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| **East Area Planning Committee** | **5th June 2017** |

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| **Application Number:** | 17/00586/FUL |
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| **Decision Due by:** | 22nd May 2017 |
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| **Proposal:** | Change of use of annexe to provide 1 x 2-bed dwelling (Use Class C3). Insertion of 1no. replacement rear window including formation of juliette balcony. Insertion of 1no. replacement side door. Provision of private amenity space and erection of boundary fence. Erection of single storey front extension to existing annexe and provision of canopy to front elevation (part retrospective). |
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| **Site Address:** | 3 David Nicholls Close Oxford OX4 4QX |
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| **Ward:** | Littlemore Ward |

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| **Agent:** | N/A | **Applicant:** | David Henwood |

**Reason at Committee –** Applicant is a Councillor

**Recommendation:**

The East Area Planning Committee is recommended to REFUSE PLANNING PERMISSION for the following reasons:

**Reasons for Refusal**

1. The proposed conversion of the existing annexe to a new independent dwelling would represent an intensification of use of the application site. The resultant small plot size, limited amenity space and shared parking facilities of the proposed dwelling would fail to reflect the overall scale, features and characteristics of the surrounding properties in the area and, as such, would harm the character and appearance of the surrounding Littlemore Conservation Area. Therefore, the proposal would not accord with Policies CP1, CP6, CP8 and HE.7 of the Oxford Local Plan 2001-2016, Policy CS18 of the Oxford Core Strategy 2026 and Policies HP9 and HP10 of the Sites and Housing Plan 2011- 2026.

2 The proposed development would provide an unacceptable standard of accommodation for future occupants with regards to private external space. The proposed external amenity space would be of an inadequate size and proportions and would be overshadowed due to its orientation and means of enclosure, resulting in a low quality space that would be insufficient to serve a two bedroomed family dwelling. Therefore, the proposal would be contrary to Policies CP1, and CP10 of the adopted Oxford Local Plan 2001 - 2016 and HP13 of the Sites and Housing Plan.

**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

**Core Strategy**

**CS9\_** - Energy and natural resources

**CS10\_** - Waste and recycling

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

**Sites and Housing Plan**

**MP1** - Model Policy

**HP2\_** - Accessible and Adaptable Homes

**HP9\_** - Design, Character and Context

**HP11\_** - Low Carbon Homes

**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**

Core Planning Principles

Paragraph 17

Section 6 – Supporting a Wide Choice of High Quality Homes

Paragraphs 47 – 55

Section 7 – Requiring Good Design

Paragraphs 56 - 68

Section 12 – Conserving and Enhancing the Historic Environment

Paragraphs 126 - 141

This application is in or affecting the Littlemore Conservation Area.

Planning Practice Guidance

**Relevant Site History**

99/00126/NF - Extension at side and rear of existing garage. Approved 10th March 1999.

99/00928/NFH - Extension at side & rear of garage, raise walls of existing structure & provide new roof to provide storage in roof space & domestic workshop on ground floor. (Amendment to application 99/126/NF). Approved 16th September 1999.

00/00724/NFH - Alterations to existing garage. Additional windows to front elevation, raising the roof to ridge height of 7.30m and the provision of a 1st floor for use as games room, sensory room and storage. Refused 11th July 2000

00/00724/NFH - 00/00022/REFUSE - Alterations to existing garage. Additional windows to front elevation, raising the roof to ridge height of 7.30m and the provision of a 1st floor for use as games room, sensory room and storage. Appeal dismissed 1st January 2001.

02/00010/FUL - Alterations to existing garage including the introduction of additional windows to front elevation, raising the roof to a ridge height of 5.75 m and provision of a 1st floor. Withdrawn 19th March 2002.

02/01542/FUL - Retention of existing garage, including first floor, with ridge height of 5.75 metres incorporating windows at first floor to front elevation, roof lights to rear elevation and false chimney as owl nesting box. Refused 14th October 2002.

02/01542/FUL - 03/00013/REFUSE - Retention of existing garage, including first floor, with ridge height of 5.75 metres incorporating windows at first floor to front elevation, roof lights to rear elevation and false chimney as owl nesting box. Appeal Dismissed 26th June 2003.

