East Area Planning Committee

12th October 2016

Application Number: 16/01213/FUL

Decision Due by: 8th July 2016

Proposal: The retention of 1No. 1bedroom flat, and provision of 2No.

2bedroom flat extending into the existing vacant extension,

and provision of amenity space, vehicular and cycle

parking, landscaping, and other associated works.

(Amended Plans, Amended Description).

Site Address: 8 Jersey Road Oxford

(Site Plan – Appendix 1)

Ward: Rose Hill And Iffley Ward

Agent: Mr Geoffrey Huntingford **Applicant:** Ms H Kamal

Application Called in by Councillors Turner, Price, Fry and Rowley for the following reasons – long-running site history and in concern about the volume of development on the site and the impact upon the neighbouring property.

Recommendation:

The East Area Planning Committee is recommended to grant planning permission for the following reasons:

- 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.
- 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.

Conditions

- 1 Development begun within time limit
- 2 Develop in accordance with approved plans
- 3 Submission of elevations to stores

4 Car parking and vision splays

6 Bin storage - hard surface access

7 Sustainable drainage

Main Local Plan Policies:

Oxford Local Plan 2001-2016

CP1 - Development Proposals

CP8 - Design Development to Relate to its Context

CP10 - Siting Development to Meet Functional Needs

CP9 - Creating Successful New Places

CP10 - Siting Development to Meet Functional Needs

CP11 - Landscape Design

CS18_ - Urban design, town character, historic environment

Core Strategy

CS23_ - Mix of housing

Sites and Housing Plan

MP1 - Model Policy

HP1 – Change of use from Existing Homes

HP2 - Accessible and Adaptable Homes

HP4_ - Affordable Homes from Small Housing Sites

HP12_ - Indoor Space

HP13_ - Outdoor Space

HP14_ - Privacy and Daylight

HP15_ - Residential cycle parking

HP16_ - Residential car parking

Other Material Considerations:

National Planning Policy Framework Planning Practice Guidance Planning Appeal APP/G3110/A/13/2205805

Relevant Site History:

The following applications are contained in the Local Planning Authority's statutory register relating to the appeal site:

- 03/01677/FUL Two storey side and rear extension. Granted planning permission 22nd October 2003.
- 03/02132/FUL Erection of single storey rear extension. Granted planning permission 22nd December 2003.
- 12/00434/CEU Application to certify that the conversion of a single family dwelling to 4 flats (4x1 bed) is lawful. Certificate issued 18th April 2012.
- 13/00757/FUL Internal alterations to an existing, lawfully extended, building to provide enlarged flats (2 x 2-bed and 2 x 1-bed). Provision of vehicle parking,

bin/cycle storage, communal amenity space and landscaping. (Amended plans). Refused at Appeal 17th March 2014.

• 15/00192/FUL - Conversion of existing two storey side and single storey rear extension, to incorporate into the existing 4no. flats to create 2no. 1 bed flats and 2no. 2 bed flats. Provision of bin and cycle stores and additional landscaping (Retrospective) (Amended plans). REF 8th January 2016.

Representations Received:

Letters of comment have been received from the following addresses:

3, 6 and 7 Jersey Road
42 Thames View Road
70 Dashwood Road
26 and 40 Lambourn Road
27 Mortimer Road
104 Nowell Road
6 Radford Close
3 and 18 Rivermead Road
16 and 27 Alice and Margaret House

These comments can be summarised as follows:

Objection on the grounds of -Overdevelopment, overcrowding, over-intensive use, cluttered frontage, harmful to appearance of street and area, inadequate bin storage and car parking, inappropriate siting of cycle store, detrimental to Highway Safety. Risk that development would not be carried out in accordance with plans.

Statutory Consultees:

Local Highway Authority: No objection subject to condition

Rose Hill Tenants and Residents Association: Previous refusal reasons apply, site is overdeveloped with impractical rear access. Noise and disturbance due to large number of potential occupants. Cluttered frontage, inadequate parking, risk of fire.

Oxford Civic Society: "Please note that the document "Updated highway comments" has not been uploaded in PDF format, and is thus not viewable on the public-access computer terminals at St Aldates Chambers."

