

APPLICATION NO: 21/02361/FUL		OFFICER: Michelle Payne
DATE REGISTERED: 23rd October 2021		DATE OF EXPIRY: 18th December 2021 (extension of time agreed until 18th February 2022)
DATE VALIDATED: 23rd October 2021		DATE OF SITE VISIT:
WARD: St Peters		PARISH:
APPLICANT:	Mr Z Kwinter	
AGENT:	A. Clarke Design Ltd	
LOCATION:	37 Market Street Cheltenham Gloucestershire	
PROPOSAL:	Proposed side and rear extensions	

RECOMMENDATION: Permit



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1. DESCRIPTION OF SITE AND PROPOSAL

- 1.1 The application site is located on the north-eastern side of Market Street, within St Peters ward, and comprises a terraced, two storey dwelling. To the rear, the site backs onto the rear of properties in Bloomsbury Street.
- 1.2 The property is red brick beneath a pitched, slate roof, with white uPVC windows and doors. The property has been previously extended to the side at ground floor by way of a flat roofed addition which is finished in render.
- 1.3 The applicant is seeking planning permission for the erection of a first floor side extension and a single storey rear extension.
- 1.4 As originally submitted, the application proposed a two storey extension to the rear but revised plans have been submitted during the course of the application at the request of officers.
- 1.5 The application is before planning committee at the request of Cllr Willingham whose comments can be read in full at section 4 below; however, in brief, the main concerns relate to the impact on the amenity of adjacent neighbours; and the possible use of the property as a house in multiple occupation (HMO).

2. CONSTRAINTS AND PLANNING HISTORY

Constraints:

Airport Safeguarding over 45m
Honeybourne Line
Principal Urban Area
Residents Association
Smoke Control Order

Planning History:

CB18969/00

PERMIT

23rd February 1989

Erection of two storey extension and refurbishment of existing building

3. POLICIES AND GUIDANCE

National Planning Policy Framework 2021 (NPPF)

Section 2 Achieving sustainable development
Section 4 Decision-making
Section 12 Achieving well-designed places

Adopted Cheltenham Plan 2020 (CP) Policies

D1 Design
SL1 Safe and Sustainable Living

Adopted Joint Core Strategy 2017 (JCS) Policies

SD4 Design Requirements
SD9 Biodiversity and Geodiversity
SD14 Health and Environmental Quality

Supplementary Planning Guidance/Documents

Residential Alterations and Extensions (2008)

4. CONSULTATION RESPONSES

Gloucestershire Centre for Environmental Records - 3rd November 2021

Biodiversity report available to view

Building Control - 12th November 2021

The application will require Building Regulations approval. Please contact Cheltenham and Tewkesbury borough council on 01242 264321 for further information.

Ward Councillor - 7th November 2021

Following contact from several concerned neighbours, I would like to call this application, 21/02361/FUL in respect of 37 Market Street to committee if the officer decision would be to approve. I am happy for it to be refused under delegated powers.

The material planning reasons for requesting the call-in are as follows:

While the proposed modifications to the façade do appear to be in keeping, the scale and massing of the proposed rear development seems to represent over-development that is not in keeping with the area. The two-storey side extension and roof-line will deprive the adjacent owner of afternoon sun in the rear amenity space, and increase overlooking. The already small amenity space to the rear of the property will be further diminished. I have been advised that the property is in use as a house of multiple occupation (HMO), and that the room abutting the neighbouring property (marked on the plans as a sitting room) is in fact used as a bedroom. The expansion of this dwelling into a five or six bedroom HMO, which would be possible if this application were to be approved, would cause considerable loss of residential amenity to the neighbours. From a technical perspective, I am not convinced that the proposed development would meet the technical requirements of the national space standards for residential dwellings, and given the ability of HMO landlords to convert other rooms into bedrooms, this probably needs to be assessed based upon the highest possible occupancy. I am also concerned that Bedroom 3, does not meet the 11.5m² requirement in 10(d) of those technical requirements. Since I don't believe that it is possible to use planning conditions to limit the number of rooms used as bedrooms, I believe that this proposal represents over-development and ought to be refused.

