

8th March 2016

Application Number: 15/03108/FUL

Decision Due by: 25th December 2015

Proposal: Erection of single storey rear extension.

Site Address: 193 Banbury Road Oxford Oxfordshire OX2 7AR

Ward: Summertown Ward

Agent: Mr. M Chaudhry

Applicant: Mr A HUSSAIN

Application Called in – by Councillors Fooks, Gotch, Wade and Goddard,
for the following reasons -

Recommendation:

APPLICATION BE APPROVED

For the following reasons:

- 1 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.
- 2 The proposed extension is considered to create an appropriate visual relationship with the surrounding area. There would be no material impacts in terms of residential amenity, noise or nuisance subject to conditions.
- 3 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 plns

- 3 Ground resurfacing - SUDS compliant
- 4 Materials
- 5 Cycle parking details required
- 6 Landscaping
- 7 Approval of colour - paint/rendering
- 8 Additional windows
- 9 Obscure glazing
- 10 Samples
- 11 Garden area
- 12 Bin storage
- 13 No restaurant use

Main Local Plan Policies:

Oxford Local Plan 2001-2016

- CP1** - Development Proposals
- CP6** - Efficient Use of Land & Density
- CP8** - Design Developmt to Relate to its Context
- CP10** - Siting Developmnt to Meet Functionl Needs
- CP9** - Creating Successful New Places
- TR3** - Car Parking Standards
- TR4** - Pedestrian & Cycle Facilities
- RC12** - Food & Drinks Outlets
- CP19** - Nuisance
- CP21** - Noise
- CP11** - Landscape Design

Core Strategy

- CS2_** - Previously developed and greenfield land
- CS18_** - Urb design, town character, historic env

Sites and Housing Plan

- HP13_** - Outdoor Space
- HP14_** - Privacy and Daylight

Other Material Considerations:

- National Planning Policy Framework
- Planning Practice Guidance

Relevant Site History:

51/01889/A_H - New shop front – Permitted

94/01302/NF - Demolition of existing rear extension. Erection of 3 storey rear extension to enlarge residential unit on upper floors with covered area at ground floor level ancillary to shop (Amended plans) – Refused

95/00087/NF - Change of use of basement and ground floor from shop (Class A1) to restaurant (Class A3). Single storey rear extension and extract duct – Refused

95/01280/NF - Single storey rear extension – Permitted

96/00407/NF - Change of use of ground floor from shop (A1) with living accommodation to rear to restaurant (Class A3 (Amended Plans) – Allowed at appeal

97/00155/NF - Change of use of basement and ground floor from shop (Class A1) to restaurant (Class A3) – Allowed at appeal

98/00362/NF - Single storey extension at rear, ancillary to restaurant (Amended plans) – Permitted

99/01465/NF - Demolish existing garage. Extension to restaurant permitted on appeal under reference 96/407/NF. (Amended plan) – Refused
Demolish existing garage. Extension to restaurant permitted on appeal ref. 96/00407/NF. (Amended Plans) – Permitted

01/01095/NF - Demolition of garage and outbuilding. Extension to restaurant (to include toilets and binstore) (allowed on appeal) – Refused

01/01854/FUL - Demolition of garage and outbuilding. Single storey extension to restaurant (to include toilets and binstore) allowed on appeal – Refused

02/00182/FUL - Single storey rear extension to restaurant (to include toilets and binstore). (Amended plans) – Permitted

06/00063/FUL - Alterations to shop front – Permitted

06/00190/FUL - Installation of ventilation/extractor flue on the side elevation – Withdrawn

06/00701/FUL - Installation of ventilation/extractor flue on the rear elevation – Permitted

06/02195/ADV - Erection of 2 x non-illuminated banners, 2 x non illuminated secondary signs, 1 x externally illuminated main signage (retrospective) – Split decision

