

Democratic Services

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21 February 2020

SUMMONS TO ATTEND

MEETING: DEVELOPMENT CONTROL COMMITTEE

PLACE: COMMITTEE ROOM 1, COUNCIL OFFICES, WOODGREEN, WITNEY

DATE: MONDAY 2 MARCH 2020

TIME: 11 AM

Members of the Committee:

Councillors: Jeff Haine (Chairman); Ted Fenton (Vice Chairman); Andrew Beaney, Richard Bishop, Mike Cahill, Nathalie Chapple, Owen Collins, Nigel Colston, Julian Cooper, Derek Cotterill, Maxine Crossland, Marilyn Davies, Harry Eaglestone, Duncan Enright, Hilary Fenton, Steve Good, David Jackson, Nick Leverton, Kieran Mullins, Neil Owen, Alex Postan, Carl Rylett, Geoff Saul and Harry St John

RECORDING OF MEETINGS

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As a matter of courtesy, if you intend to record any part of the proceedings please let the Committee Officer know before the start of the meeting.

A G E N D A

1. Minutes of the meeting held on 4 June 2020 (previously circulated).

2. Apologies for Absence and Temporary Appointments

3. Declarations of Interest

To receive any declarations of interest from Councillors relating to items to be considered at the meeting, in accordance with the provisions of the Council's Local Code of Conduct, and any from Officers.

4. Reconsideration of Planning Application reference 19/02780/FUL for a proposed dwelling at No Oven Cottage Little Tew (Report of the Business Manager, Development Management – copy attached)

Purpose:

To enable the Committee to re-consider the resolution of Uplands Area Planning Sub-Committee to approve the application.

Recommendation:

That the application be refused, in line with the recommendation in the annexed report.

5. Update: Good Practice Guidance and Training (Report of the Business Manager, Development Management – copy attached)

Purpose:

To advise members of a previous resolution of the Committee and to enable consideration of external Planning Training.

Recommendations:

- (a) That the need for updated Planning Good Practice Guidance be confirmed, based on the principles agreed in April 2016; and
- (b) That the Business Manager, Development Management be requested and authorised to arrange for the commissioning of external planning training, in consultation with the Chairman of the Committee.



Chief Executive

This agenda is being dealt with by Keith Butler - Tel: (01993) 861521

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WEST OXFORDSHIRE
DISTRICT COUNCIL

West Oxfordshire District Council

Name and date of Committee	Development Control Committee: Monday 2 March 2020
Report Number	Agenda Item No. 4
Subject	Reconsideration of Planning Application reference 19/02780/FUL for a proposed dwelling at No Oven Cottage Little Tew
Wards affected	Kingham, Rollright and Enstone
Accountable member	N/A
Accountable officer	Phil Shaw Business Manager Development Management Tel: 01993 861687 Email: phil.shaw@publicagroup.uk
Summary/Purpose	To enable the Development Control Committee to re-consider the resolution of Uplands Area Planning Sub-Committee to approve the application
Annex	Annex 1 : Updated Planning Report in respect of application 19/02780/FUL
Recommendation	That the application be refused, in line with the recommendation in the annexed report
Corporate priorities	N/A
Key Decision	N/A
Exempt	No
Consultees/ Consultation	Consultation was undertaken on the planning application in accordance with usual guidelines and requirements

I. BACKGROUND

- I.1. Members will be aware that under the scheme of delegation there is a provision that allows Officers to refer a resolution of one of the sub committees to Development Control Committee for final determination.
- I.2. The relevant provision sets out :

Where recommendations on a planning application or proposal are not accepted by the Area Planning Sub-Committee, the right to withdraw the application or proposal for final determination by the Development Control Committee.

- I.3. Officers are mindful of the general principle that it is for Officers to 'recommend' and for Members to 'decide' and as such this right of referral is only exercised very rarely. Indeed it has only been used once by the current post holder in the period 1996 to date. However, in this instance, the intended decision to approve was considered to raise significant policy issues such that if the decision were allowed to be issued without the oversight of the full committee it could potentially set a precedent for an interpretation of policy that would not accord with officers understanding of the way the policy was intended to operate and which would apply District wide, thereby potentially undermining the strategy that sits behind the policy. As such it has been referred to this Development Control Committee such that the parent committee can decide whether the scheme is policy compliant and/or whether there are sufficient material considerations to warrant setting policy aside in a way that will not lead to wider policy implications; or whether the proposal should be refused as recommended

