

East Area Planning Committee

-3rd February 2016

Application Number: 15/03001/FUL

Decision Due by: 7th December 2015

Proposal: Erection of timber covered area to provide external seating in rear garden. (Amended plans)

Site Address: Somerset House 241 Marston Road Oxford Oxfordshire

Ward: Marston Ward

Agent: Mr Huw Mellor

Applicant: Mr Suhayl Ali

Recommendation:

APPLICATION BE APPROVED

For the following reasons:

- 1 The development is considered acceptable in principle as an extension to the existing pub and restaurant use of property and the creation of an enclosed outdoor seating area. The development would be acceptable in terms of its design and appearance; particularly when viewed from Ferry Road. The proposed extension would also be acceptable in terms of its impact on the amenity of surrounding residential occupiers, specifically in relation to light, privacy, visual appearance and noise and disturbance. The proposals provide areas for landscaping that would enhance the appearance of the rear aspect of the building and contribute positively to the quality of environment created on the site. Adequate arrangements are provided for car parking and cycle parking. For these reasons, the development is considered acceptable in the context of Policy CP1, CP6, CP8, CP10, CP11, CP19, CP20, CP21, TR3 and TR4 of the Oxford Local Plan 2001-2016, Policy CS11 and CS18 of the Core Strategy (2011) and Policy HP14 of the Sites and Housing Plan (2013).

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 Materials

- 4 Landscaping
- 5 Hard landscaping
- 6 SUDs
- 7 Cycle parking
- 8 Advertisements
- 9 Lighting
- 10 Hours of operation
- 11 External Sound Amplification
- 12 Use of Extension
- 13 No A/C or extraction
- 14 No further canopies

Principal Planning Policies:

Oxford Local Plan 2001-2016

CP1 - Development Proposals

CP6 - Efficient Use of Land & Density

CP8 - Design Development to Relate to its Context

CP10 - Siting Development to Meet Functional Needs

CP11 - Landscape Design

TR4 - Pedestrian & Cycle Facilities

TR3 - Car Parking Standards

CP19 - Nuisance

CP20 - Lighting

CP21 - Noise

Core Strategy

CS2_ - Previously developed and greenfield land

CS9_ - Energy and natural resources

CS10_ - Waste and recycling

CS11_ - Flooding

CS18_ - Urban design, town character, historic environment

Sites and Housing Plan

HP14_ - Privacy and Daylight

Other Material Considerations:

Public Consultation

Representations Received:

12 Ferry Road, Edgeway Road (no number provided), 4 Ferry Road, Ferry Road (no number provided), Flat 5 (1A Ferry Road), 2 Ferry Road, 58 William Street, Flat 2 (1A Ferry Road), 9 McCabe Place, 1 Ferry Road, , 42 Ferry Road (2 objections from this address), John Garne Way, Ferry Road (no number provided), 47 Edgeway Road, 5 Ferry Road, 62 Ferry Road, 50 Edgeway Road and 78A Ferry Road.

Objections:

- Effect on adjoining properties
- Effect on character of area
- Effect on existing community
- Parking provision
- Concerns about use as shisha area
- Pollution
- Disturbance on local residents
- Impact on health
- Concentration of use (number of tables)
- Light pollution
- Noise impact
- Environmental impact (particularly of outdoor heating)
- Impact on flooding and surface water drainage
- Access
- Impact on traffic
- Impact of increasing use throughout year
- Impact on Green Health Route
- Fire risk
- Site could provide housing
- Increased fear of crime
- Effect on light
- Impact on biodiversity

3 Rippington Drive, 232 Marston Road, 243 Marston Road, Clive Booth Student Village (no flat number provided) comments in support:

- Development would provide a good service
- Supportive of community use
- Support restaurant use near to accommodation

62 Ferry Road , comments neither supporting or objecting:

- Impact of smoking (health impacts)
- Community use, seek use of the building as a pub

NB. The responses above were received in relation to both the originally submitted plans and amended plans; these responses therefore relate to two three-week

consultations.