06/02200/VAR - Variation of condition 11 of planning permission 02/00182/FUL for the erection of timber shed, 2 x air conditioning units and commercial fridge freezer

in association with the restaurant use, in the garden area to rear of property –
Withdrawn

07/02231/FUL - Retention of raised area to front and use in connection with
restaurant. Erection of single storey rear extension and cycle and bin stores –
Permitted

Representations Received:

1 Oakthorpe Road, 183 and 187 Banbury Road, 2, 6 and 18 Thorncliffe Road and
Hertford College:

- Concerns regarding the existing chiller units and noise levels
- Concerns regarding additional staff activity and delivery traffic
- Concerns regarding reduction in amenity space for flats
- Concerns regarding overlooking
- Concerns regarding smells and noise
- Concerns that the extension will result in increased occupancy
- Density of the proposal
- Emergency access
- Impact on wildlife
- Light pollution
- Impact on other commercial properties
- The proposal will set a precedent
- The extension is too large and out of keeping with the original building
- The proposal will block light into neighbouring properties

Statutory and Internal Consultees:

Cunliffe Close Residents' Association – no comment
North Oxford Association – no comment

Issues:

Design
Impact on residential amenity
Outdoor space
Impact on the local environment
Highways

Officers Assessment:

Site description

1. The proposed site building consists of a restaurant with residential accommodation above. To the rear of the site is a single storey rear extension along with a yard area containing chiller units. At the back of the site is an amenity area reserved for the use of the residents of the flats above the restaurant.

Proposed development

2. The proposed development consists of a single storey, pitched roof rear extension to the building to provide staff facilities including changing/rest rooms, toilets and wash facilities. An enclosed area to the south of the extension is

shown providing cycle parking and space for bins.

Design

3. Policies CP1 and CP8 of the Oxford Local Plan 2001-2016 require new development to form an appropriate visual relationship with the surrounding area in terms of form, scale, layout and design detailing. Policy CS18 of the Core Strategy reflects these requirements by requiring high quality urban design.
4. It is considered that the proposed extension respects the character of the existing building and is subservient to it. The size and depth of the extension has been raised as a concern. However, there is an existing single storey rear extension running along the boundary of the site with 195 Banbury Road and although the proposed extension is deep, it is not felt to be out of context in these circumstances.
5. The proposed extension would replace an existing, unattractive storage area for chiller units and bins. There would therefore be an improvement to the environment as a result of the extension. It is considered that on balance, the proposals comply with policies CP1 and CP8 of the Oxford Local Plan 2016 and policy CS18 of the Core Strategy 2026.

Residential Amenity

6. Policy HP14 of the Sites and Housing Plan 2026 requires the correct siting of new development to protect the privacy of the proposed or existing neighbouring, residential properties and proposals will be assessed in terms of potential for overlooking into habitable rooms or private open space.
7. Although there are windows in the proposed extension it is considered that these can be conditioned to be obscure glazed and non opening, particularly as they serve changing rooms and toilet/washing facilities. It is therefore not considered that the proposed extension would have a harmful impact on the residential amenity of either the occupants of the existing flats or the neighbouring households.
8. Policy HP14 of the Sites and Housing Plan 2026 also sets out guidelines for assessing development in terms of whether it will allow adequate sunlight and daylight to reach the habitable rooms of neighbouring dwellings. This policy refers to the 45/25-degree code of practice, detailed in Appendix 7 of the SHDPD. In normal circumstances, no development should intrude over a line drawn at an angle of 45° in the horizontal plane from the midpoint of the nearest window of a habitable room and rising at an angle of 25° in the vertical plane from the cill.
9. The proposed extension would conflict with the 45 degree rule in relation to 191 Banbury Road. However, it would comply with the 25 degree uplift rule in relation to the rear windows of number 191 Banbury Road and the 45 degree uplift rule in relation to the windows in the side elevation. It is not considered that there would any additional, material harm to the amenity of the neighbouring dwellings as a result of the proposal.
10. For the reasons given above the proposals comply with policy HP14 of the Sites and Housing Plan 2026.

