

## Oxford City Planning Committee

12<sup>th</sup> April 2022

<b>Application number:</b>	22/00003/FUL		
<b>Decision due by</b>	2nd March 2022		
<b>Extension of time</b>	TBA		
<b>Proposal</b>	Change of use from dwellinghouse (Use Class C3) to House in Multiple Occupation (Use Class C4). (Retrospective)		
<b>Site address</b>	40 Masons Road, Oxford, OX3 8QJ, – <b>see para 5.3 of report for site plan</b>		
<b>Ward</b>	Churchill Ward		
<b>Case officer</b>	Nia George		
<b>Agent:</b>	Jim Driscoll	<b>Applicant:</b>	H Raj
<b>Reason at Committee</b>	This application was called in by Councillors Brown, Turner, Clarkson, Chapman, Rowley, Munkonge and Walcott, for reasons of the loss of a family dwelling and parking pressures.		

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## 1. RECOMMENDATION

1.1. Oxford City Planning Committee is recommended to:

1.1.1. **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

1.1.2. **agree to delegate authority** to the 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 Head of Planning Services considers reasonably necessary.

## 2. EXECUTIVE SUMMARY

2.1. This report considers the proposal to retrospectively change the use of 40 Masons Road from a dwellinghouse (Use Class C3) to a house in multiple occupation (HMO, Use Class C4).

2.2. This application was called-in on the grounds of the loss of too many family homes in Masons Road as well as parking pressures on Masons Road.

2.3. This report considers the following material considerations:

- Concentration of HMOs
- Internal and External Space
- Parking and Highways
- Bicycle Storage
- Bin Storage

2.4. The report concludes that the development is considered acceptable in principle, complying with the concentration of HMOs allowed in the local area, and it would not result in a change to the character of the area or the community becoming unbalanced. The proposal would provide a good standard of accommodation that would comply with the City Council's Landlord's Guide to Amenities and Facilities for Houses in Multiple Occupation. The site is eligible to be car-free and would not give rise to any unacceptable impacts on public highways. Subject to the recommended conditions, the proposal is considered to comply with Policies S1, H6, H15, H16, DH7, RE7, M3 and M5 of the Oxford Local Plan and the NPPF. Officers therefore support the grant of planning permission.

### **3. LEGAL AGREEMENT**

3.1. This application is not subject to a legal agreement.

### **4. COMMUNITY INFRASTRUCTURE LEVY (CIL)**

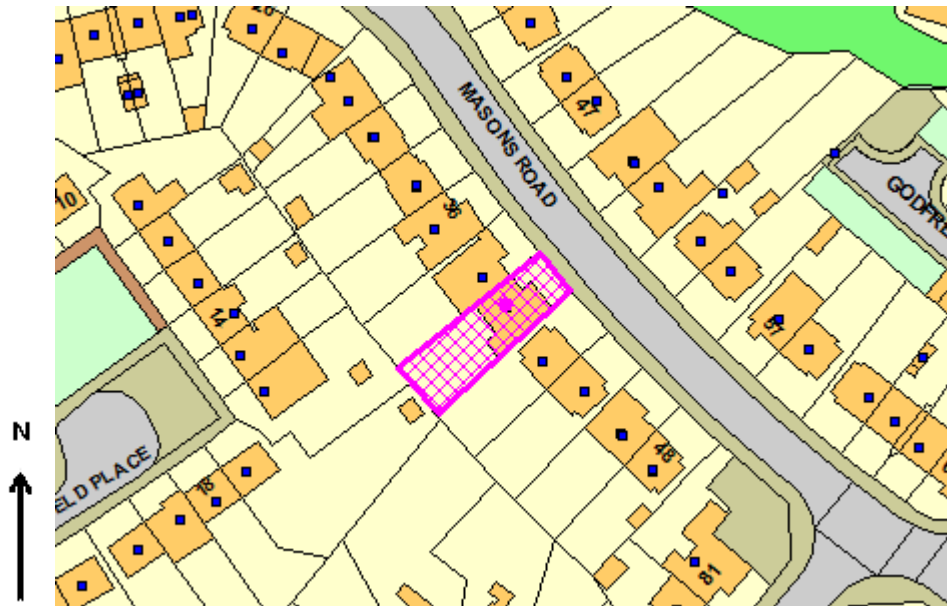
4.1. The proposal is not liable for CIL.

