

**West Area Planning Committee**

**8th March 2016**

**Application Number:** 15/03543/FUL

**Decision Due by:** 2nd February 2016

**Proposal:** Erection of single storey rear extension. Enlargement of basement and formation of front and rear lightwells.  
Replacement timber fence to front. (Amended description)

**Site Address:** 43 Observatory Street Oxford Oxfordshire OX2 6EP

**Ward:** North Ward

**Agent:** Mr Simon Beattie

**Applicant:** Fellows & Scholars Of St.  
John The Baptist College

**Application Called in:** by Councillors Fry, Price, Upton and Pressel

for the following reasons:

The application has some errors of fact and is over-bearing in relation to neighbours. Therefore, I think that it is important that the application is heard before WAPC, where the committee would be able to propose conditions to meet the concerns of neighbours.

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## **Recommendation:**

APPLICATION BE APPROVED

For the following reasons:

- 1 The proposal is visually appropriate in its setting, sympathetic in design terms, would preserve the character and appearance of the Walton Manor Conservation Area, would not harm the amenity of neighbouring properties, harm nearby trees and would be acceptable in terms of highway impacts. The proposal therefore accords with policies CP1, CP6, CP8, CP10, CP11, HE7 and NE15 of the Oxford Local Plan 2001-2016, HP9 and HP14 of the Sites and Housing Plan 2011-2026 and CS18 of the Core Strategy 2026.
- 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, subject to the conditions imposed,

would accord with the special character and appearance of the conservation area. It has taken into consideration all other material matters, including matters raised in response to consultation and publicity.

- 4 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 Development begun within time limit
- 2 Develop in accordance with approved plans
- 3 Materials
- 4 Fence to be retained
- 5 Design - no additions to dwelling
- 6 Details of sash windows to front

### **Main Local Plan 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
- HE7** - Conservation Areas
- NE15** - Loss of Trees and Hedgerows

#### **Core Strategy**

- CS18\_** - Urb design, town character, historic env

#### **Sites and Housing Plan**

- HP9\_** - Design, Character and Context
- HP14\_** - Privacy and Daylight
- MP1** - Model Policy

#### **Other Material Considerations:**

National Planning Policy Framework

This application is in or affecting the Walton Manor Conservation Area.  
Planning Practice Guidance

### **Relevant Site History:**

68/19953/A\_H - Alterations and extension to provide bathroom.. PDV 26th March 1968.

15/02006/FUL - Erection of part single, part two storey rear extension. Enlargement of basement and formation of front lightwell. Erection of front railings.. WDN 2nd September 2015.

15/03497/CPU - Application to certify that the proposed erection of outbuilding for use as home studio, alterations to rear vehicular access and alterations to rear first floor windows to existing dwelling is lawful development. PER 5th January 2016.

### **Representations Received:**

11 Leckford Road: objection due to overdevelopment, tunnelling effect on ground floor window at number 44.

44 Observatory Street (2 representations): objection due to absence of a design and access statement with the application, harmful impact on conifer, inaccurate description of existing bricks, inaccuracies in the drawings of neighbouring properties and boundary, loss of light to and tunnelling effect on basement bedroom, rear living room, full-width design is unsympathetic to the area and set a precedent, courtyard proposal fails to mitigate harm of overall proposal, harmful change of view, feeling that St John's is being shown leniency as compared with other applicants, Right to Light assessment should be required

42 Observatory Street (2 representations): objection due to harmful loss of light to kitchen and garden of number 42 and to number 44, loss of privacy to number 44 from proposed patio doors, lack of information about studio in garden, full-width design.

49 Arbour Square: objection due to lack of design and access statement, errors in fact and drawings, tunnelling effect on number 44, loss of light to basement window of number 44, Right to Light analysis should be required, iron railings not appropriate in area.

28 Observatory Street: objection due to overbearing effect and loss of light to numbers 42 and 44, plan P03A (proposed layouts) is not clear.

34 Observatory Street: objection due to harm to symmetry of the pair of semis, loss of westerly light from number 44, change from wooden fence to metal railings would be uncharacteristic of the area.

53 Observatory Street: objection due to the extent of renovations being unnecessary, impact on light for number 44.

**Consultees:**

William Lucy Way Residents Association: no comments received

Highways Authority: no objection

**Issues:**

Design and impact on conservation area

Residential amenity of neighbours

Highways

Trees

**Sustainability:**

This proposal aims to make the best use of urban land and recognises one of the aims of sustainable development in that it will create extended accommodation on a brownfield site, within an existing residential area.

