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| **West Area Planning Committee**  | 6 August 2019 |

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| **Application number:** | 19/01474/FUL |
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| **Decision due by** | 30 July 2019 |
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| **Extension of time** | 13 August 2019 |
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| **Proposal** | Erection of part single, part two storey rear extension. Alteration to 1no. window to north side elevation. |
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| **Site address** | 19 Harley Road, Oxford, OX2 0HS, – see **Appendix 1** for site plan |
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| **Ward** | Jericho And Osney Ward |
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| **Case officer** | James Paterson |

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| **Agent:**  | Mr James MacKenzie | **Applicant:**  | Ms Carol Brady and Mr Gavin Bishop |

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| **Reason at Committee** | This application was called in by Councillors Pressel, Munkonge, Tanner, Rowley and Djafari-Marbini due to concerns about the possible impact of the development proposal on the amenity of neighbouring occupiers. |

1. RECOMMENDATION
	1. **West Area Planning Committee** is recommended to:
		1. **approve the application** for the reasons given in the report and subject to the required planning conditions set out in section 12 of this report and grant planning permission.
		2. **agree to delegate authority** to the Acting Head of Planning Services to:
* finalise the recommended conditions as set out in this report including such refinements, amendments, additions and/or deletions as the Acting Head of Planning Services considers reasonably necessary.
1. EXECUTIVE SUMMARY
	1. This report considers the proposed part single, part two storey rear extension to the property in addition to the installation of a window to the north elevation at ground floor level. The proposal would be of sufficient design quality so as to be considered acceptable. Officers have carefully considered the impact of the proposed development on the amenity of neighbouring occupiers and consider that it would not give rise to a harmful impact on neighbours. Officers also consider that the proposal would have an acceptable impact on flood risk, subject to the imposition of the relevant conditions included as part of the recommendation.
2. LEGAL AGREEMENT
	1. This application is not subject to a legal agreement.
3. COMMUNITY INFRASTRUCTURE LEVY (CIL)
	1. The proposal is not liable for CIL.
4. SITE AND SURROUNDINGS
	1. 19 Harley Road is a two storey semi-detached dwelling, located on the east side of the street. Harley Road itself lies off of Botley Road and north of the Oatlands Road Recreation Ground. The house is finished in a mixture of brick and white render and the main body of the house, below the eaves, has remained largely unaltered from its original form. Substantial changes have taken place to the roof, as a hip-to-gable roof conversion has taken place in association with a box dormer on the rear roofslope and a rooflight on the front roofslope. To the rear of the house, half of the ground floor of the property extends beyond the rear wall of the first floor by 1.5m while the half nearest the boundary with No. 21 extends 2.5m beyond the first floor, to match that of No. 21. This appears to be an original arrangement as these extending elements are similar at No. 21, which appears to have been erected at the same time as No. 19, and the Council has no record of the property being extended to the rear since its erection.
	2. See site location plan below:

 

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Ordnance Survey 100019348

1. PROPOSAL
	1. The application proposes to erect a part single, part two storey rear extension. The single storey element would extend across the width of the house but would not extend a uniform distance out from the rear of the house. Part of the extension nearest the boundary with No. 21 would extend 1.2m beyond the existing rear wall of the ground floor while part of the extension nearest No. 17 would extend 3.65m beyond the existing rear ground floor of the property. In relation to the rear ground floor wall of No. 21, the proposed single storey element would extend 1.2m beyond No. 21 for the area 1.75m nearest the boundary with No. 21 while the rest would extend 2.5m beyond the rear wall of No. 21. The ground floor element would have a height of 3m with a flat roof and feature large glazed doors to the rear as well as windows to the side and rear. The ground floor element of the proposal would be finished in facing brick with aluminium windows and doors
	2. The first floor element would extend 1.5m from the existing rear wall at first floor level and would feature a sloped roof, which would slope away from the property. This part of the extension would be rendered and would feature two windows to the rear. This element would have a maximum height of 5m and a height to the eaves of 4.6m.
	3. The extension would necessitate the replacement of the existing fence on the boundary with No. 21 with a new timber fence. This fence would be 1.8m in height.
	4. It is also proposed to relocate an existing window on the north elevation of the house at ground floor level. The current window which serves the kitchen would be filled in and relocated 3m further east to serve the new proposed kitchen area.
2. RELEVANT PLANNING HISTORY
	1. The table below sets out the relevant planning history for the application site:

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| 09/00305/CPU - Application for a Certificate of Lawful Development in respect of a loft conversion with side and rear dormer windows. Approved 25 February 2009. |