### **5. SITE AND SURROUNDINGS**

5.1. The application site is a two storey semi-detached property located on the south-western side of Masons Road. Masons Road is a residential road located within the Wood Farm area of Oxford City.

5.2. The site currently benefits from a single storey front and side extension and a front porch.

5.3. See block plan below:



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Ordnance Survey 100019348

## 6. PROPOSAL

6.1. The application proposes to retrospectively change the use of the property from a dwellinghouse (use class C3) to a house in multiple occupation (use class C4).

6.2. It is advised that the property has been in use as a HMO since 2014 and this application proposes to regularise its use as a HMO. No external changes are proposed.

## 7. RELEVANT PLANNING HISTORY

7.1. The table below sets out the relevant planning history for the application site:

51/01745/A_H - 116 Easiform houses Wood Farm Estate.. Approved 22nd May 1951.
87/01278/NF - Single storey side extension to form garage with attached front porch. Approved 8th January 1988.

## 8. RELEVANT PLANNING POLICY

8.1. The following policies are relevant to the application:

Topic	National Planning Policy Framework	Local Plan
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<b>Design</b>	117-123, 124-132	<b>DH7</b> – External servicing features and stores
<b>Housing</b>	59-76	<b>H6</b> – Houses in Multiple Occupation (HMO) <b>H15</b> – Internal space standards <b>H16</b> – Outdoor amenity space standards
<b>Transport</b>	117-123	<b>M3</b> – Motor vehicle parking <b>M5</b> – Bicycle parking
<b>Environmental</b>	117-121, 148-165, 170-183	<b>RE7</b> – Managing the impact of development
<b>Miscellaneous</b>	7-12	<b>S1</b> – Sustainable development

## 9. CONSULTATION RESPONSES

9.1. Site notices were displayed around the application site on 12th January 2022.

### **Statutory and non-statutory consultees**

#### Oxfordshire County Council (Highways)

9.2. No objection subject to conditions requiring the exclusion of the property from eligibility for parking permits, and for further details of bicycle parking and bin storage to be provided to the Local Planning Authority.

#### Natural England

9.3. No objection.

#### Internal – HMO Enforcement

9.4. No objection, property suitable for 6 occupants.

### **Public representations**

9.5. No third party comments received

## 10. PLANNING MATERIAL CONSIDERATIONS

10.1. Officers consider the determining issues to be:

- Concentration of HMOs
- Internal and External Space
- Car Parking
- Bicycle storage
- Bin storage

### **a. Concentration of HMOs**

- 10.2. As of 24<sup>th</sup> February 2012 planning permission is required to change the use of any dwellinghouse (Use Class C3) in Oxford City to a House in Multiple Occupation (Use Class C4), due to the removal of permitted development rights under an Article 4 Direction.
- 10.3. Policy H6 of the Oxford Local Plan states that the change of use of a dwellinghouse to an HMO will only be granted where the proportion of buildings used in full or part as an HMO within 100m of street length either side of the application site, does not exceed 20%. This includes side roads and footpaths.
- 10.4. Within 100m either side of 40 Masons Road, there is a total of 45 buildings, including the host property. The proposal would result in 6 of these buildings being classed as a HMO. The HMO at 40 Masons Road would result in a total of 13.3%, within the allowed 20%.
- 10.5. Therefore as demonstrated through this calculation, the proposals would maintain a balanced community and the proposal is considered not to change the character of the local area.
- 10.6. While the concerns over the loss of a family dwelling are noted, given the proposals comply with the calculation which has been undertaken in accordance with Policy H6, the proposal would not result in an over-concentration of HMOs within the immediate surrounding area. As such there would be no reason to refuse planning permission on the basis of the loss of a family dwelling. Indeed policy H5 of the Local Plan only resists the net loss of self-contained dwellings and as the proposals would still be in a C4 use class, it would not be regarded as the net loss of a dwelling.
- 10.7. The proposal is therefore considered to comply with Policy H6 of the Oxford Local Plan.