**Officers Assessment:**Site description

1. The property is a two-storey Victorian semi-detached house on the northern side of Observatory Street. It is set back from the pavement, unlike the majority of houses on the street, and has a front garden bounded by a timber picket fence and gate. To the rear, the property has been extended with a flat-roofed single-storey addition to the original outrigger.
2. The ground level is higher at the rear of the plot with the garden raised up above the patio to the rear of the house. There are currently gates providing vehicle access to the property from Adelaide Street and an area of hardstanding for one car.

Proposal

3. Further to an earlier proposal including a larger part-two, part-single storey development, planning permission is sought for a full-width single-storey rear extension to be added to the original outrigger of the property to replace the existing flat-roofed extension. The side return would be retained as a courtyard.
4. Planning permission is also sought for the enlargement of the basement plus the creation of two lightwells – one to the front and one to the rear.
5. The application form stated that railings were proposed on the street frontage. In fact, as clarified in the planning statement, a replacement wooden fence is proposed. The development description has been amended accordingly.

### Design and impact on conservation area

6. Policy CS18 of the Core Strategy, HP9 of the Sites and Housing Plan and Policies CP1 and CP8 of the adopted Oxford Local Plan combine to require that planning permission will only be granted for development which shows a high standard of design, that respects the character and appearance of an area and uses materials appropriate to the site and surroundings. The site is within the Walton Manor Conservation Area and so policy HE7 of the Oxford Local Plan applies. This states that planning permission will only be granted for development that preserves or enhances the special character and appearance of the conservation areas or their setting.
7. The removal of the existing flat-roofed rear extension and replacement with a pitched roof extension in brick is considered to improve the appearance of the conservation area and relate better to the existing property. The unusual and attractive second-storey element is to be retained as part of this proposal. This forms a pair with the attached property and is clearly visible from the public realm in Adelaide Road. Given that this property and neighbouring properties have been unsympathetically extended at ground floor level, overall, the proposal is considered to enhance the appearance of the conservation area.
8. The single-storey scale and the footprint within the plot mean that the development is not considered to be an overdevelopment of the plot. Sufficient outdoor amenity space is retained, and much of the original property is still visible. The full-width design at single storey is a common alteration to this type of property and it is not considered to be a negative design feature.
9. The lightwell and extension of the bay to the front of the property are considered acceptable in that such basements are a feature within the conservation area for similar types of property. A condition is recommended requiring that details be provided of the timber sash windows, whose details should match those of the existing windows on the front elevation, as well as samples of the brick, which should match the existing front elevation.
10. The replacement fence is considered appropriate in design and materials and would preserve the appearance of the conservation area.
11. Overall, the proposal is considered to preserve the appearance of the conservation area and is acceptable in design terms.

### Residential amenity of neighbours

12. HP14 of the Sites and Housing Plan states that planning permission will only be granted for new residential development that provides reasonable privacy and daylight for the occupants of both existing and new homes. HP14 also states that planning permission will not be granted for any development that has an overbearing effect on existing homes.
13. The extension is a full-width addition to the original two-storey rear outrigger at single storey with a depth of 4m. It would have an eaves height of 2m and

an overall height at the apex of 3.3m. The side passage formed by the outrigger would be retained as a courtyard area.

14. It should be noted that a wall up to 2m in height would normally be allowed under permitted development along the whole boundary. The proposal is an improvement on this situation because only part of the boundary would be at 2m, with the existing 1.8m boundary treatment retained. The development is also an improvement on the full-width studio approved under reference 15/03497/CPU, which has an eaves height of 2.5m and would extend 1m further into the garden than would the proposed extension.
15. With regard to the rear-facing full-height glazed panel serving a living room at the adjoining 44 Observatory Street, a line drawn at 45-degrees from the notional cill level and then elevated by 25 degrees is unbroken by the extension, and therefore the proposal meets the guidance contained in Appendix 7 of the Sites and Housing Plan. The glazed panel is full height and fully glazed and so it lets more light into the room than would a standard window. The extension is therefore not considered to lead to a harmful loss of light to the living room.
16. Officers consider that the pitched-roof form with a very low eaves height of under 2m and similarly low 3.3m overall height, achieved by lowering the floor levels in the proposed extension, means that the resulting development will not appear excessively bulky when viewed from the living room and side-facing kitchen windows at number 44. The combination of the courtyard, the existing 1.8m fence and trellis, and the 2m eaves of the extension avoids an overbearing tunnelling effect on the rear-facing glazed panel and is not considered to result in a harmful impact on the outlook from this opening. A condition is recommended for the existing boundary treatment to be retained should the development be granted approval to protect the amenity of the neighbour.
17. Number 44 also has a basement with a rear-facing door below the rear-facing glazed panel at ground floor. There is not considered to be a material change in the outlook from or light to the basement at number 44 as this is currently enclosed by a narrow flight of steps and by the existing fence. The addition of the extension, set over 3m from this room, is not considered to materially alter the existing situation.
18. The light to and outlook from the side-facing window in number 44's kitchen will be materially unchanged because the window will look out onto the courtyard space proposed. This is not materially different from the current outlook onto the side passage.
19. Patio doors are proposed from the kitchen into the courtyard, as well as a window from the dining space looking back towards the house. The side-facing patio doors into the courtyard are not considered to harm neighbouring privacy as they are only 0.3m wider than the existing side-facing windows in the same location. It is not considered that the arrangement of fenestration in the courtyard would be harmful to the privacy of the neighbour at number 44