Officers Assessment:

Site description and proposal

1. The site is a semi-detached house on a residential road within the Rose Hill housing estate. The area is characterised by a mix of semi-detached and terraced housing originally built for Local Authority Housing (appendix 1).

- 2. Permission is sought to provide 1No. one bedroom flat, 2No. two bedroom flats along with internal access to the rear incorporating a cycle storage area and associated works. The current proposal varies from that originally submitted, notably with regard to the internal access and cycle store.
- 3. Officers consider that the principle determining issues are the suitability and capacity of the site, lack of contribution to affordable housing and the impact of appropriate car parking and other facilities on the frontage on visual amenity.

Background

- 4. Permission was granted in 2003 for a two storey side and rear extension under application 03/01677/FUL. This permission was conditional (Condition 5) on the extension being occupied as part of the family dwelling house. The permission was subsequently implemented and the extension built. The extension is currently unoccupied and the areas within it are indicated on the site plan as being within the red line and on the "Floor plans with existing occupation" as being outside the green lines. NB. The second of these plans has been amended to correct an error in the original submission.
- 5. The original house is now in use as four flats. Use as flats has been on-going since at least 2007, and a Certificate of Lawful Use was issued in April 20012 under application 12/00434/CEU because the change of use was by then immune from enforcement action by the Local Planning Authority. A single storey rear extension granted permission under application 03/02132/FUL was not conditional on its use being as part of the original family dwelling and that area also forms part of the existing flats. The plan submitted with application 12/00434/CEU is attachedin Appendix 3. Officers note that the layout of the flats has changed from the layout at the time the Certificate was issued.
- 6. Due to the condition referred to above, the two storey side and rear extension can only be used as part of the original family dwelling, which no longer exists. The situation is therefore that the construction of the extension is lawful, and the use of the original house and ground floor extension as four flats is lawful, but it is not lawful to use the larger extension for any lawful use whilst the house remains as flats unless a further consent is granted by the Local Planning Authority.
- 7. A previous application (13/00757/FUL) sought to address the issue described above by seeking to convert the whole dwelling (including extension) as 4 flats. This application was not determined by the Council, and subject of an Appeal against non-determination. In defending this appeal, officers provided the Inspectorate with the following reasons for refusal:
 - 1. The application fails to demonstrate that the site is capable of providing an appropriate provision of car parking, secure and covered storage of cycles and safe, discrete and conveniently accessible storage of refuse and recycling or an acceptable level of privacy for the occupants of the ground floor flats. The development would be likely to result in an unacceptable level of residential amenity for future occupants and

provide a cluttered and cramped frontage with inadequately screened refuse and recycling storage, insecure and uncovered cycle storage and would be likely to result in vehicles parked on the site overhanging the footway to the detriment highway safety and visual amenity, contrary to Policies CP1, CP10 and CP8 of the adopted Oxford Local Plan 2001 -2016, CS18 of the Oxford Core Strategy and HP13, HP14, HP15 and HP16 of the Sites and Housing Plan.

- 2. The proposal is to provide 4 dwellings and therefore falls within the ambit of sites that are expected to make a contribution towards offsetting the need for affordable housing and in the absence of such a contribution being agreed the need for affordable housing would not be met. The proposal is therefore contrary to Policies CS23 of the Core Strategy and HP4 of the Sites and Housing Plan 2011 2026.
- 8. This appeal was dismissed, with the Inspector concluding: "... the proposal would be harmful to the character and appearance of the street scene and ... it would fail to make the necessary contributions to affordable housing needs within Oxford." The inspector's report makes it clear that the parking provision was acceptable in terms of number of spaces, but contributed to an unacceptable impact on visual amenity.
- 9. More recently, an amended application for four flats (15/00192/FUL) was refused by the Council for the following reasons:
 - Because of the cramped and cluttered provision of refuse and recycling storage, the three regimented and dominant car parking spaces and the limited amount of landscaping, the proposed development would result in a cluttered and chaotic site frontage, that would appear out of character with the surrounding area and visually jarring in the street scape, to the detriment of visual amenity and contrary to Policies CP1 and CP8 of the of the adopted Oxford Local Plan 2001 2016 and CS18 of the Core Strategy and Policy HP9 of the SHP Sites and Housing Plan.
 - The continued provision of four flats, coupled with their increased size and number of bedrooms over the current flats, would lead to an intensification of activity and use that would be out of character with surrounding uses and in excess of the capacity of the site, resulting in an unacceptable level of activity, increase in noise and disturbance contrary to Policies CP6, CP8, CP9, CP10, CP19, HP12 CP21 of the Oxford Local Plan 2001 2016 and HP9 of the Sites and Housing Plan.
 - The site has capacity for four dwellings and no contribution to affordable housing has been agreed. The proposal is therefore contrary to Policy HP4 of the Sites and Housing Plan.