2. MAIN POINTS

Planning Balance

- 2.1. Members will be aware that there is a key principle set out in law and practice as to how any development proposal should be considered. The relevant advice from the NPPF sets out that the statutory status of the development plan is the starting point for decision making and that where a planning application conflicts with an up to date development plan permission should not normally be granted and decisions that depart from an up to date plan should only be considered if material considerations in a particular case indicate that the plan should not be followed (emphasis added)
- 2.2. In this instance we have a very recently adopted Development Plan and a more than adequate 3 and 5 year housing land supply. This in turn means that the policies of the plan have full/maximum weight and the expectation is therefore that where there is conflict with policy the scheme will be refused unless there are material considerations that could justify setting aside the weight of that policy objection
- 2.3. In turn material considerations are defined fairly widely but must be related to the purpose of planning legislation (i.e. to regulate the use and development of land in the public interest). They must also fairly and reasonably relate to the application concerned.

Legal status of Heritage assets

- 2.4. There are also relevant legal provisions regarding the setting of listed buildings where the system seeks to avoid harm to the asset or its setting. The NPPF also identifies that new development within the setting of a heritage asset which enhance their significance may potentially be acceptable provided that the benefits of a proposal which conflicts with policy would secure the future conservation of the heritage asset and where the benefits outweigh the harm of departing from policy

Overall conclusion

- 2.5. Officers conclusion is that the proposal to site a dwelling in a village where policy seeks to resist development is clearly contrary to the purpose of the policy in limiting residential development in unsustainable rural locations. The building to be replaced is not considered so harmful that its loss would justify an exception to policy and indeed it is considered to have a fairly neutral impact on the streetscene and setting of the church. In turn the new proposal is considered not to be so exceptional as to justify approval against policy and indeed is considered to have its own adverse impacts and consequences for the setting of the Church. The policies of the plan have full weight and there is an adequate 3 and 5 year land supply. Approval of the scheme would open the way for many householders to argue that replacing existing buildings with new houses as a means to “tidy up” a village was now considered policy compliant and thereby secure planning permissions in unsustainable rural locations and undermine the strategy of the local plan to drive new residential developments to locations where they are most sustainable. For these reasons and as set out more fully in the attached report Officers are recommending that the scheme be refused as set out in the attached application report

3. FINANCIAL IMPLICATIONS

- 3.1. None arising directly from this report

4. LEGAL IMPLICATIONS

- 4.1. Approval of schemes where it is considered that the correct legal balances have not been correctly applied could be subject to Judicial Review, albeit it is considered that the likelihood of such challenge is relatively low

5. RISK ASSESSMENT

- 5.1. The key risk is with regard to the ongoing ability of the adopted local plan to guide and restrict development in accordance with the sustainable strategy that underpins it if a readily repeated caveat to set aside those policies is agreed

6. CLIMATE CHANGE IMPLICATIONS

- 6.1. Promoting sustainable development and resisting it in unsustainable locations is the core principle of the planning system and the strategy of the adopted local plan

7. ALTERNATIVE OPTIONS

- 7.1. Members could decide to approve the scheme although that is not recommended for the reasons outlined above

8. BACKGROUND PAPERS

- 8.1. Application reference 19/02780/FUL and associated papers

Application Number	19/02780/FUL
Site Address	No Oven Cottage Chipping Norton Road Little Tew Chipping Norton Oxfordshire OX7 4JF
Date	3rd February 2020
Officer	Chloe Jacobs
Officer Recommendations	Refuse
Parish	Little Tew Parish Council
Grid Reference	438407 E 228595 N
Committee Date	3rd February 2020

Application Details:

Demolition of existing annex and erection of new detached dwelling. Close existing and formation of new vehicular access in revised position for use by existing and new property. Associated landscaping and parking.

Applicant Details:

Mrs Justine Tibbets
No Oven Cottage
Little Tew
Chipping Norton
OX74JB

I CONSULTATIONS

Parish Council	No response received to date.
OCC Highways	<p>The proposal, if permitted, will not have a significant detrimental impact (in terms of highway safety and convenience) on the adjacent highway network</p> <p>Recommendation:</p> <p>Oxfordshire County Council, as the Local Highways Authority, hereby notify the District Planning Authority that they do not object to the granting of planning permission, subject to conditions</p>
WODC Drainage Engineers	No objection subject to conditions
Biodiversity Officer	No objection subject to conditions.
OCC Archaeological Services	I recommend that, should planning permission be granted, the applicant should be responsible for ensuring the implementation of an archaeological monitoring and recording action (watching brief) to be maintained during the period of construction. This can be ensured through the attachment of suitable negative conditions.
Conservation Officer	<p>Context</p> <p>No Oven Cottage is a grade II listed building (List Entry Number: 1193481) dating from the 17th century, extended 18th century. Limestone rubble and coursed squared marlstone with timber lintels; thatch roof with C20 brick stacks. 3-unit plan, probably</p>