04/01550/FUL - Erection of canopy and insertion of windows at first floor level to front elevation. (Amended Plan). Refused 30th September 2004.

04/01550/FUL - 04/00101/REFUSE - Erection of canopy and insertion of windows at first floor level to front elevation. (Amended Plan). Appeal dismissed 27th June 2005.

05/02177/FUL - Erection of canopy. Alterations to window. (Amended plans). Refused 19th December 2005.

05/02177/FUL - 06/00019/REFUSE - Erection of canopy. Alterations to window. (Amended plans). Appeal allowed 19th June 2006.

06/01569/VAR - Velux rooflight to rear elevation of garage (variation of condition 4 of planning permission 99/00126/NF). Approved 22nd September 2006.

06/02014/VAR - Velux rooflights to rear elevation of garage (variation of condition 4 of planning permission 99/00126/NF) and erection of canopy to front. Approved 11th December 2006.

07/00561/VAR - Insertion of two rear first floor windows (variation of condition 4 of planning permission 99/00126/NF) (Amended plan). Refused 4th May 2007.

07/00561/VAR - 07/00044/REFUSE - Insertion of two rear first floor windows (variation of condition 4 of planning permission 99/00126/NF) (Amended plan). Appeal dismissed 11th December 2007.

08/00357/VAR - Four (in total) velux roof lights in rear elevation of garage (variation of condition 4 of planning permission 99/00126/NF). Approved 7th May 2008.

08/00980/FUL - Retention of first floor window and screen to garage. Refused 10th July 2008.

08/00980/FUL - 08/00081/REFUSE - Retention of first floor window and screen to garage. Appeal withdrawn 10th November 2008.

08/01935/CEU - Application for a Lawful Development Certificate for the retention of 1st floor North facing window. Approved 27th October 2008.

08/02327/CEU - Application for a Lawful Development Certificate for the retention of a first floor north facing window. Approved 24th December 2008.

09/00019/CEU - Application for a lawful development certificate for the retention of a first floor north facing window. Approved 27th February 2009.

09/00729/FUL - Erection of canopy. Approve 3rd June 2009.

09/02797/FUL - Erection of car port. Refused 20th May 2010.

09/02797/FUL - 10/00051/REFUSE - Erection of car port. Appeal dismissed 18th August 2010.

10/01412/FUL - Two storey front extension (amended description and plans). Refused 17th December 2010.

10/01412/FUL - 11/00017/REFUSE - Two storey front extension (amended description and plans). Appeal dismissed 7th July 2011.

11/00394/FUL - Increase in ridge height of roof of garage to 5.85m. (Retrospective). Refused 21st April 2011.

12/01722/CEU - Certificate of lawfulness to certify that the ridge height at 5.9m is lawful. Refused 28th August 2012.

12/02105/FUL - Change of use of garage to 1-bedroom dwelling (class C3). (Amended plans). Refused 10th October 2012.

12/02105/FUL - 13/00005/REFUSE - Change of use of garage to 1-bedroom dwelling (class C3). (Amended plans). Appeal dismissed 1st July 2013.

15/02061/FUL - Increase in ridge height of garage roof. (Retrospective). Conversion of garage into 1 x 1-bed annexe (Use Class C3). Approved 9th September 2015.

**Representations Received:**

No third party comments received.

**Statutory and Internal Consultees:**

* Littlemore Parish Council – Objected to the application on the basis that the proposed dwelling would be situated at the back corner of the site and that the amenity space would be located to the front of the proposed dwelling and would be enclosed by a 2 metre high fence which would not be acceptable at the front of the property. Concerns were also raised that the proposed enlarged upstairs window would overlook the back boundary of the site.
* Oxfordshire County Council Highways – No objections subject to a condition requiring details to be submitted relating to cycle storage.