because there is a 1.8m fence and trellis between the two properties at this point, which provides adequate screening.

20. The light to the side-facing glazed door serving the kitchen at number 44 will not be harmfully impacted and the proposal complies with the 45-degree uplift guidance (Appendix 7 of the Sites and Housing Plan). The change in outlook is not considered harmful due to the low eaves and apex of the extension, and this will not be significantly different from the current 1.8m fence boundary treatment.
21. The courtyard proposed prevents an overbearing impact on number 44. Any infilling of this space or raising of the boundary fence, as could be carried out under permitted development, would be harmful to the amenity of number 44 and so it is recommended that permitted development rights be removed by condition should the application be approved.
22. Along the boundary with number 42, the development would extend a further 1.3m including the roof overhang and there would be no change in the eaves height on this side. This deeper extension will not affect any habitable rooms since the windows affected are obscure glazed and serve a bathroom. This area of number 42's garden is more of a yard area, rather than the main garden area used for relaxing and so this additional projection would not harm the outdoor amenity space of this neighbour.
23. The change of the view from neighbouring properties is not a material planning consideration.
24. Overall, while it is accepted that there will be a change to the outlook from the kitchen and rear living room at number 44, the low eaves and overall height and the retention of a 3.25m courtyard area prevent the development from having an overbearing, tunnelling effect or harmful change in outlook. There are not considered to be grounds for refusal of the application on neighbouring amenity grounds and the proposal is considered acceptable in this respect.

### Highways

25. Following a review of the application document, the proposed development is not considered to have a significant impact on Highways of transport issues. The proposed rear access replicates the adjacent properties and is in line with the highway characteristics of Adelaide Street. Therefore, although visibility is restricted, there are no objections to the proposed rear access.
26. Access to the rear of the property and existing garage is considered suitable for secure cycle parking.

### Trees

27. Number 44 has a conifer close to the boundary with number 43. It has a root protection area (RPA) with radius 1.24m. The proposed extension would be set

1.15m from the tree and so only a very small area of the RPA would be affected by the foundations of the proposed extension. There is therefore no reason to conclude that the tree would be adversely impacted by the development and so there is no conflict with policies NE15 or CP11 of the Oxford Local Plan 2001-2016. An informative will be added to any permission reminding the applicants that they have a duty of care towards trees lying on any adjacent properties.

#### Other matters

28. A neighbour mentions a proposed studio. This is not part of this planning application and was the subject of the certificate for proposed development, reference 15/03497/CPU.
29. A design and access statement, according to the National Information Requirements, is only required where the proposed development is in a conservation area and consists of one or more dwellings, or a building or buildings with a floor space of 100 square metres or more. This application therefore does not require a design and access statement. It is considered that the drawings and documents submitted with the application, including a planning statement, provide sufficient detail to enable officers to make a recommendation.
30. Further to comments, the case officer has visited the adjoining properties and has confirmed matters of fact in relation to windows, materials and trees and assessed the case accordingly.
31. Impact on the light of neighbouring properties is considered against planning policy. Right to Light legislation is separate from planning and is a civil matter.
32. The application has been assessed in the same way as any other application irrespective of the applicant.

#### **Conclusion:**

33. It is considered that the proposal has incorporated much of the feedback provided by officers prior to the application being submitted. The proposal is considered to preserve and, in some ways enhance, the appearance of the conservation area. It is considered that there will be a minor impact on the outlook for the neighbour at 44 Observatory Street but, on balance, the rear extension is not considered to be harmful to their amenity.
34. Officers therefore recommend that the West Area Planning Committee approves the application, subject to conditions.

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

**Background Papers:** 15/03543/FUL

**Contact Officer:** Nadia Robinson

**Extension:** 2697

**Date:** 22 February 2016

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