with through passage, enlarged to L-plan. One storey plus attic and 2 storeys plus attic. Front of lower earlier main range has a central doorway between irregular fenestration including, at first floor, a 3-light leaded casement and a leaded cross window. To right is a large stone flying buttress. Single-storey bay to left. C18 marlstone range projects from the right and has large leaded casements of 3 and 4 lights facing left. All gables have stacks and there is a further ridge stack to right of the entrance. Left gable of single-storey bay has a small 2-light window in a stone frame, possibly medieval re-set. Interior not inspected.

The application proposes to split a piece of land into two - this is to create a new property which replaces an existing garage/annex, also, to close the existing access and form a new vehicular access in a revised position, and includes landscaping and parking at No Oven Cottage. The proposal affects the existing curtilage and setting of this listed building. Also, No Oven Cottage is located in Little Tew Conservation Area, a small village that retains its unspoilt and isolated rural character.

Legislation and Policy

The Local Authority has a statutory obligation to give special regard to the desirability of preserving listed buildings and conservation areas; and their settings:

Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, states that: special regard should be given to the desirability of preserving a listed building or any features of special architectural or historic interest which it possesses.

Paragraph 193 of the National Planning Policy Framework states that when considering the impact of new development on the significance of a listed building, great weight should be given to its conservation, and the more important the asset, the greater the weight should be. It continues that significance can be harmed or lost from development within its setting. The policy objectives set out in the NPPF (section 16) establish that there is a twin role for setting: it can contribute to the significance of a heritage asset, and it can allow that significance to be appreciated. The NPPF Glossary: Setting of a heritage asset refers to setting as 'the surroundings in which a heritage asset is experienced'. The historic character of a place is the group of qualities derived from its past uses that make it distinctive. This may include: its association with people, its visual aspects, features and materials and spaces associated with its history, including its original configuration and subsequent losses and changes.

Also, within a Conservation Area, Officers are required to take account of section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended which states that, with respect to buildings or land in a conservation area, special attention shall be paid to the desirability of preserving and enhancing the character or appearance of that area. Further the paragraphs of section 16 'Conserving and enhancing the historic environment' of the NPPF are relevant to consideration of the application.

Heritage Considerations

No Oven Cottage is located within Little Tew Conservation Area.

In conservation areas, important groups of buildings often have a special value and historic character which can be harmed by new development, in this case, this includes:

- Church of St John the Evangelist -grade II listed church dating 1853 by G.E Street; north aisle and tower 1869 by Charles Buckeridge. Limestone ashlar; artificial stone-slate roofs
<https://historicengland.org.uk/listing/the-list/list-entry/1368194>
- Ibstock Close - Grade II - Farmhouse, now house. C17, enlarged c.1900 and altered early C20.The house was the vicarage for a period from 1880.<https://historicengland.org.uk/listing/the-list/list-entry/1052528>
- Cottage Approximately 10 Metres North Of Ibstock Close, The Green - GV II - Cottage. Early C18.
<https://historicengland.org.uk/listing/the-list/list-entry/1193552>
- The Bell House, The Green - grade II - Inn and cottage, now house. Possibly early C17, re-modelled late C17 and extended early C18
<https://historicengland.org.uk/listing/the-list/list-entry/1052529>
- Coach House And Cottage Approximately 20 Metres North West Of Manor House, The Green Stables and coach house, now partly cottage. Late C17/early C18, altered late C20<https://historicengland.org.uk/listing/the-list/list-entry/1368195>
- Manor House, The Green - GV II -Manor house. C17, extended C18 and C19, altered early C20
<https://historicengland.org.uk/listing/the-list/list-entry/1193562>
- Croft Cottages, Grade II I-4 - Row of 4 cottages. 1863 by Charles Buckeridge - Intended as almshouses
<https://historicengland.org.uk/listing/the-list/list-entry/1052522>

Little Tew Conservation Area Appraisal states: 'Important groups of buildings often have a special value and historic character which can be harmed by new development (however well designed)'.

Also, 'Special care must be taken to ensure that views into and out of the Conservation Area, as well as views within the Conservation Area, are not harmed.