**Site and Proposal**

1. David Nicholls Close is a residential cul-de-sac characterised by large detached dwellings set within spacious plots. The application site is located towards the end of the cul-de-sac and comprises a detached two storey red brick building to the south west of no. 3 David Nicholls Close.
2. On 9th September 2015 the East Area Planning Committee approved plans to convert the garage building into a 1-bedroom annexe. Condition 4 of this permission restricted the use of the annexe to ancillary accommodation as part of the family dwelling house 3 David Nicholls Close which cannot be used as an independent unit of accommodation. The annexe building has a garage, front porch with an adjoining room and a bedroom, bathroom and kitchen upstairs.
3. The application proposes the change of use of the existing annexe to 1x 2-bedroom dwelling (Use Class C3). The proposal includes the enlargement of an existing first floor rear window and inclusion of a Juliette balcony; the insertion of 1 replacement side facing door; and the erection of 2 metre high feather edge wood fencing to enclose an area of proposed amenity space and along the boundary with no. 3 David Nicholls Close.
4. The application also seeks retrospective consent for a single storey front extension and supporting front canopy. The extension infills an area measuring 5.6 metres in width and 1 metre in depth. The front canopy extends the porch canopy with a ridge height of 2.9 metres.
5. Officers consider that the principal determining issues in this case are:

* Principle of development;
* Impact on the conservation area/design;
* Residential amenity;
* Impact on Neighbours;
* Highways impacts;
* Sustainability.

**Principle of development**

1. The National Planning Policy Framework (NPPF) advises that housing applications should be considered in the context of the presumption in favour of sustainable development. For decision making this means granting planning permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies within the NPPF as a whole or where specific policies within the NPPF indicate that development should be restricted. The extent to which the proposed development complies with this is considered further in later sections of the report.
2. The new property would occupy part of an existing residential garden and so Policy HP10 of the Sites and Housing Plan applies. This states that planning permission will be granted for new dwellings on residential garden land provided that:
3. the proposal responds to the character and appearance of the area, taking into account the views from streets, footpaths and the wider residential and public environment, and
4. the size of plot to be developed is of an appropriate size and shape to accommodate the proposal, taking into account the scale, layout and spacing of existing and surrounding buildings, and the minimum requirements for living conditions set out in Policies HP12, HP13, HP14 and Nationally Described Space Standards, and
5. any loss of biodiversity value on the site will be mitigated, and where practicable measures to enhance biodiversity through habitat creation or improvement are incorporated.

These three issues are discussed in later sections of the report.

1. The development is for one additional dwelling and so, to comply with the Balance of Dwellings SPD, the development must not result in the loss of a family dwelling. The existing house at no. 3 David Nicholls Close is to be retained as part of this proposal. The proposal is therefore acceptable in principle.

**Impact on the character of the area/ Design**

1. The application site is located within Littlemore Conservation Area. The Conservation Area Appraisal sets out the characteristics of the Conservation Area with specific reference to the development at David Nicholls Close:

*“Late 20th/early 21st century development has taken place along Sandford Road within Littlemore in the form of David Nicholls Close and the Speedwell School site. David Nicholls Close provides driveway access to Lawn Upton School and has now been developed with detached houses. A semblance of open character has been retained despite the development due to the set back position of the houses and their open front gardens. The houses do not impact upon the appearance of the main road as they are mainly tucked away behind Lawn Upton Lodge and the curve of the road prevents clear views along the close from the main road.”*