Statutory and Internal Consultees:

None

Relevant Site History:

None

Main issues:

Principle

Design

Impact on neighbours

Access and parking

Flooding and surface water drainage

Officers Assessment:

Site Description

1. The application site comprises Somerset House (241 Marston Road), an existing public house and restaurant in the Marston area. The property lies on the corner of Marston Road and Ferry Road.
2. The application site includes a large 1930s pub building which has been extended and altered over the years. At the front and sides of the building there are tarmac surfaced areas which are used for car parking. At the front of the property there is some additional parking and an area enclosed by a low railing that it is understood has been used to provide some additional outdoor seating in the past. At the rear of the site there are existing terraces which are raised, one along the rear elevation of the building and one adjacent to the northern boundary of the site. The terrace extending along the rear elevation of the pub is covered. There is also a substantial pub garden area of approximately 12m in length and 19m in width. In the south-west corner of the site there is an existing single storey garage building.
3. There is very little vegetation on the site, with some shrubs and small trees along the western boundary.
4. There is an existing access into the pub garden from the pub as well as from the side elevation adjacent to the car park (facing onto Ferry Road).
5. The property on the site was used until the Summer of 2014 as a public house and restaurant known as 'The Somerset'; the lawful use of the property would be considered to be a restaurant (Use Class A3). Since the Summer of 2014 the site has been vacant and has been purchased by a new owner.

Proposed Development

6. It is proposed to erect a single rear extension that would extend approximately 7m beyond the existing rear terrace area into the garden. The proposed extension would extend across the width of the rear of the building; with both the existing terraces to the north and east of the proposed extension. The proposed extension would be constructed from partially brick and partially timber, with a brick wall and upright timber supporting a timber roof. The walls of the extension would be partially open, with open areas between the upright timber supports. There is a skylight proposed for the centre of the roof and the roof would adjoin the existing covering of the outdoor terrace that abuts the rear of the restaurant.
7. Planting is proposed to the south of the extension (facing towards Ferry Road), along the western boundary and along the northern boundary (on the existing outdoor terrace area).
8. Access to the extension would be from the main restaurant; the separate entrance onto the car park from the garden (on the Ferry Road side) would also be retained.
9. It is proposed to use the extension in connection with the restaurant use of the property, to provide additional seating (as detailed in the application form and accompanying planning, design and access statement).

Principle

10. The proposed development would be an extension to an existing property that has been used for many years as a restaurant and public house. It is considered that the proposed extension would be acceptable in principle as an extension. Officers recommend that the proposed extension would be on the site of the existing pub garden where outdoor seating has previously been provided; the proposals primarily seek to partially enclose some of this area and therefore the actual use of this area would not be materially different in planning terms.
11. The application details that the proposals have been put forward as an attempt to create additional seating that would increase the viability of the site for a restaurant. Officers consider that the approach could lead to a more efficient use of land that would be broadly supported by Policy CP6 of the Oxford Local Plan 2001-2016; particularly in the context that the site is currently disused.

Design and Landscaping

Impact on Streetscene

12. The proposed extension would be set back from Ferry Road and Officers do not consider that it would be prominent in the streetscene. Further to this, it would not be particularly high or obtrusive and would be partially screened by the existing garage and wall and the railings on the Ferry

Road frontage. Significant areas of landscaping are proposed which would further soften the impact of the proposed development. As a result, it is the view of Officers that the development would form a visually acceptable addition to the streetscene.

13. Officers have considered whether or not the partially enclosed area that would be provided may be enclosed further by additional canopies; this could have a detrimental impact on the appearance of the area. As a result, a specific condition is included in the recommendation to preclude further canopies being provided.

Materials

14. The proposed materials for the extension would be partially brick and partially timber. Officers consider that the proposed materials would be acceptable subject to a condition that would require the submission of samples prior to the commencement of the development; Officers recommend that this condition should also require the details of the external finish of the timber elements.