The Little Tew Conservation Area Appraisal Map also shows locally listed buildings, and a 'Significant Boundary Wall' located within the curtilage of No Oven Cottage.

Heritage Assessment Comments

The application site is within the curtilage of No Oven Cottage, in the Little Tew Conservation Area. The applicant has stated that the current curtilage was previously smaller - however although it appears that the map of 1875 does show what looks like a separate parcel - firstly, it is accessible via No Oven Cottage and secondly, the applicant's Heritage Statement refers to evidence that the land was in separate ownership by discussing the Church graveyard expansion in 'A History of Little Tew' by Francis Price. However, the text says '...by transferring land previously forming part of the gardens of No Oven Cottage'... this means that the land between No Oven Cottage and the Church belonged to No

Oven Cottage. Therefore, the curtilage of this building does appear to have remained unchanged, at least, since 1875.

Notwithstanding, whilst there is no doubt that the 20th century garage /annex is not of special interest, there are other aspects to consider. National and Local Policy including LP2031-Policies EH9, EH10, EH11 and EH13 - direct us to focus on conservation and enhancement of heritage assets, and this includes their setting, their historic landscape character / pattern, and views into, and out from all heritage assets.

Although is a single-storey building, the footprint of the proposed building is large-scale, and will fill a significant amount of this plot, together with other associated residential paraphernalia, this characterful plot will alter considerably. Also, the proposed building will particularly alter views from the Church grounds which are slightly elevated, and from No Oven Cottage itself where the view will be a building instead of a garden plot; this building will be an incongruous addition to this characterful area, and have a negative impact on the heritage assets. Also, the applicant wishes to revise the position of the access in the boundary wall which has been identified as a Significant Boundary Wall in Little Tew Conservation Area; this will negatively alter the appearance and setting of the listed building and conservation area.

The proposed development does not conserve and enhance the appearance and setting of the heritage assets, it does not build on the pre-existing historic character (including building layouts), it does not respect the historic character of the landscape, nor does it respect the building's historic curtilage or context and setting, including the pattern of development - it does not respect the form, scale, massing, density, layout, landscaping, use, alignment and external appearance of the listed building and wider conservation area.

Consequently, it is not considered that the special interest of the heritage assets would be preserved, and the less than substantial harm which would result from the development proposed would not be outweighed by any discernible public benefits. Therefore, in conclusion, I consider the proposal in its current form would not conserve and enhance the heritage assets, which have been given special weight in this assessment, and are contrary to policies OS4 and EH9, EH10, EH11, EH12, EH13, EH15 and EH16 of the West Oxfordshire Local Plan 2031 and section 16 of the NPPF, and Little Tew Conservation Area Appraisal.

N.B.: In undertaking a further investigation during this application I noted that the Victoria County History (<https://www.british-history.ac.uk/vch/oxon/vol11/pp247-258>) it states that 'The Cogges priory, later Eton College, house may have stood on the site known in the 18th century as Prior's close, given by Eton in 1853 for the new church'. There were historically three Manors in Little Tew of which the locations of only two of them are known, if the missing Manor is under the Church, it stands to reason that the Church grounds, as well as surrounding land could have been associated with the Manor, and may therefore be of archaeological interest. I recommend that the County Archaeologist is consulted.

Background

The application proposes the demolition of an existing annexe building to be replaced by a single storey dwelling along with the formation of new vehicular access. The site is located within Little Tew, which is defined as a small village. The site is located within the Tew Conservation Area and the annexe is within the curtilage of a Listed Building.

Status of development plan:

The current statutory development plan for West Oxfordshire is the West Oxfordshire Local Plan 2031 which was adopted on 27 September 2018 and must therefore be given full weight.

The West Oxfordshire Design Guide SPD is also relevant to this application, particularly sections 4, 6, and 7.

Assessment

This development is located within the Chipping Norton Sub-Area. From the evidence provided in the application and from further research, I believe this proposal highlights the following policy issues:

OS2 - Locating Development in the right places

Implications for this proposal should be carefully considered against OS2.

Development in Little Tew should be limited to that which is required and is appropriate for a rural location and respects the intrinsic character of the area. Development should conserve and enhance the built environment, form a logical complement to the character of the area, be provided with safe vehicular and pedestrian access, not result in harmful impacts on existing occupants and not involve the loss of any features that make an important contribution to the character or appearance of the area.

