescent within 100m of street length either side of the application property. One of the HMOs does not have an HMO licence, and steps are being taken to rectify this. The HMO enforcement team have been out to the property and are taking the necessary steps to ensure that this property, which is in use as an HMO, is properly licenced.
23. This property should only be included in the HMO calculation if it has been operating as an HMO on or before February 2012. The HMO enforcement team has not been able to ascertain this so officers have taken the following approach to look at two scenarios and have made the HMO percentage calculations.
24. Scenario 1: Assumes the property was in operation as an HMO on or before 23 February 2012 (included in the calculation)
25. There are 39 buildings within 100m on the street frontage either side of the application property. There are 3 HMOs. 2 are licensed and 1 not.
26.  $3/39 \times 100 = 7.7\%$ . This is the percentage of existing HMOs in the street (Assuming that the non-licenced property is acting lawfully as an HMO.
27.  $4/39 \times 100 = 10.3\%$ . This is the percentage of existing HMOs in the street.
28. This is within the 20% threshold set out in the Sites and Housing Plan (Policy HP7) and so the inclusion of an additional HMO within Westbury Crescent is considered acceptable.
29. Scenario 2: Assumes the property was not in operation as an HMO on or after 24 February 2012 (not included in the calculation)
30. Given the above, this will also be acceptable with 7.7% of the street frontage in use as HMO properties. Again, this is well below the threshold of 20%.
31. As such officers consider that the proposals for a large HMO at 30 Westbury Crescent is acceptable in planning terms and will not have an adverse or detrimental impact on the character of the area.

#### Effect on privacy

32. As the development does not propose any materially different physical alterations to the existing property (the demolition and rebuilding of a single storey rear extension is the main element of building works that is being undertaken); officers consider that effects on privacy are acceptable.

#### Effect on traffic

33. This issue has been dealt with under the on-street parking heading as it duplicates a number of issues.

#### Effect on local ecology/ biodiversity

34. The potential effect on biodiversity and ecology has been considered, particularly the potential impact on protected species. Officers do not consider that there is any likely harm to protected species as a result of this development.

#### Noise and Disturbance

35. Officers do not consider that the types of noise issues, described by respondents are material to the application. The possibility of having friends round at weekend and having barbeques (presumably during the summer) are not valid reasons to refuse an application.
36. It is worth noting that as the property is proposed to be a licenced HMO there are more powers that can be used to control noise and disturbance issues should they arise than if the property was privately owned.

#### On street parking

37. Westbury Crescent is currently outside of a controlled parking zone and as such has unrestricted parking. As such in planning terms, the residents of the property will all be able to bring a car to the property if they wish. Officers acknowledge the issues raised by the respondents to the consultation, but they do not amount to sufficient justification to refuse the application. Officers have suggested the inclusion of a planning condition limiting the number of occupants in the HMO to 8 persons. This will limit the maximum number of vehicles that could be associated with the property. It is worth noting that should a controlled parking zone be introduced then the property would be restricted to two on-street parking permits for residents.

#### Parking provision

38. The Sites and Housing Plan provides details of the maximum parking standards for an HMO. These standards, outside the Transport Central Area are 1 space per 2 habitable rooms. As such the HMO can have a maximum of 5 allocated spaces. There are three on-plot spaces and as Westbury Crescent is currently an unallocated street for parking, there are no additional allocated spaces for the property. Policy HP16 has been complied with in all respects.

#### Compliance with the Amenities and Facilities Guide

39. The Amenities and Facilities Guide has been considered and the HMO complies with it in all respects (unless further details have been required elsewhere in this report).

#### Resource Impacts

40. Issues raised by respondents included water supply and wastewater. Thames Water has provided a response in this regard and has not objected to the proposals. Traffic infrastructure was also raised. This has been dealt with under parking provision and on-street parking.

#### Single storey rear extension

41. The original property included a single storey rear extension that was in poor



condition. This was originally permitted under a previous planning permission a number of years ago. The proposals under this application included an extension that is smaller than the extension approved previously. This extension is in order to provide a living area for the future occupants. The single storey rear extension was the subject of an enforcement investigation earlier this year. The applicant demolished the existing extension and was in the process of building the replacement extension believing it permitted development. As soon as the applicant realised that this was not permitted development they stopped work on the development. This extension is acceptable in all respects as it is less visually intrusive than the existing extension and will provide a living area for the future occupants of the property.

**Conclusion:**

Approve.

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 **Approve with conditions**, officers consider that the proposal will not undermine crime prevention or the promotion of community safety.

**Background Papers:**

**Contact Officer:** Richard Wyatt

**Extension:** 2704

**Date:** 21st May 2015

# Appendix 1

## 15/00324/FUL - 30 Westbury Crescent