Site capacity and Intensity of use

10. Policy HP1 of the Sites and Housing Plan seeks to avoid development that

would result in the net loss of dwellings. Although the current proposals would result in a net loss of a dwelling from the site, this is a small studio unit and the overall improvement of the accommodation in terms of the increase in size of the flats across the whole site would in this instance outweigh concerns about the loss of such a unit.

11. The current scheme proposes three flats – 1 x 1 bed and 2 x 2bed flats. This increase in floorspace and bedspaces may result in an increase in the number of occupants and a resultant intensification of use that could take the form of more comings and goings, both pedestrian and vehicular movements of occupants and incidental activity such as deliveries and visitors. However it is also possible that the three proposed flats will be used less intensively then the existing four flats. On balance, the change from 4 to 3 units is likely to have little impact in terms of the level of use on the plot and it would therefore be difficult to resist the proposal on that basis.

Visual impact

- 12.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.
- 13. There is no change proposed to the physical envelope of the building in terms of scale or overall appearance and the visual impact will be limited to ground floor openings and the use of the site. The front garden of the property will provide 2 parking spaces and refuse and recycling bin storage for all four flats, but this is a typical arrangement which can be found across the whole suburb though officers note that the immediately surrounding area has a relatively low level of car parking to front gardens.

Effect on adjacent occupiers

- 14. 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.
- 15. Policies CP19 and CP21 of the OLP states that permission will be refused for development that causes unacceptable nuisance and noise and that where such nuisance is controllable, appropriate conditions will be imposed.
- 16. There will be no material increase in overbearing, overlooking or overshadowing as a result of the development given the built form has already been approved.,

<u>Internal environment</u>

17. The proposed alterations to the flats will improve the overall quality of the accommodation on site. Although there would be a net loss of a dwelling from

site, this is a small 1 bedroom unit and as such the overall improvement of the accommodation in terms of the increase in size of the flats across the whole site would in this instance outweigh concerns about the loss of such a unit.

Outside space

- 18. 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, where buildings are orientated to provide satisfactory light, outlook and privacy, and where the amenity of other properties is adequately protected.
- 19. The areas of private open space proposed to the rear are considered adequate in size and can be easily accessed through the proposed building layout from the frontage. The issues of overlooking of primary living accommodation to the flats on the ground floor from the shared garden have been addressed somewhat by the provision of defensible space to the rear of the ground floor flat. Officers note the proposed provision of low level fencing, which will not eliminate overlooking, but will control proximity to the affected windows. This layout and boundary treatments should be secured by condition to prevent an unacceptable loss of residential amenity for the occupants of the ground floor flats and ensure the development complies with Policies CP10 and HP13.

Bin stores

- 20. Policy HP13 of the SHP states that permission will not be granted for dwellings unless adequate provision is made for the safe, discrete and conveniently accessible storage of refuse and recycling.
- 21. Dedicated bin storage areas are shown on the proposed plans allowing decent level access out to the road, though some of the route to the highway appears to be over an area of grass.
- 22. If permission is granted, it is considered reasonable and appropriate to impose conditions to ensure that hard surface access from the bins to the street is provided and that the refuse storage is provided in an acceptable form in accordance with Policy HP13 of the SHP.

Cycle stores

- 23. Policy HP15 of the SHP states that permission will only be granted for dwellings of up to 2 bedrooms that provide at least 2 cycle parking spaces per dwelling and that this storage should be secure, undercover, preferably enclosed and provide level, unobstructed access to the street. This is particularly important in relation to the current case, as the new dwelling will not be provided with a car parking space.
- 24. A dedicated internal cycle storage area is shown on the proposed plans allowing level access out to the road. If permission is granted, it is considered

reasonable and appropriate to impose conditions to secure this provision to ensure the needs of future occupants as are successfully met and that the development complies with Policies HP15 of the SHP.