1. David Nicholls Close is characterized by large detached dwellings set within spacious plots. The frontages of the dwellings are predominantly open and uncluttered and contribute to the overall open character of the quiet residential road.
2. Currently, the lawful use of the application building is as a residential annexe which is specifically linked, by condition, to the main dwelling at no. 3 David Nicholls Close. The application building has an extensive planning and appeal history and has transformed over time from a small garage to the relatively large annexe which is visible today. The history of the site will be discussed briefly below.
3. Part of the planning history which is relevant to the current application is application 12/02105/FUL which proposed a change of use of the garage to building to a 1-bedroom dwelling. The application was refused on 10th October 2012 for 3 reasons: the poor quality of the internal space; the failure to provide external amenity space; and the failure to provide adequate cycle parking. The decision was subsequently appealed with the Inspector dismissing the appeal and upholding the reasons for refusal. During this application and appeal the proposals failed to provide the space and facilities required by the relevant planning policies. The issue of character was not discussed as it was, at this stage, an incomplete proposal as it failed to comply with the policy requirements for a new dwelling. The fact that the current proposal now includes these ‘missing’ elements allows for a more complete appraisal of the application site including the extent to which the plot can support all the elements required for a new residential dwelling and the potential impact on the character of the surrounding area.
4. Following the refusal of the 12/02105/FUL application and dismissed appeal the applicant submitted application 15/02061/FUL which sought an increase in ridge height of the garage roof (retrospective) and the conversion of the garage into 1 x 1-bed annexe.
5. Application 15/02061/FUL was approved by Officers on the basis that it would provide an acceptable standard of accommodation as it would be restricted to family members who would have access to the main dwelling and its amenity space and cycle parking. The Officer’s report was explicit in its view stating: “It has been the Council’s position all along, reiterated with the refusal of application reference: 12/02105/FUL and subsequent dismissed appeal that the conversion of the garage to a separate unit of accommodation is not acceptable.”
6. In assessing the current application Officers have considered the fall-back position of the approved annexe building. As mentioned in paragraph 12, while is it important to remember that the impact of the existing building was considered to be acceptable, this was on the basis of it fulfilling an ancillary use and without the additional cycle storage/ bin storage/ amenity space that has been included in this application.
7. The current application proposes 2 metre high boundary fencing to demarcate the separate plots and to surround an area of external amenity space to the front of the building. By enclosing the site to form two separate plots (for no. 3 David Nicholls Close and the application site) the proposal would create a much smaller plot than is characteristic of the surrounding area. The constraints of this smaller plot would be demonstrated not only visually but operationally through the proposed shared vehicle parking arrangements and the location of the proposed amenity space to the front of the existing building. Officers consider that this would be uncharacteristic of the surrounding area where no such arrangement currently exists. The proposal would fail to respect the open character of the Conservation Area by undermining the open front gardens which are specifically referenced within the Conservation Area Appraisal.
8. As such the proposed conversion of the existing annexe to a new independent dwelling would represent an intensification of use of the application site.  The resultant small plot size, limited amenity space and shared parking facilities of the proposed dwelling would fail to reflect the overall scale, features and characteristics of the surrounding properties in the area and, as such, would harm the character and appearance of the surrounding Littlemore Conservation Area. Therefore, the proposal would not accord with Policies CP1, CP6, CP8 and HE.7 of the Oxford Local Plan 2001-2016, Policy CS18 of the Oxford Core Strategy 2026 and Policies HP9 and HP10 of the Sites and Housing Plan 2011- 2026.

**Residential amenity**

Internal Space

1. The proposal would comply with the Nationally Described Space Standards in terms of internal space despite demonstrating an unconventional internal layout. The submitted plans do not appear to be appropriate in terms of accessible homes. However, it is possible that this could have been secured by way of condition if the application were to have been recommended for approval to ensure the dwelling complied with Part M4(2) of Building Regulations.
2. The previous application 12/02105/FUL was refused due to the poor internal living accommodation arising from the lack of natural light entering the proposed property due to small windows and the narrow obscure vertical glass blocks on the rear elevation. The Inspector agreed that there would be “very limited sunlight penetration of the ground floor rooms and low levels of daylight generally on the ground floor”. The current proposal has altered the internal arrangement so that the habitable rooms would be located on the first floor of the building and a bedroom would be located on the ground floor. While Officers consider that the ground floor of the building would still suffer from a lack of natural lighting, on balance, the limited light to a bedroom would not warrant the refusal of the application.

External Amenity Space

1. The application proposes 16.2 metres of external residential amenity space which would be located to the front of the building and entirely enclosed by 2 metre high fencing to the south, west and north and by the existing boundary wall to the east.
2. Policy HP11 of the Sites and Housing Plan sets out the factors which are material in assessing whether adequate amenity space has been provided; of particular relevance to this application are paragraph (e): “the orientation of the outdoor area in relation to the sun”, paragraph (f): “the degree to which enclosure and overlooking impact on the proposed new dwellings…” and paragraph (g): “the overall shape, access to and usability of the whole space provided”.
3. Additionally paragraph A3.24 states:

“*Family homes (as defined in the Glossary) will require additional space. Inside such homes, adequate space should be provided for at least four occupants. Houses with 2 or more bedrooms must also provide direct access to a private garden with adequate space for children to play in, and for family activities. The City Council will expect an area of private garden for each family house which is at least equivalent to the original building footprint.”*

1. Family Homes are defined in the Glossary as:

*“A self-contained house (or bungalow) of 2 or more bedrooms, or a self-contained flat either with 3 or more bedrooms or otherwise deemed likely to encourage occupation by a family including children.”*