### **b. Internal and External Space**

- 10.8. Policy H6 states that the change of use of dwelling to an HMO will only be granted where the development complies with Policy H15 and the City Council's good practice guidance on HMO amenities and facilities. Policy H15 states that planning permission will only be granted for new dwellings that provide good quality living accommodate for the intended use.
- 10.9. Policy H16 states that planning permission will only be granted for dwellings that have direct and convenient access to an area of private open space. Private outdoor areas should allow space for outside dining and/or clothes drying, with reasonable circulation.
- 10.10. 40 Masons Road is set over two storeys. The ground floor comprises a kitchen, living room, two bedrooms and a W.C. The first floor comprises two bedrooms and a bathroom. All of the rooms in the property meet the space requirements set out in Oxford City Council's Landlord's Guide to Amenities and

Facilities for Houses in Multiple Occupation. Two of the bedrooms are large enough to accommodate two occupants per room, and two are large enough to accommodate one occupant. The property also has enough living space and washing facilities for up to 6 people.

10.11. The property benefits from a private area of outdoor amenity space to the rear that would be of an adequate size for a HMO and would allow occupants space for clothes drying with reasonable circulation.

10.12. Officers note that the use of a property as a HMO is also dependent on a HMO licence being obtained from the Council. In obtaining a licence from the Council, the internal and external space are assessed and therefore at the licensing stage further controls can be imposed on the exact number of occupants etc if necessary. It is noted that this property already benefits from a HMO licence for up to 6 people.

10.13. The proposal would be considered to comply with Policies H6, H15 and H16 of the Oxford Local Plan.

### **c. Parking and Highways**

10.14. Policy M3 states that in CPZs where development is located within a 400m walk to frequent public transport services and within 800m walk to a local supermarket or equivalent facilities, planning permission will only be granted for residential development that is car free. In the case of the redevelopment of an existing or previously cleared site, there should be no net increase in parking on the site from the previous level.

10.15. 40 Masons Road is located within the Wood Farm Controlled Parking Zone. The property is located within 800m of a shop and 400m of a frequent bus service and therefore is eligible to be a car-free development. Although there is currently a hard-standing at the front of the site, due to the presence of the front boundary wall and the front porch and side extension, the hardstanding is not large enough or suitable to accommodate off-street parking. Although no off-street parking is provided at the site, given the site is eligible to be car-free the HMO would be acceptable in this regard. The proposal is therefore considered acceptable due to the property being located in a highly sustainable location, with good access to public transport and local amenities.

10.16. Due to the property being located within a CPZ, to ensure that the proposal does not result in demand for on-street parking, a condition has been recommended to require the Road Traffic Order to be varied to remove any eligibility for future parking permits. The highways authority have concluded that the proposals are unlikely to have a detrimental impact on the local highway network in traffic and safety terms, subject to the condition recommended.

10.17. Therefore while the parking pressures raised are noted, acknowledged and understood, given the proposals are eligible to be car free, the suggested condition above is the appropriate mechanism to ensure any on-street parking arising from the proposals can be prevented. As such there would be no reason

to refuse planning permission on the basis of the car parking pressures in the area as on-street parking from the proposals can be suitably controlled.

10.18. Subject to the recommended condition, the proposal would be considered to comply with Policy M3 of the Oxford Local Plan.

#### **d. Bicycle storage**

10.19. Policy M5 states that planning permission will only be granted for development that complies with or exceeds the minimum bicycle parking provision as set out in Appendix 7.3. Policy M5 also states bicycle parking should be well designed and well located, convenient, secure, covered (where possible enclosed) and provide level, unobstructed external access to the street.

10.20. Appendix 7.3 states that for HMOs at least 1 bicycle parking space should be provided per occupant. As discussed previously in this report, the property is large enough to accommodate up to 6. No details of bicycle parking have been provided with this application. Nevertheless, Officers consider that there is enough space at the front of the property to accommodate enough bicycle parking for one space per occupant if the property were to be used by 6 occupants. A condition has therefore been recommended requiring further details of bicycle storage to provide at least one cycle space per occupant to be submitted to the Local Planning Authority within 3 months of any planning permission being granted. Any storage would then need to be installed on the site within 3 months of it being approved and retained thereafter.