Parking

- 25. Policy CP1 of the OLP states that permission will only be granted for development that is acceptable in terms of access, parking and highway safety. The Sites and Housing Plan makes it clear that different levels of parking will be suited to different areas and that the design of car parking spaces is vitally important to the success of development.
- 26. The current provision is no car parking spaces for four small dwellings and the proposed provision is three spaces for three larger units.
- 27. The current application has provided a parking survey which has been reviewed by the Local Highway Authority. This indicates that the local area does not experience a high degree of on street parking pressure.
- 28. Officers note the sustainable location of the site, the relatively low pressure on on-street parking and the finding of the inspector that three parking spaces were appropriate for four flats in this location. The provision of two spaces for three flats is therefore considered acceptable and meets the aims of Policy CP1 of the OLP and the HP16 of the Sites and Housing Plan.

<u>Flooding</u>

- 29. 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.
- 30. The development of the site frontage could 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 any grant of permission should be subject to a condition to ensure the development be carried out in accordance with the principles of Sustainable urban Drainage Systems, would not result in an unacceptable risk of flooding and would comply with Policy CS11 of the Core Strategy.

Conclusion

31. The proposal is considered to be acceptable in terms of the relevant policies of the Oxford Core Strategy 2026, Sites and Housing Plan 2011-2026, and Oxford Local Plan 2001-2016 and therefore officer's recommendation to the committee is to approve the development subject to the conditions listed above.

Human Rights Act 1998

Officers have considered the implications of the Human Rights Act 1998 in reaching a recommendation to refuse this application. They consider that the interference with the human rights of the applicant under Article 8/Article 1 of Protocol 1 is justifiable and proportionate for the protection of the rights and freedom of others or the control of his/her property in this way is in accordance with the general interest.

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.

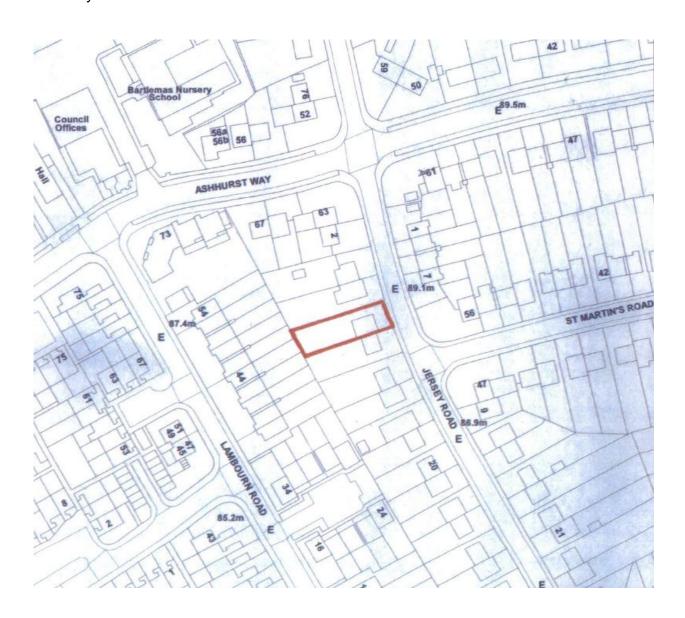
Contact Officer: Tim Hunter

Extension: 2154

Date: 25th August 2016

Appendix 1

8 Jersey Road:



Appendix 2

Appeal Decision

Site visit made on 7 March 2014

by John D Allan BA(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 28 March 2014

Appeal Ref: APP/G3110/A/13/2205805 8 Jersey Road, Oxford OX4 4RT

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☐ The appeal is made under section 78 of the Town and Country Planning Act 1990
against a failure to give notice within the prescribed period of a decision on an
application for planning permission.
□ The appeal is made by Ms H Kamal against Oxford City Council.
☐ The application Ref 13/00757/FUL, is dated 17 March 2013.
☐ The development proposed is described on the application form as `Retention of existing
1 bedroom flat (flat 1). Retention of existing 1st floor rear and two storey side
extensions & convert to extend flats 2. 3 & 4 to create:- Flat 2 – 2 bedroom flat. Flat 3

 − 1 bedroom flat, Flat 4 − 2 bedroom flat. Car & cycle parking, means of enclosure, waste storage & landscaping'.