1. RELEVANT PLANNING POLICY
	1. The following policies are relevant to the application:

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| **Topic** | **National Planning Policy Framework** | **Local Plan** | **Core Strategy** | **Sites and Housing Plan** |
| **Design** | 8, 11, 129, 128, 130 | CP1, CP6, CP8, CP10 | CS18 | HP9 |
| **Miscellaneous** | 47, 48 |  | CS11 | MP1 |

1. CONSULTATION RESPONSES
	1. Site notices were displayed around the application site on 10 June 2019.

Statutory and non-statutory consultees

* 1. None Received

Public representations

* 1. One local person commented on this application from an address in Harley Road.
	2. In summary, the main points of objection (1 resident) were:
* Inaccuracy of Submitted Plans
* Impact on Daylight to No. 21
* Damage to Tree at No. 21

Officer response

* 1. Officers have considered carefully the objections to these proposals. Officers have come to the view, for the detailed reasons set out in the officer’s report, that the reasons for 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.
	2. Officers have assessed the plans on site and against the Council’s own records and are satisfied that they are of sufficient accuracy to enable a decision to be made on the basis of the applicant’s submission.
	3. Given that the tree in question is not protected and privately owned while not contributing to the amenity of the public realm, any indirect damage to the tree caused by the development would be a civil matter and does not form a material consideration for this assessment.
1. PLANNING MATERIAL CONSIDERATIONS
	1. Officers consider the determining issues to be:
2. Design
3. Neighbouring amenity
4. Flooding
5. Other Matters
6. **Design**
	1. Policy CP1 of the Oxford Local Plan 2001-2016 states that a development must show a high standard of design, including landscape treatment, that respects the character and appearance of the area; and the materials used must be of a quality appropriate to the nature of the development, the site and its surroundings. CS18 of the Core Strategy states that planning permission will be granted for development that demonstrates high-quality urban design through responding appropriately to the site and its surroundings; creating a strong sense of place; and contributing to an attractive public realm. Policy HP9 of the Sites and Housing Plan states that planning permission will only be granted for residential development that responds to the overall character of the area, including its built and natural features.
	2. The extension would be a proportionate addition to the house and would not compete with the host dwelling in terms of form or use. This is due to the fact that it would not radically increase the footprint of the house while the single storey element would also not extend disproportionately beyond the first floor element. The extension would therefore be of an acceptable size.
	3. It is noted that the development proposal would result in a departure in appearance from that of No. 21, the near symmetrical house from which No. 19 is detached. However, the alterations proposed would take place to the rear of the house and would not change the appearance of the house when viewed from the public realm. In any case, the symmetry of the two houses is not considered to be of special significance in terms of design as the houses themselves are not of special architectural merit. The extension also responds to the host dwelling through mirroring the existing use of materials and retaining the staggered nature of the ground floor extension, with the first floor extension being set back from the ground floor element. With this in mind, it is considered that the extension responds sufficiently to the context of the site and the features of the host dwelling
	4. Planning officers also consider that the extension would also leave sufficient private rear amenity space so as to ensure the house remains fit for habitation by current and future families.
	5. In light of the above considerations, the proposal would therefore be acceptable in terms of design and thereby Policies CP1, CS18 and HP9.
7. **Impact on Neighbouring Amenity**
	1. Policy HP14 of the Sites and Housing Plan states that planning permission will not be granted for development that has an overbearing effect on existing homes, and will only be granted for new residential development that provides reasonable privacy and daylight for the occupants of both existing and new homes. Policy HP14 of the Sites and Housing Plan sets out guidelines for assessing development in terms of whether it will allow adequate sunlight and daylight to habitable rooms of the neighbouring dwellings.

Privacy

* 1. The proposed glazing on the rear elevation would not result in views being possible which would be materially worse than is possible under the existing arrangement. This is because the existing rear windows of No. 19 afford views into the rear gardens of both neighbours and of the opposite terraces on Oatlands Road. Likewise, it is considered that there would remain a sufficient distance between No. 19 and the houses to the rear, on Oatlands Road; this distance would be approximately 20m, in accordance with the guidance in Policy HP14.
	2. The window on the side elevation of the proposed extension would have privacy implications for No. 21, as this window would face towards their rear garden. It is noted that the top of the window in question would be 2m in height from the ground level while the proposed boundary treatment would be 1.8m. It is also noted that the shape of the extension means that views from the window would be partially blocked by part of the proposed extension. Planning officers consider that views into the internal rooms of No. 21 would therefore not be possible from this window due to its being set back from the boundary and due to this view being blocked by the part of the extension on the boundary with No. 21. Views into the garden would also be limited due to the proposed boundary treatment mostly blocking these views while the window would also be set back from the boundary. On balance, it is therefore considered that the view from this window would be largely blocked by the proposed boundary treatment and any views from this window into the property and amenity space of No. 21 would be likely to be no more intrusive than is possible from the existing dwelling. Therefore the proposed side window facing No. 21 is considered acceptable.
	3. Planning officers have noted that the tree in the rear garden of No. 21 would help to screen views from the proposed extension into the house and garden of No. 21. However, given that the tree could be removed by the occupiers of No. 21 at any time without needing planning permission, any screening provided by the tree has not formed part of this assessment. A condition requiring the retention of the tree would also not be possible due to the fact that the tree lies outside of the occupation site.
	4. The proposed window on the north elevation would not cause unacceptable overlooking into the internal rooms or garden of No. 17. This is due to the fact that the window would be no higher than the existing boundary treatment in addition to it being set back from the boundary. This element is therefore considered acceptable in terms of the privacy of neighbouring occupiers.