Landscaping

15. The proposals include areas for landscaping; these are indicative areas on the plans and there are no details for the species and type of trees and shrubs proposed. Officers consider that the width and areas of indicative landscaping shown would provide an opportunity to ensure that the development would be visually acceptable by softening the impact of the development when viewed from the streetscene but also making a positive contribution in terms of contributing the verdant appearance of the area. As a result, Officers have recommended that a condition be included that would require the submission of a landscaping scheme prior to commencement.

Impact on Neighbours and Use of Extension

Impact on Amenity

16. Officers have carefully considered the impact of the proposed development on the amenity of neighbouring residential occupiers and nearby residents. Officers have also examined all of the objections and comments made in relation to the application and have assessed the impacts of the issues raised

Impact on Light

17. The proposed development would not have an adverse impact on light conditions in terms of a loss of light. There would be sufficient distance between the proposed development and neighbouring residential properties to ensure that the extension would not block sunlight to windows of nearby dwellings. In reaching this view, Officers have been

particularly mindful of the requirements of Policy HP14 of the Sites and Housing Plan (2013).

External Lighting

18. In addition to an assessment for the loss of light, Officers have also considered the impact of the increased light that would result from a partially open structure. The submitted planning, design and access statement suggests that there would be lighting of controllable intensity located on the roof of the extension that would throw light down onto the partially enclosed seating area. Officers consider that this type of lighting, combined with the reasonable distance to the boundary and proposed landscaping would mean there would be no detrimental impact on neighbouring occupiers as a result of nuisance and disturbance from lighting. However, Officers recommend that the type of lighting to be used in this area should be the subject of a condition to ensure that it is suitable in terms of its strength and siting; the condition should also ensure that no further lighting is provided without the prior written consent of the Local Planning Authority.

Impact on Privacy

19. The proposed development would not have an adverse impact on privacy. The development would be entirely single storey, which means there would be no increased overlooking from the extension. There is an existing area of raised terrace at the northern end of the site but this is not proposed to be altered; there is also an existing wall that separates this terrace area from the neighbouring gardens at No. 2 Ferry Road and No. 243 Marston Road. Officers consider that the proposed landscaping would further ensure that there would be no loss of privacy resulting from the development.

Impact on Outlook

20. The proposed development would not have an unacceptable impact on the outlook from neighbouring properties. The proposed development would be fairly low and would be sufficiently far from the boundaries to ensure that it would be neither over-bearing or obtrusive.

Noise and Disturbance

21. The existing location of the proposed extension could already be lawfully used for outdoor seating or as a pub garden. On this basis, Officers recommend that although the partial enclosing of some of this space resulting from the proposed extension would lead to an increased intensity of its use it would also partially reduce the noise and disturbance resulting from the use of that space. Officers have recommended a condition be included that would continue the existing restrictions on opening hours; consistent with the current use, which would ensure that the noise disturbance from the use of the outdoor seating area would not continue

late into the night.

22. The proposed separation between the extension and the boundary, as well as quite substantial areas proposed for landscaping would help to ensure that there would not be an unacceptably adverse impact on noise and disturbance for neighbouring residential occupiers.
23. Officers have included a condition in the recommendation that would require that no external noise amplification equipment be installed on the extension unless agreed otherwise in writing by the Local Planning Authority. There are no proposals to use the extension in this way, though if this equipment were installed without a proper assessment then it could give rise to increased noise and disturbance to the detriment of surrounding occupiers.

Heating

24. There are proposals to heat the partially enclosed extension using outdoor heating, these will be streamline and recessed into the roof to enable the seating area to be used year-round. Officers have been mindful of the environmental concerns about this development but consider that this is something that could be provided anyway within the context of the existing pub garden.