10.21. Subject to the recommended condition, the proposal would be considered to comply with Policy M5 of the Oxford Local Plan.

#### **e. Bin storage**

10.22. Policy DH7 states that planning permission will be granted where it can be demonstrated that bin and bicycle storage is provided in a way that does not detract from the overall design of the scheme or the surrounding area.

10.23. No details have been provided with this application regarding bin storage provision. Nevertheless it is considered that there would be enough space at the front of the property to accommodate a bin store which would be convenient and easily accessible for occupants to use. A condition has therefore been recommended requiring further details of bin storage to be submitted to the Local Planning Authority within 3 months of any planning permission being granted. Any storage would then need to be installed on the site within 3 months of it being approved and retained thereafter.

10.24. Subject to the recommended condition, the proposal would be considered to comply with Policy DH7 of the Oxford Local Plan.

## **11. CONCLUSION**

11.1. On the basis of 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 it clear that proposals should be assessed in accordance with the development plan unless material considerations indicate otherwise.

11.2. In the context of all proposals paragraph 11 of the NPPF requires that planning decisions apply a presumption in favour of sustainable development. This means approving development that accord with an up-to-date development plan without delay; or where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless: the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

11.3. Therefore it would be necessary to consider the degree to which the proposal complies with the policies 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.

#### *Compliance with development plan policies*

11.4. In summary the proposed development would make efficient use of an existing site to deliver multi-occupancy housing and is supported by the overall objectives of the Oxford Local Plan 2036 and Policies S1 and H6. The development would not result in any harm to the character of the surrounding area and would be in accordance with Policy H6. The proposals would provide a good standard of accommodation in terms of internal space and outdoor amenity space and would comply with Policies H15 and H16. The development would not have any unacceptable impacts in terms of highway safety, including to pedestrians and cyclists, and is compliant with Policies M3, M5 and RE7.

11.5. Therefore officers considered that the proposals would accord with the development plan as a whole.

#### *Material considerations*

11.6. The principal material considerations which arise are addressed above, and follow the analysis set out in earlier sections of this report.

11.7. Officers consider that the proposal would accord with the overall aims and objectives of the NPPF for the reasons set out in 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.

11.8. Officers would advise members that, having considered the application carefully, including all representations made with respect to the application, 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 Local Plan 2036, and that there are no material considerations that would outweigh these policies.



11.9. 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.

## **12. CONDITIONS**

### **Development in accordance with approved plans**

1. 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 and to comply with Policy DH1 of the Oxford Local Plan 2036.

### **Variation to Road Traffic Order**

2. The use hereby permitted shall cease if the Order governing parking at 40 Mason Road is not varied by Oxfordshire County Council to exclude the site the subject of this permission from eligibility for residents' parking permits and residents' visitors' parking permits within 6 months of the date of this permission unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that the development or change of use does not generate an increase in parking demand, restrict existing residents' access to on-street parking and to ensure that the low-car nature of the development is met, in accordance with Policy M3 of the Oxford Local Plan 2036.

### **Bicycle storage**

3. Within 3 months from the date of this permission, details of secure, covered bicycle storage, located at the front of the site, with level and unobstructed external access to the street to provide at least 1 space per occupant shall be submitted to and approved in writing by the Local Planning Authority. The cycle storage shall be provided in complete accordance with the approved details within 3 months from the date the details are approved and shall be retained on site thereafter for the purposes of cycle storage only.

Reason: In the interests of the character and appearance of the area and promotion of sustainable modes of transport in accordance with Policy M5 of the Oxford Local Plan 2036

### **Bin storage**

4. Within 3 months from the date of permission, details of discrete and conveniently accessible storage for bins for refuse and recycling, located at the front of the site, shall be submitted to and approved in writing by the Local Planning Authority. The bin storage shall be provided in complete accordance with the approved details within 3 months from the date the details are approved and shall be retained on site thereafter for the purpose of bin storage only.

Reason: To ensure adequate provision of bin storage in accordance with the requirements of Policy DH7 of the Oxford Local Plan 2016-2036.

### **13. HUMAN RIGHTS ACT 1998**

13.1. 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.

### **14. SECTION 17 OF THE CRIME AND DISORDER ACT 1998**

14.1. 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.