Overbearing

* 1. Given that the two storey element of the extension only extends 1.5m beyond the rear wall of No. 21 and is set back from the boundary with No. 17, it is considered that this element of the proposal would not result in an unacceptable feeling of overbearing on either neighbour. In terms of the single storey element, the height of this part of the extension would be 3m. The majority of the extension would be pulled back from both boundaries with the element of the extension on the boundary with No. 21 only extending 1.2m beyond the rear wall of No. 21. With this in mind, officers consider that the ground floor element of the proposed extension would not give rise to an unacceptable feeling of overbearing on either neighbour.

Daylight

* 1. The proposal would be compliant with the 25/45 degree access to light test outlined in Policy HP14. It is noted that concerns have been raised that the proposed extension would result in a loss of light to the occupants of No. 21. However, on balance, while the proposal may have a low impact on the level of ambient light received by the rear rooms of No.21 nearest the boundary with No. 19, it is considered unreasonable to refuse the application on these grounds as the proposed extension complies with Policy HP14. Furthermore, No. 21 lies south of No. 19 and, having regard to the orientation of the sun, the proposal would therefore be unlikely to block direct sunlight to the internal rooms or private amenity space of No. 21. It is also considered unlikely that the proposal would cause unacceptable overshadowing to the private amenity space of No. 17, due to the modest depth and height of the majority of the extension as well as it being pulled back from the boundary of Nos. 17 and 19, which is a 1.8m high fence.
	2. Having had regard to all of the above considerations, the proposal would have an acceptable impact on the amenity of neighbours and would therefore also be acceptable in terms of Policy HP14 of the Sites and Housing Plan.
1. **Flooding**
	1. Policy CS11 of the Core Strategy states that planning permission will not be granted for any development in the functional flood plain (flood zone 3b) except water-compatible uses and essential infrastructure. The suitability of developments proposed in other flood zones will be assessed according to the NPPG sequential approach and exceptions test. All developments will be expected to incorporate sustainable drainage systems or techniques to limit runoff from new development, and preferably reduce the existing rate of run-off. Development will not be permitted that will lead to increased flood risk elsewhere, or where the occupants will not be safe from flooding.
	2. The site lies within a Flood Zone 2 area and is therefore is not at a high risk of flooding. However, Policy CS11 requires necessary proportionate mitigation measures to be implemented in order to ensure current and future occupants would remain safe from flooding and also to ensure flood risk would not be increased elsewhere as a result of the proposed development. Having regard to this requirement, it is considered necessary to secure the mitigation measures recommended in the submitted Flood Risk Assessment by condition. In the interest of the safety of the occupants of No. 19, the condition would also require the development to accord with the recommendations made in EA/DEFRA standing advice and MHCLG Guidance: *Improving the flood performance of new buildings*.
	3. With the inclusion of condition four, the proposal is considered acceptable in terms of flood risk and Policy CS11.