H2- Delivery of New Homes

New dwellings in small villages, hamlets and open countryside will only be permitted where there is an essential operational or other local need that cannot be met in any other way in the settlement or where the design is of an exceptional quality or innovative design. This proposal does not appear to meet either of these tests.

EH9 - Historic Environment

Great weight should be given to the character and appearance of Conservation Areas and their settings including the contribution their surroundings make to their physical, visual and historic significance. In addition, great weight should be given to the special architectural and historic interest of Listed Buildings, including their setting.

EH10 - Conservation Areas

Proposals for development in a Conservation Area will be permitted where the location, form, scale, massing, height, layout, landscaping, alignment and external appearance conserves or enhances the character, appearance and setting of the

Conservation Area and is not detrimental to views within, into or out of the area. Views from the Church and church yard should also be considered.

Additionally, demolition of a building in a Conservation Area will only be permitted where it has been demonstrated that: The building detracts from or does not make a positive contribution to the special interest, character, or appearance of the Conservation Area; or the building is of no historic or architectural interest or is wholly beyond repair and not capable of beneficial use; and the proposed replacement building makes an equal or greater contribution to the character of the Conservation Area.

EH11 - Listed Buildings

This proposal will affect the setting of the listed buildings; it must comply with Policy EH11 of the Local Plan.

Proposals for additions within the curtilage of a listed building will only be permitted if they can be shown to conserve or enhance its setting and respects the building's historic curtilage. This should be considered in regards to both No Oven Cottage and Church of St. John the Evangelist, particularly to the loss of enclosure of the exiting church yard.

Other considerations

Other relevant planning considerations include the impacts on protected species and biodiversity (Policy EH3), the impact on trees on the site - particularly in regard to the Yew trees, the provision of safe access (Policy T2), the impacts on the living conditions of neighbouring properties (Policy OS4) and management of surface water runoff (EH7).

Conclusion

In conclusion, the key issues in assessing this application are the impacts on:

- The appropriateness of new development in Little Tew which is defined as a small village
- The need for new housing in the village, and whether this proposal offers an exceptional quality or innovative design..
- Protection and enhancement of the Conservation Area
- The setting of the listed buildings and the impacts on both the natural and built environment.
- The loss of trees

Further consultation from the Conservation and Heritage team and a Biodiversity Officer is required regarding the proposed development.

List of Relevant Planning Policies

The relevant policies in relation to this planning application are listed below:

West Oxfordshire Local Plan 2031: OS2, OS3, OS4, H2, T2, T4, EH2, EH3, EH7, EH9, EH10, EH11, EH13.

2 REPRESENTATIONS

2.1 Two letters of representation has been received objecting to the proposed scheme for the following reasons:

- Risk of flooding has been ignored in the submitted drainage report- the site has flooded several times over the years.
- Not appropriate for the Conservation area
- Close proximity between the new dwelling and neighbouring, No Oven Cottage.
- Demolition of annexe would result in lack of storage space to serve No Oven Cottage
- The development would despoil Little Tew
- some clearance works have commenced on the proposed plot for this dwelling that has included the removal of trees which would have previously screened most of it from our property.
- Concerns relating to the proposed design / material proposed for the flat roof, which we believe would have a detrimental impact on the setting of the Church as seen from our neighbouring property, which is also Grade 2 listed.
- The new dwelling will dominate the foreground of the church from our perspective and there appears to be no adequate detail as to how this might be mitigated and there is a lack of detail as to the proposed boundary treatment between the garden of No Oven Cottage and the proposed property. Given that the applicant owns both No-Oven Cottage and the subject site, we would like to see a co-ordinated landscaping plan that deals with this.

2.2 Three letters of representation have been received in support of the application. These comments can be summarised as follows:

- The design would be an improvement
- The design is of high quality
- The current garage block/annex to the house 'No Oven Cottage' has been a substantial blot on the landscape
- Would open up views to the church

3 APPLICANT'S CASE

A planning statement has been submitted as part of the application which concludes:

Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990 require that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.

This statement has set out that the development proposal would result in a dwelling of exceptional quality and innovative design. It has set out that the development would be of a proportionate and appropriate scale to its context. It has been set out that development is entirely compatible with its adjoining land uses and its siting and design has been informed such to avoid any harmful impacts on the amenity of existing occupants.

This statement has set out that the proposal will not harm the local landscape or the setting of the settlement. Being located within an existing domestic curtilage, the proposal will provide safe vehicular access and safe and convenient pedestrian access to supporting services and facilities within the village.

It is therefore concluded the development proposal fully conforms to the requirements of Local Plan Policies OS2 and H2.