Ward Councillor - 3rd January 2022

Just a brief note to confirm that despite the modifications to this proposal, the neighbours' objections do not seem to have been resolved, so I would still like this one to come to planning committee for a decision. I think that the majority of my previous reasons are probably still valid, but if you need me to provide something more detailed, please let me know.

Ward Councillor - 7th February 2022

As a ward councillor, and having reviewed the proposal I would like to register my formal objection to this proposal. The reasons for this objection are as follows.

- Due to the angle of the extant properties and the alignment of the rear gardens, the residents of the adjacent dwelling are likely to experience a considerable loss of privacy due to overlooking from the room marked as Bedroom 3 in the "Revised proposed plans & elevations" document. While one possible mitigation for this would be a planning condition, requiring frosted glass, this is likely to be detrimental to the amenity of the occupiers of the proposed development, if this is the case and that cannot be conditioned, then proposal should be refused. The proposal would also cause a loss of daylight at certain times of day in the rear garden of the neighbouring dwelling.
- In reviewing the plans, while it is noted that four double bedrooms are shown on the proposed first floor, and there are a Sitting Room and Dining Room shown on the ground floor plan, there is nothing preventing these other rooms being repurposed as

additional bedrooms, and the dwelling being converted into a House of Multiple Occupation. Unless this can be prevented via an enforceable planning condition, then this would set a dangerous precedent and of allowing excessive overdevelopment of the site. The proposed layout also shows no bathrooms and just a single shower room, directly connected to the kitchen, on the assumption that the shower room contains the toilet, having it directly connected to the kitchen is at best unsanitary, and sets a poor precedent in building design. The size of the shower room also seems disproportionately small compared to the potential number of occupants, which is likely to be detrimental on any future occupiers. This also seems to represent an insufficient provision of sanitation to contend with the eight possible residents (as shown by the inclusion of four double beds in the plans), and would certainly be insufficient for twelve people if the two ground floor rooms were also converted into bedrooms. Unless planning conditions allow the maximum occupancy and use of rooms to be limited, then in considering this proposal, consideration needs to be given to where one of the other eleven residents might undertake their toileting if the shower room was in use by one of the other residents...

- While the property may not be intended for use as a House of Multiple Occupation, Schedule 3 of the “The Licensing and Management of Houses in Multiple Occupation and Other Houses (Miscellaneous Provisions) (England) Regulations 2006” suggests that one toilet is required per five occupiers. Since this property is shown as accommodating eight, this suggests insufficient and inadequate provision of toilet and washing facilities. Not preventing this during the planning process would set a poor precedent by moving any resolution to reactive enforcement rather than dealing with it proactively.
- I note that in Table 1 of the DCLG document “Technical housing standards – nationally described space standard”, the minimum gross internal floor area for a four bedroom, eight person, two storey dwelling, is 124m². Based upon measurements taken via Idox Online Measurement, the proposed development does not seem to provide this quantum of internal space, again suggesting that the proposal represents overdevelopment. I would be grateful if the exact gross internal floor area could be confirmed in the planning report that goes to committee.
- The property is located in a permit parking zone where each dwelling is limited to two parking permits. With potentially up to eight or twelve residents in the property, the majority of whom would be unable to legitimately acquire parking permits, the risk of displacement of vehicles to just outside the permit parking zone, and the nuisance that would cause to those residents represents a further factor indicating that the proposals are overdevelopment of the property.

Based upon these reasons, I believe that it is reasonable and proportionate for the proposal to be refused.