Other Matters

* 1. Most of the concerns raised during the consultation period were addressed in the above sections, where they have not been, they are addressed in this section.
	2. While it is noted that if permission is granted for the development proposal then a degree of damage to the tree in the rear garden of No. 21 is likely to occur. However, given that the tree is not of significant value and does not contribute to public amenity then there is no policy basis for its protection, as per Policies NE15 and NE16. In any case, harm to the tree can likely not be avoided if permission is granted. If the committee resolves to grant planning permission then the issue of damage to the third party owned boundary vegetation during building work would be a civil matter to be resolved under common law. Therefore the protection of the tree has not formed a material consideration for the recommendation reached by planning officers.
1. CONCLUSION
	1. Having regards to the matters discussed in the report, officers would make members aware that the starting point for the determination of this application is in accordance with Section 38 (6) of the Planning and Compulsory Purchase Act 2004 which makes clear that proposals should be assessed in accordance with the development plan unless material considerations indicate otherwise.
	2. The NPPF recognises the need to take decisions in accordance with Section 38 (6) but also makes clear that it is a material consideration in the determination of any planning application (paragraph 2). The main aim of the NPPF is to deliver Sustainable Development, with paragraph 11 the key principle for achieving this aim. The NPPF also goes on to state that development plan policies should be given due weight depending on their consistency with the aims and objectives of the Framework. The relevant development plan policies are considered to be consistent with the NPPF despite being adopted prior to the publication of the framework.
	3. Therefore in conclusion it would be necessary to consider the degree to which the proposal complies with the polices of the development plan as a whole and whether there are any material considerations, such as the NPPF, which are inconsistent with the result of the application of the development plan as a whole.
	4. In summary, the proposed development would be an acceptable addition to the existing dwellinghouse. The proposals are suitable in design terms and comply with policies CP1, CP8 and CP10 of the Oxford Local Plan 2001-2016, HP9 of the Sites and Housing Plan, CS18 of the Core Strategy and DH1 of the emerging Oxford Local Plan 2036. The proposals would not result in any harm to neighbouring amenity and are compliant with HP14 of the Sites and Housing Plan and H14 of the emerging Oxford Local Plan. The proposals would also not compromise any trees which make an important contribution to public amenity and are compliant with NE15 and NE16 of the Oxford Local Plan and G8 of the emerging Oxford Local Plan 2036. The proposal would also not lead to an unacceptable increase in flood risk either on or off the site and thereby complies with CS11 of the Core Strategy and RE3 of the emerging Oxford Local Plan.
	5. Therefore officers consider that the proposal would accord with the development plan as a whole.

*Material consideration*

* 1. The principal material considerations which arise are addressed below, and follow the analysis set out in earlier sections of this report.
	2. National Planning Policy: the NPPF has a presumption in favour of sustainable development.
	3. NPPF paragraph 11 states that proposals that accord with the development plan should be approved without delay, or where the development plan is absent, silent, or relevant plans are out of date, granting permission unless any adverse impacts would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole; or specific policies in the framework indicate development should be restricted.
	4. Officers consider that the proposal would accord with the overall aims and objectives of the NPPF for the reasons set out within the report. Therefore in such circumstances, paragraph 11 is clear that planning permission should be approved without delay. This is a significant material consideration in favour of the proposal.
	5. Officers would advise members that, having considered the application carefully, the proposal is considered to be acceptable in terms of the aims and objectives of the National Planning Policy Framework and relevant policies of the Oxford Core Strategy 2026, and Oxford Local Plan 2001-2016, and the emerging Local Plan 2036, when considered as a whole, and that there are no material considerations that would outweigh these policies.
	6. Therefore it is recommended that the Committee resolve to grant planning permission for the development proposed subject to the conditions set out in Section 12 of this report.
1. CONDITIONS
2. Time limit

The development to which this permission relates must be begun not later than the expiration of three years from the date of this permission.

Reason: In accordance with Section 91(1) of the Town and Country Planning Act 1990 as amended by the Planning Compulsory Purchase Act 2004.

1. **Build in Accordance with Approved Plans**

The development permitted shall be constructed in complete accordance with the specifications in the application and approved plans listed below, unless otherwise agreed in writing by the local planning authority.

Reason: To avoid doubt and to ensure an acceptable development as indicated on the submitted drawings in accordance with policy CP1 of the Oxford Local Plan 2001-2016.

1. **Materials as Specified**

The materials to be used in the proposed development shall be as specified in the application hereby approved. There shall be no variation of these materials without the prior written consent of the Local Planning Authority.

Reason: To ensure that the development is visually satisfactory as required by policy CP1 of the Oxford Local Plan 2001-2016.

1. **Flood Resilience Measures**

Flood resilience and resistance measures suitable for the residual depth of flooding shall be incorporated into the building. These should be in accordance with those recommended in the submitted Flood Risk Assessment, DEFRA/Environment Agency Planning Practice Guidance, and the DCLG publication 'Flood resilient construction of new buildings'.

Reason: To manage flood risk in accordance with the NPPF and Oxford Core Strategy Policy CS11

1. APPENDICES
* **Appendix 1 –** Block Plan
1. HUMAN RIGHTS ACT 1998
	1. Officers have considered the implications of the Human Rights Act 1998 in reaching a recommendation to approve 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.
2. SECTION 17 OF THE CRIME AND DISORDER ACT 1998
	1. 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.