Use of Extension

25. The proposed extension is proposed to be used in conjunction with the lawful restaurant use of the main building. Officers have already outlined that this use would likely be acceptable and a condition has been recommended that would seek to ensure that this would be required; the result would be that the extension could not be used as a separate business.
26. Many of the concerns and objections raised by local residents relate to the use of the extension which specifically relate to the use of the extension for shisha and a smoking area. The application does not detail that this would be the specific way that the extension would be used, only that the extension would be used in conjunction with the restaurant use and to provide additional seating. However, Officers would indicate to members that such a use would not likely require planning permission as long as it formed a subordinate element of the restaurant use of the premises. Regardless of whether or not the concerns that the proposed extension would be used for shisha are well-founded or not, Officers have addressed some of the concerns raised in objections and comments below.
27. The existing pub garden area can be used for outdoor seating and provide space for people to smoke. Arguably the partial enclosing of the space (and its heating) would enable it to be more intensively used by smokers if that became part of the use, though Officers do not consider that this is

something that could form the basis of refusing planning permission. Officers would consider that the landscaped areas around the boundaries that are proposed with the application and do not currently exist could help to ensure that there would be less risk of people smoking directly adjacent to the boundary with neighbouring properties and thereby causing smoke to impact upon nearby residential occupiers.

28. Some of the concerns relate to the health impact of smoking, particularly shisha or water-pipe tobacco. Officers would recommend that this is not a matter that be addressed through planning.
29. Following on from the above point, Officers have received information that the application site lies on a recently established 'Green Health Route' where doctors at nearby GP surgeries refer their patients to walk a 'Green Health Route' to benefit their health. Concerns have been expressed that, if the development involved the creation of a shisha area then it could erode the quality of this as a 'Green Health Route'. Officers have been mindful of these concerns; if the extension were used for smoking then there would be some separation from the road and landscaping that would reduce that impact.
30. There are no proposals to provide extraction equipment or air conditioning. Officers have considered that if this equipment was installed it could give rise to mechanical noise that could disturb local residents, as a result a condition has been included in the recommendation that would prevent its installation without seeking planning permission first.

Fire Risk

31. Some concerns have been expressed in relation to fire risk from the proposed development. The proposed extension would need to meet the requirements of building regulations and have appropriate fire safety equipment; Officers recommend that this is not a basis for refusing planning permission.

Access and Parking

Access and Car Parking

32. There are no proposals to alter the access or car parking arrangements at the site. Officers consider that the existing arrangements are acceptable and consider that the development meets the requirements of Policy TR3 of the Oxford Local Plan 2001-2016.
33. Some concerns have been expressed about the increased use that would take place as a result of the proposed extension and that this could create or worsen car parking issues in the area (particularly on-street in Ferry Road). Officers have been mindful of these concerns but note that the area is a Controlled Parking Zone (CPZ) and there is already some parking at the application site. The application site also benefits from

excellent access to public transport, being directly adjacent to bus stops serving the City Centre, Marston, the JR, the railway station, Cowley, and Oxford Brookes. The application site is also conveniently accessible by bicycle with convenient access to the Marston cycle route.

Cycle Parking

34. There are proposals for cycle parking included with the application. Officers consider that this would be beneficial and improve the accessibility of the application site by cycle. The proposals would involve the creation of a number of stands at the front of the building. A condition has been included to ensure that these stands are provided in accordance with Policy TR4 of the Oxford Local Plan 2001-2016.

Flooding and Surface Water Drainage

35. The application site does not lie in an area of high flood risk.
36. There are limited details provided in relation to surface water drainage. However, Officers have recommended a condition that would deal with surface water management on the site and ensure that the development complies with SUDSs requirements and the requirements of Policy CS11 of the Core Strategy (2011).

Conclusion:

37. On the basis of the above, Officers recommend that planning permission should be granted subject to the conditions as included above.

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:

Contact Officer: Robert Fowler

Extension: 2104

Date: 18th January 2016

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