5. PUBLICITY AND REPRESENTATIONS

5.1 Letters of notification were sent to nine neighbouring properties. In response to the publicity, objections have been received from four local residents. The representations have been circulated in full to Members but, in brief, the mains concerns relate to:

- Impact on parking/local amenities
- Noise and disruption during construction
- Overdevelopment/ overbearing
- Loss of light/overshadowing
- Overlooking/loss of privacy

6. OFFICER COMMENTS

6.1 Determining issues

6.1.1 The main considerations when determining this application relate to design, and any impact on neighbouring amenity.

6.2 Design

6.2.1 Adopted CP policy D1 requires all new development to complement and respect neighbouring development and the character of the locality; whilst extensions or alterations to existing buildings should avoid causing harm to the architectural integrity of the building or the unacceptable erosion of open space around the existing building. The policy is generally consistent with adopted JCS policy SD4 and advice set out within Section 12 of the NPPF.

6.2.2 Further design advice in relation to domestic properties is set out within the Council's adopted 'Residential alterations and extensions' SPD.

6.2.3 Officers are satisfied that the proposed extensions are acceptable from a design perspective. Whilst in this case, the side extension is not set back from the principal elevation, the extension will serve as a continuation of the terrace and is considered to be the most appropriate way of extending the property. Indeed, officers are of the opinion that the extension would result in an improvement to the streetscene; the existing flat roofed extension appearing as an obtrusive feature. Moreover, given the local context, which is largely characterised by terraced properties, the loss of the existing gap is not considered harmful in this instance.

6.2.4 To the rear of the property, as revised, the existing single extension would be subject to a fairly modest increase in footprint. The chamfered roof design, whilst perhaps not ideal, is an appropriate design solution to mitigate the impact on the neighbouring property, and will limit the height of the extension adjacent to the boundary. The extension will not be visible from the public realm.

6.2.5 The use of materials to match those used in the existing building and wider street scene will ensure that the general character and appearance of the property will be maintained.

6.2.6 Overall, officers are therefore satisfied that the proposals accord with the provisions of CP policy D1, JCS policy SD4, and the general design advice set out within the 'Residential alterations and extensions' SPD.

6.3 Amenity

6.3.1 Adopted CP policy SL1 advises that development will only be permitted where it will not cause unacceptable harm to the amenity of adjoining land owners or the locality; these requirements are reiterated in adopted JCS policy SD14. CP paragraph 14.4 advises that *"In assessing the impacts of a development including any potential harm, the Council will have regard to matters including loss of daylight; loss of outlook; loss of privacy..."*. The impact of the development on all neighbouring properties has been taken into account when considering these proposals.

6.3.2 As previously noted, revised plans have been submitted during the course of the application to mitigate the impact of the rear extension on the adjacent property, no.39 Market Street. The two storey addition originally proposed, particularly the first floor bedroom addition, would have had a significant impact on the kitchen window in the rear of this neighbouring property. Following the omission of the first floor element and the introduction of the chamfered roof, the extension now passes the 45° daylight test used to

assess the impact of an extension on an adjacent window, and is acceptable. The height adjacent to the boundary will be 2.4 metres and the extension projects 3.5 metres.

6.3.3 In considering the first floor side extension, officers are satisfied that whilst the extension will undoubtedly have some impact on the neighbouring property, no.35 Market Street, it is not considered that any such impact will be so great as to warrant a refusal of planning permission on amenity grounds.

6.3.4 With regard to overlooking and loss of privacy, the angled garden to this neighbouring property has been duly noted but the single window proposed in the rear of the extension is unlikely to significantly compromise existing levels of privacy and overlooking, over and above that which already exists. The relationship between the window and the neighbouring garden will not be dissimilar to that elsewhere

6.3.5 Light to windows serving habitable rooms in this neighbouring property will not be affected; the extension does not project beyond the rear elevation of this property.

6.3.6 Moreover, any loss of sunlight and overshadowing of the rear garden will be limited, given the orientation of the existing properties, and the width of the existing gap between the properties which narrows to the rear.