In addressing Local Plan Policy H2, it has been set out that the application currently comprises a two-storey building that could otherwise be converted to form a dwelling. However, as an alternative approach the replacement of that building in the manner proposed is considered to result in significant environmental enhancements. This is a material consideration to which some weight should be attached.

This statement has also set out, in detail, several enhancements to this part of the Conservation Area and the heritage assets of the Church of St John the Evangelist and No Oven Cottage. It has been set out that great weight and importance should be attached to that matter, in accord with the provisions of Local Plan Policy EH9.

This statement has demonstrated the proposal will both conserve and enhance the special architectural and historic interest of the listed buildings features, appearance, character and setting. Moreover, it has been set

out that the proposal will replace an existing building which is of no architectural significance, and due to the siting and design of the proposals, it is considered the visual change on the character and significance of the conservation area will result in positive impact.

It has been set out that the proposal constitutes 'sustainable development'.

For all the above reasons, it is recommended that planning permission should not be withheld for this development of exceptional quality and innovative design, resulting in significant enhancements to several designated heritage assets.

4 PLANNING POLICIES

NATDES National Design Guide

OS1NEW Presumption in favour of sustainable development

OS3NEW Prudent use of natural resources

OS2NEW Locating development in the right places

OS4NEW High quality design

EH9 Historic environment

EH10 Conservation Areas

EH11 Listed Buildings

EH12 Traditional Buildings

EH13 Historic landscape character

EH16 Non designated heritage assets

H2NEW Delivery of new homes

H6NEW Existing housing

T4NEW Parking provision

NPPF 2019

DESGUI West Oxfordshire Design Guide

The National Planning Policy framework (NPPF) is also a material planning consideration.

5 PLANNING ASSESSMENT

5.1 The application seeks planning permission to sub-divide the plot and erect a new 3-bed dwelling to replace an existing garage, annexe and lean-to extension at No Oven Cottage. The proposal also includes the relocation of the access and new landscaping.

5.2 No Oven Cottage is a Grade II listed building (List entry number: 1193481); first listed in 1987. The cottage is located within the village of Little Tew, located approximately 7km North East of Chipping Norton. The Church of St John the Evangelist lies to the south east of the site and is also a Grade II listed building (List entry number: 1268194). Both No Oven Cottage and the Church of St John The Evangelist sit within the Little Tew Conservation Area.

5.3 Pre-application advice was sought in October 2018 for the proposed development. Officers advised at this time that the proposal would be contrary to Local Plan policies OS2, H2, EH9, EH10 and EH11 and therefore officers would not be likely to support an application.

5.4 An application was submitted in June 2019 (REF: 19/01646/FUL) which was withdrawn following extensive discussions regarding the unacceptability of the proposal in terms of the principle of development and impact on heritage assets.

5.5 The current application was deferred for a site visit at the January 2020 sub-committee meeting and received a resolution to approve at the February meeting whereupon it was scheduled for final determination at this meeting.

5.6 Taking into account planning policy, other material considerations and the representations of interested parties your officers are of the opinion that the key considerations of the application are:

Principle

Heritage impact

Residential amenity

Principle

5.7 Little Tew is identified in the West Oxfordshire Local Plan 2031 settlement hierarchy as a 'small village'. Little Tew is a small, rural village that consists of approximately 150 houses. It has its own church, but, like so many other rural communities, no longer any shops or even a pub. The nearest rural service centre is the market town of Chipping Norton which is located approximately 7km away. The nearest railway station is in Charlbury. Policy OS2 states that within the small villages new development will be limited to that which requires and is appropriate for a rural location and which respects the intrinsic character of the area. Proposals for residential development within small villages such as Little Tew will be considered under policy H2.

Policy H2 of the adopted WOLP 2031 only permits new dwellings in Little Tew in a limited number of exceptional circumstances. The relevant circumstances outlined in the policy are as follows:

- where there is an essential operational or other specific local need that cannot be met in any other way, including the use of existing buildings. Where appropriate, new homes provided (other than replacement dwellings) will be controlled by an occupancy condition linked to the operational need and/or to the 'rural exception site' approach for permanent affordable dwellings;
- where residential development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of a heritage asset;
- residential development of exceptional quality or innovative design.