Application for Costs

1. An application for costs was made by the appellant against the Council. This application is the subject of a separate decision.

Decision

2. The appeal is dismissed.

Preliminary Matters

- 3. The name that was given for the applicant on the application form differs from the name that was given for the appellant on the appeal form. It has since been confirmed that the appeal is to proceed in the name of the original applicant, which I have recorded above.
- 4. During the course of the application Drg No 1785/Existing was superseded with

a revision A, which I have relied upon. Nevertheless, during my visit it was clear that there were a number of discrepancies between the actual internal layout of the property and that depicted on this plan. These amounted principally to the position of some partition walls and door locations. There is also inconsistency between the proposed floorplans and elevations with regard to window positions in the side elevation facing 6 Jersey Road. In addition, the existing first floor includes, what appears to be, a 'flying freehold' over the ground floor attached premises at 10 Jersey Road. This is also shown on the proposed layouts. However, Drg No 1785/Location Plan has the appeal site outlined in red and shows a straight line along a conventional party wall Appeal Decision APP/G3110/A/13/2205805

boundary with No 10, effectively excluding this area of floorspace.

5. These inaccuracies have been noted although they have not been instrumental in my reasoning and overall conclusions.

Main Issues

6. The Council has indicated that had they determined the planning application then they would have refused permission. In light of their stated reasons, the main issues in this case are: - (i) the effect of the proposal on the character and appearance of the street scene; (ii) the effect of the proposal on highway safety; (iii) the effect of the proposal on the living conditions of future occupiers of the ground floor flats with regard to privacy; and (iv) whether the proposal should make contributions to affordable housing needs.

Reasons

Character and Appearance

- 7. The application showed a total of 3 parking spaces to the front of the site with a footway to the property's front entrance door and space for refuse bin storage and a cycle stand. The Oxfordshire County Council's original advice in relation to this arrangement, as the local highway authority (HA), was set out in their consultation response to the local planning authority dated 12 April 2013. This acknowledges that, despite these 3 spaces falling below the maximum parking standards that are set out within the Oxford Local Plan 2001-2016 (LP), in light of available parking spaces in the vicinity, the proposal to provide reduced parking provision would be satisfactory. In addition, the HA's advice stated that the proposed parking spaces would be practical and usable, a view I share having regard to measurements that were taken during my visit for the width and depth of the site's frontage, and which were agreed by both main parties.
- 8. Subsequent additional comments from the HA advised that six parking spaces would be required with only 2 capable of being provided and that, with pressure on on-street parking and the removal of some existing kerb-side parking in front of the site, there would be detriment to neighbouring properties. However, notwithstanding this revised advice, in the absence of any substantive evidence to demonstrate that there is insufficient parking capacity in the street to accommodate any additional demand, I find the provision of 3 parking spaces would not materially conflict with the Council's approach to residential car parking, as set out within their Sites and Housing Plan 2011-2026 (SHP), adopted in 2013.
- 9. Nevertheless, the minimum measured depth of the site, at around 5.96m, from

the back edge of the pavement to the forwardmost part of the original house, is shorter than that measured from the appeal plans, the discrepancy varying from between 0.5m and 0.9m depending upon which plan the measurement is taken from. In light of this, I am not satisfied that the communal wheelie bins, which in any event would sit unreasonably close to windows to the ground floor Flat 1, would comfortably fit in tandem with any parked car. Any alternative position for the bins, which although feasible, would be likely to erode the already limited amount of landscaping that is proposed adjacent to the boundary with No 10. When this is also considered with the necessary cycle Appeal Decision APP/G3110/A/13/2205805

stand and the regimented parking of cars, which would be dominant, I find that the site's frontage would be cramped and cluttered, appearing out of step with and unsympathetic to the majority of other properties along Jersey Road, which largely display traditional enclosures to their front boundaries and reasonable balance between utilitarian features and soft landscaped gardens. 10. As such, although 3 cars could be parked, I find that the proposal would display

an unacceptable standard of design by failing to respect the character and appearance of the area as it would neither maintain nor enhance the street frontage or streetscape along Jersey Road. This would be contrary to part a. of LP Policy CP.1 and part d. of LP Policy CP.10.