6.3.7 Furthermore, with regard to noise transfer between properties, this is a matter for Building Regulations; however, a new cavity wall is shown on the floor plans. Also, the works will require agreement under the Party Wall etc. Act 1996; the granting of planning permission does not negate the need to also comply with the act where it is applicable.

6.3.8 The comments from local residents in relation to noise and disturbance have been noted but some noise and disturbance during construction work is to be reasonably expected. Individual circumstances cannot be taken into account. However, for the avoidance of doubt, an informative has been attached advising the applicant/developer of the accepted construction hours for works which are audible beyond the boundary, which are Monday to Friday 8am to 6pm, and Saturdays 8am to 1pm.

6.4 Other considerations

Use of the property as a HMO

6.4.1 The comments in relation to the use of the property as a House in Multiple Occupation (HMO) have been duly noted; however, the application must be determined on the basis of the scheme put forward. The speculative future use of the property as a HMO is not a material consideration in the determination of this householder planning application. The occupation of a domestic property by up to six unrelated individuals does not require planning permission unless permitted development rights have been removed. This site does not fall within the area covered by the Article 4 Direction which removes permitted development rights for developments involving a change of use of a dwelling to a HMO; and, as such, the imposition of a condition restricting the future use would fail to meet the necessary tests.

Parking

6.4.2 Whilst parking has been raised as a concern by local residents, the proposals will not result in the loss of any existing on-site parking space. Moreover, the scale of development proposed is unlikely to result in any tangible impact on parking. There are no parking standards for the development to adhere to.

Protected species

6.4.2 Whilst records show that important species or habitats have been sighted on or near the application site in the past, given the scale and nature of the proposals, it is not considered that the proposed development will have any harmful impact on these species.

Public Sector Equalities Duty (PSED)

6.4.3 As set out in the Equalities Act 2010, all public bodies, in discharging their functions must have “due regard” to this duty. There are three main aims:

- Removing or minimising disadvantages suffered by people due to their protected characteristics;
- Taking steps to meet the needs of people with certain protected characteristics where these are different from the needs of other people; and
- Encouraging people with certain protected characteristics to participate in public life or in other activities where participation is disproportionately low.

6.4.4 Whilst there is no absolute requirement to fully remove any disadvantage, the duty is to have “regard to” and remove OR minimise disadvantage and in considering the merits of this planning application the planning authority has taken into consideration the requirements of the PSED.

6.4.5 In the context of the above PSED duties, this proposal is considered to be acceptable.

7. CONCLUSION AND RECOMMENDATION

- 7.1 With all of the above in mind, the proposals are considered to be in accordance with relevant national and local planning policies, and the recommendation is to grant planning permission subject to the following conditions:

8. CONDITIONS

- 1 The planning permission hereby granted shall be begun not later than the expiration of three years from the date of this decision.

Reason: To accord with the provisions of Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

- 2 The planning permission hereby granted shall be carried out in accordance with the approved plans listed in Schedule 1 of this decision notice.

Reason: For the avoidance of doubt and in the interests of proper planning.

INFORMATIVES

- 1 In accordance with the requirements of The Town and Country Planning (Development Management Procedure) (England) Order 2015 and the provisions of the NPPF, the Local Planning Authority adopts a positive and proactive approach to dealing with planning applications and where possible, will seek solutions to any problems that arise when dealing with a planning application with the aim of fostering the delivery of sustainable development.

At the heart of this positive and proactive approach is the authority's pre-application advice service for all types of development. Further to this however, the authority publishes guidance on the Council's website on how to submit planning applications and

provides full and up-to-date information in relation to planning applications to enable the applicant, and other interested parties, to track progress.

In this instance, the authority sought revisions to mitigate any unacceptable impact on the adjoining neighbour.

Following these negotiations, the application now constitutes sustainable development and has therefore been approved in a timely manner.

- 2 The applicant/developer is advised that the works will likely require agreement under the Party Wall etc. Act 1996; the granting of planning permission does not negate the need to also comply with the act where it is applicable.