5.8 In this case, it has not been demonstrated that there is an operational or specific local need for this dwelling which cannot be met in any other way, nor is it considered to be a rural exception site providing affordable housing. Further, as assessed in detail below, the development is not considered to represent the optimal viable use of the heritage assets, and does not secure the future of the listed building. Lastly, whilst the proposed dwelling is of an unusual design it is not considered to be of either exceptional quality or innovative design. This is also emphasised in the National Design Guide which requires new developments to respond to their context and enhance their surroundings. The view of the Councils Conservation Architect is that it is harmful and disrespectful rather than beneficial and complementary.

As such the proposal is considered to be clearly contrary to policy.

5.9 The applicant argues that the proposal meets the criteria in that the proposed development is of exceptional quality and innovative design. The National Planning Policy Framework (2019) represents up-to-date government planning policy and is a material consideration that must be taken into account where it is relevant to a planning application. When looking for guidance as to what is considered to be of 'exceptional quality or innovative design' we must look towards Paragraph 79 of the NPPF which states that development within isolated locations should be avoided unless the design is of exceptional quality, in that it: - is truly outstanding or innovative, reflecting the highest standards in architecture, and would help to raise standards of design more generally in rural areas; and - would significantly enhance its immediate setting, and be sensitive to the defining characteristics of the local area. Given that no justification has been given outlining how this application proposes to meet the criteria as set out in the NPPF (2019) officers are of the opinion that the application has failed to meet the deliberately high burden of proof to satisfy the test and is clearly contrary to policies OS1, OS2, OS3 and H2 of the adopted West Oxfordshire Local Plan 2031 and is unacceptable in these terms.

5.10 An argument is also being made that Policy H2 does allow for windfall development sites. Policy H2 highlights that it is important that any windfall development supports the delivery of the Local Plan strategy. It should therefore contribute to meeting housing needs in sustainable locations, recognise the intrinsic character and beauty of the countryside and, where appropriate, encourage the re-use of previously developed land. It further goes on to state that windfall housing development will be

supported within the built-up area and on previously developed land where it accords with other relevant policies in the Local Plan and particularly the general principles set out in Policy OS2.

5.11 This strategic overview is backed up by Policy CN2: Chipping Norton Sub-Area Strategy which states that outside Chipping Norton, opportunities for further development in the rest of the sub area are relatively limited due to the nature and size of the settlements and lack of suitable and deliverable land for development. In accordance with the overall strategy, the majority of future housing development within this sub-area will be located at Chipping Norton which is the District's third largest town and offers a good range of services and facilities. New housing in the rest of the sub-area will be limited to meeting local community and business needs and will be steered towards the larger villages.

5.12 In light of this, Little Tew is not considered to be a sustainable location for further windfall residential development. There are no shops and or services to support future occupiers meaning that there would be a heavy reliance on private car transport to access most recreational, educational and employment opportunities and that is why policy H2 is set out as it is.

5.13 The overall strategy of West Oxfordshire and National Planning Policy is to encourage sustainable development and to reduce the reliance that is placed on private car journeys. New development should not lead to more people being isolated from services and facilities which they need on a regular basis. New development must therefore be located in the right places and provide the necessary infrastructure to meet the needs of its residents and/or users. Given the lack of facilities and services within Little Tew, it is of officer's opinion that new residential development would be unsustainable in this location and would therefore be contrary to the overall strategy of the West Oxfordshire Local Plan 2031.

Your officer's consideration of the proposal against the other relevant policies within the adopted Local Plan 2031 will be explored in detail below.

Heritage Impact

As the site is within the curtilage of a listed building, your officers are required to take account of Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended which states that in considering whether to grant listed building consent for any works the local planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

Further, given that the application site is also within a Conservation Area, your officers are required to take account of section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended which states that, with respect to buildings or other land in a Conservation Area, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area. Furthermore, the paragraphs of Section 16 'Conserving and enhancing the historic environment' of the NPPF are relevant to consideration of the application.

Whilst the applicant has stated that the curtilage serving No Oven Cottage was previously smaller than it currently is, it appears historically that the land between No Oven Cottage and the Church belonged to No Oven Cottage. Therefore, the curtilage of this building does appear to have remained unchanged, at least, since 1875.

In this case, there is no doubt that the 20th century garage /annex is not of special interest, but equally it is also of no especial harm being a largely stone built structure clearly designed to be ancillary to the host building and set away from it to help preserve its setting. National and Local Policy, including the WOLP 2031 policies EH9, EH10, EH11 and EH13, direct us to focus on conservation and enhancement of heritage assets, and this includes their setting, their historic landscape character / pattern, and views into, and out from all heritage assets.