1. The application proposes a two bedroom dwelling which Officers consider to fall within the definition of a ‘family home’. As such, the proposed amenity space would fail to be acceptable in terms of its size relative to the proposed dwelling and its failure to demonstrate direct access from the building.
2. Additionally the orientation of the proposed amenity space is such that it would be located to the north west of the existing building and north of the existing dwelling at no. 3 David Nicholls Close. Due to its location sunlight would be limited and partially, if not fully, obstructed by the existing buildings. The proposed 2 metre high fencing surrounding the space would further exacerbate this issue, increasing the sense of enclosure.
3. Officers note that the proposed cycle storage is located within the amenity space which would further limit its usability although acknowlege that it may be possible for the cycle parking provision to be located elsewhere on the application site.
4. Therefore, the proposed development would fail to provide adequate living conditions for future occupants with regards to private external space. The proposed external amenity space would be of an inadequate size and proportions and would be overshadowed due to its orientation and means of enclosure, resulting in a low quality space that would be insufficient to serve a two bedroomed family dwelling. Therefore, the proposal would be contrary to Policies CP1, and CP10 of the adopted Oxford Local Plan 2001 - 2016 and HP13 of the Sites and Housing Plan.

**Impact on Neighbouring Occupiers**

1. The nearest residential properties to the application building are no. 3 David Nicholls Close, approximately 2 metres to the north east of the site, and no. 3 Lanham Way ‘Woodlands’, approximately 15 metres to the south west. To the immediate south/ south west of the building is an undeveloped area of green space.
2. The application proposes minor external changes including a single storey front, infill, extension and the insertion of a larger window and Juliette balcony in the rear elevation. Officers consider that due to the location and size of the extension there are no significant impacts on the occupiers of no. 3 David Nicholls Close.
3. The location of the new window would be on the southern elevation of the building at the furthest point from no. 3 Lanham Way. As such, Officers conclude that there would not be significant harmful overlooking impacts arising from the proposal. There would be a slight increase in the amount of overlooking of the green space to the south but this is not considered harmful to existing residential occupiers.

**Highways impacts**

1. The application proposes that two off-street car parking spaces would be retained for the existing dwelling and three off-street car parking spaces would be associated with the new dwelling. However, the dimensions of the existing garage are considered too small to accommodate a modern car according to the County Council's Design Guide for New Residential Developments document. Furthermore, the off-street parking spaces for the existing dwelling would be in front of this garage and therefore it would inaccessible for new proposed dwelling. Accordingly the proposed garage is not considered a car parking space.
2. There are four off-street car parking spaces proposed on the shared drive, two associated with each of the dwellings. This is in line with the recommended number in policy HP16 of the Sites and Housing Plan of two off-street car parking spaces for 2-bed or larger dwellings.
3. The plans indicate cycle parking areas for each of the dwellings, although the number and means of enclosure for the cycle parking spaces is not indicated. Furthermore, the dimensions of the cycle parking areas shown do not appear to be sufficient. The Sites and Housing Plan recommends two cycle parking spaces for a 2-bed dwelling and three cycle parking spaces for 3- bed and larger dwellings. Therefore, the Local Highway Authority did not object to the application, subject to the inclusion of a condition to secure cycle parking details. A condition requiring the submission of these details could be included if the proposal were otherwise acceptable.

**Sustainability**

1. Policy CS9 of the Core Strategy sets out a commitment to optimising energy efficiency through a series of measures including the utilisation of technologies that achieve Zero Carbon developments. There is now a wide acceptance that sustainability considerations need to be factored into the planning of new developments. New developments, including conversions and refurbishments, will be expected to achieve high environmental standards.
2. Policy HP11 of the Site and Housing Plan states all development proposals must submit an energy statement to show how energy efficiencies have been incorporated into the development. This has not been submitted with the application. However, details could have been sought via a condition to satisfy this requirement had the application been recommended for approval.

**Conclusion:**

1. The East Area Planning Committee is recommended to refuse planning permission for the reasons set out 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 refuse, officers consider that the proposal will not undermine crime prevention or the promotion of community safety.

**Contact Officer:** Natalie Dobraszczyk

**Date:** 18th May 2017