Outdoor space

11. Policy CP10 of the Local Plan and policy HP13 of the Sites and Housing Plan require that suitable outdoor space is provided for residential dwellings. One or two bedroom flats must provide either a private balcony or access to a private or shared garden.
12. The following factors will be material in assessing whether adequate space has been provided:
 - the location and context of the development, in relation to the layout of existing residential plots, and proximity to public open space
 - the orientation of the outdoor area in relation to the sun
 - the degree to which enclosure and overlooking impact on the proposed new dwellings and any neighbouring dwellings
 - the overall shape, access to and usability of the whole space to be provided.
13. Concerns have been raised regarding the amount of amenity space that is retained to the rear for the use of the residents of the flats above the restaurant. The space retained measures 8.5 x 7.8 metres which is considered to be acceptable. The appearance and usability of the space is of a poor quality and the applicant confirms that the space is not currently used by the occupiers of the flats. As a result a condition will be applied to any consent requiring that landscape plans are provided and implemented prior to development commencing. This will therefore improve the standard of the outdoor space provided for the residential units.

Impact on the local environment

14. Policy RC12 of the Oxford Local Plan relates to food and drink outlets and states that planning permission will only be granted for Class A3-5 (food and drink) uses where the City Council is satisfied that they will not give rise to unacceptable environmental problems or nuisance from noise, smell or visual disturbance, including the impact of any equipment or plant associated with the use.
15. Policy CP19 relates to nuisance and states that planning permission will be refused for development proposals that cause unacceptable nuisance. Policy CP21 of the Oxford Local Plan relates to noise and states that planning permission will be refused for developments which will cause unacceptable noise. In both cases it is possible to impose controllable, appropriate planning conditions.
16. Objections have been received from a number of local residents in relation to increased noise, odours and light pollution. The proposed extension provides staff facilities and does not extend the seating area for the restaurant. There are no additional kitchen facilities or extraction equipment that could lead to additional noise and odours. Any additional noise is not considered to be material. Conditions will be applied to any consent to ensure that the extension is not used in order to increase capacity. In terms of light pollution it is not considered that light emitting from the windows in the extension will result in material harm.
17. As a result it is considered that the proposal complies with policies CP19, CP21 and RC12 of the Oxford Local Plan.

Highways

18. Policy TR3 of the Oxford Local Plan 2001-2016 requires that an appropriate level of car parking is provided as shown in Appendix 3. Additional parking is only required in relation to additional public space. The proposed additional floor space is not public and therefore there is no requirement to provide additional parking. Notwithstanding this the site is located in a highly sustainable location on the Banbury Road. The proposal therefore complies with policy TR3 of the Local Plan.
19. Policy TR4 of the OLP states that planning permission will only be granted for development that provides good access and facilities for pedestrians and for cyclists and complies with the minimum cycle parking standards shown in Appendix 4. Again, the cycle standards only relate to additional public floor space and therefore do not apply in this instance. However, it needs to be ensured that sufficient cycle parking is retained in relation to the residential units and the restaurant and therefore details of cycle parking will be conditioned. The proposal is considered to comply with policy TR4 of the Oxford Local Plan.

Conclusion:

20. The proposed extension is considered to create an appropriate visual relationship with the surrounding area. There would be no material impacts in terms of residential amenity, noise or nuisance subject to conditions. Details relating to landscaping, cycle parking and bin storage will be requested via condition.
21. For these reasons it is considered that the proposal accords with the relevant policies of the Oxford Local Plan 2016, Core Strategy 2026 and the Sites and Housing Plan 2026. As such it is recommended that the application is approved.

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, officers consider that the

proposal will not undermine crime prevention or the promotion of community safety.

Background Papers:

Contact Officer: Caroline Longman

Extension: 2152

Date: 28th January 2016