Highway Safety

11. Despite the apparent difficulty that would be had in attempting to accommodate a parked car and refuse storage facilities into the depth of the

site's frontage, I am satisfied that there would be sufficient space overall for cars to be parked clear of the pavement. There would therefore be no impact upon highway safety or conflict with the development plan in this regard. *Privacy of Future Occupiers*

12. The Council are concerned that use of the rear garden, to which all the occupiers of the flats would have direct access, could impact upon the privacy of the ground floor occupiers through direct looking into their bedroom windows. I accept that this could be harmful to these occupiers' living conditions. However, the appellant has demonstrated that the garden could be reasonably sub-divided in a manner that would provide private amenity space immediately adjacent to these windows and for the benefit only of those respective occupiers and I am satisfied that it could have been secured by condition had I been minded to allow the appeal.

Affordable Housing

13. SHP Policy HP4 requires development for 4 to 9 dwellings to make a financial contribution towards delivering affordable housing elsewhere in Oxford. The appellant argues that the lawful use of the original dwelling at No 8, as 4 selfcontained

flats confirmed with the grant of a Certificate of Lawful Use or Development (CLUD) in April 2012 (Ref 12/00434/CEU), means that no such contribution is required given that, according to the original Design and Access Statement, one of the flats would remain unaltered, and that there would be no net increase in homes on the site as a result of the proposal.

14. However, I have compared the floorplans that formed part of the CLUD with those submitted with the planning application, as for both existing and proposed. They do not indicate any consistency between the layouts for any of the flats. The appeal proposal is therefore for a fundamentally different form of development compared to that considered under the CLUD application. It is entirely dependent upon extensions that, according to both main parties, have been lawfully added to the original dwelling (planning permission refs 03/01677/FUL and 03/02132/FUL), but a significant proportion of which, at both ground and first floor levels, is unoccupied at the present time as occupancy is specifically restricted by a planning condition to use as part of a family dwelling at No 8.

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- 15. In addition, as a result of the extensions, I saw that the layout that was considered as part of the CLUD application does not currently exist, with original external walls, a door to studio flat 2, and windows to some of the former main living spaces subsumed into the internal core of the existing building. It would therefore not be possible to occupy the existing building in accordance with the plan that was attached to the CLUD.
- 16. In light of all of this it is my assessment overall that, regardless of any lawful use of the original dwelling or the substandard nature of any such living accommodation, based on the proposal that is before me the site fulfils the test within Policy HP4, and its supporting text, by clearly having the gross development capacity to provide 4 dwellings.
- 17. The appellant has not challenged the housing needs that have been identified by the Council within Oxford and has provided no evidence to demonstrate that any financial contribution would make the development unviable. I therefore find that the absence of any contribution towards affordable housing would fail to achieve the balanced community and mix of housing that is required by

Policy HP4 and by Policy CS23 of the Council's Core Strategy 2026, adopted in 2011.

Other Matters

- 18. I have carefully considered further points raised by a number of other interested parties. The lawful nature, or otherwise, of the extensions that have been constructed is not a matter for me to determine as part of this S78 application. Furthermore, I note that the Council has not directly challenged their status in this regard. I have considered this appeal based on the proposed use of the existing building, which would have no effect upon 6 Jersey Road in terms of visual impact, daylight or sunlight.
- 19. I recognise that there is confusion over the position of any proposed windows that would face No 6 due to the inconsistencies between the plans. However, had I been minded to allow the appeal this could have been reasonably addressed by a condition to safeguard the neighbours' privacy.

Conclusion

20. Despite my findings with regard to highway safety and the living conditions of

future occupiers, I conclude that the proposal would be harmful to the character and appearance of the street scene and that it would fail to make the necessary contributions to affordable housing needs within Oxford. In this regard the proposal would not provide the supply of housing that is required to meet the needs of the community and, when seen in the round, would fail to achieve a sustainable form of development, as required by the National Planning Policy Framework.

21. Accordingly, and having regard to all other matters raised, the appeal is dismissed.

John D Allan INSPECTOR

Appendix 3

Plan submitted with12/00434/CEU