Although the proposed development is a single-storey building, the footprint of the proposed building is large-scale, and will fill a significant amount of this plot. This blocking of the permeability of the streetscene at this point together with the increased activity and residential paraphernalia associated

with a new separate dwelling will alter this characterful plot considerably. Also, the proposed building will particularly alter views from the Church grounds which are slightly elevated, and from No Oven Cottage itself where the view will be a building/high wall instead of a garden plot; this building will be an incongruous addition to this characterful area, and have a negative impact on the heritage assets of the adjoining listed buildings and Conservation Area more generally. Also, the applicant wishes to revise the position of the access in the boundary wall which has been identified as a Significant Boundary Wall in the Little Tew Conservation Area Appraisal; this will negatively alter the appearance and setting of the listed building and conservation area.

Your officers are of the strong opinion that the proposed development fails to conserve and enhance the appearance and setting of the heritage assets, it does not build on the pre-existing historic character (including building layouts), it does not respect the historic character of the landscape, nor does it respect the building's historic curtilage or context and setting, including the pattern of development - it does not respect the form, scale, massing, density, layout, landscaping, use, alignment and external appearance of the listed building and wider conservation area.

In this regard in a recent appeal decision the Planning Inspectorate has concurred with this type of assessment for a case where no harm was caused (unlike this proposal). We won an appeal where the inspector concluded that:

"Whilst I have found that no harm would arise to the character and appearance of the area, there would be less than substantial harm to the setting of the (listed building). Framework Paragraph 196 indicates that in such scenarios the harm should be weighed against the public benefits of the proposal. I must have special regard to the desirability of preserving the setting of the listed building. Moreover, in accordance with LP Policy EH9 and Framework Paragraph 193 the harm to the significance of the asset, whilst relatively low-level, must receive great weight. For the reasons set out above, I only attribute limited weight to the benefits associated with the provision of additional housing and I have no compelling evidence of other benefits that would outweigh the harm. I, therefore, find that the proposal conflicts with the development plan and the Framework when those documents are read as a whole."

Siting, design and scale

The proposed new dwelling would consist of an 'L' shaped plan and would be of single storey with a flat roof. It is proposed to be built from reclaimed stone rubble, with wisteria encouraged to grow along the public elevation under a gravel roof.

The proposed dwelling would be set further back from the highway than the existing annex and will be orientated to address the street as if it was part of a 'walled garden'. It would have a maximum height of approximately 3.5m.

Officers are not convinced that what is essentially a flat roofed box could be considered innovative or exceptional and the fact that it is proposed to be screened raises further issues as to what the impact of such a structure would be in the absence of such screening. In that the site is in such a sensitive location with the need to preserve and enhance the character and appearance of the area and the setting or adjoining heritage assets the fact that it imposes itself into the streetscene rather than building upon existing features that have been identified as importance to the historic character and appearance of the area is of further concern. In this context the primary remaining potential justification for the proposed dwelling is that it could use sustainable technologies. Whilst sustainable construction and technologies could be used, this is not an overriding factor and could be said for all new building projects – especially where the external appearance of the new dwelling is not considered to be innovative or exceptional in design terms. The fact that the proposed dwelling is essentially 'concealed' to try to give the appearance of a walled garden (which is not considered to be typical of the historic and local context of Little Tew) would also not be in-keeping with the local vernacular or the historic association of this land to the two adjoining listed buildings

It is important that when the exceptional quality of a scheme is being promoted as the reason to approve it that the proposal can be objectively assessed as being of such quality rather than merely

argued to be of exceptional quality and innovative design. When looking at guidance and case law surrounding the meaning of 'exceptional quality and innovative design' it is evident that this policy sets a very high bar which is very rarely met nationally, let alone in the context of West Oxfordshire. Such dwellings that have been deemed to be of exceptional quality and innovative design often have advanced technological features whereby the building can generate more energy than it uses, and/or is of such grand architecture that has been appraised by design committees as being truly outstanding. That is not the case here.

Residential Amenity

Given the single storey nature of the proposed new flat roofed single storey dwelling, officers are of the opinion that this would not be overbearing or result in any undue loss of light and or overshadowing towards the neighbouring property at No Oven Cottage. Furthermore given the nature of the development and its siting, the application is not considered to give rise to any adverse impacts in regards to overlooking, and or loss of privacy and therefore the new dwelling is not considered to result in any adverse impacts in regards to neighbouring amenity.

Landscaping

The application makes reference to the reshaping of the over grown and oversized adjacent yew hedge which the applicants assert that together with the removal of the unattractive 20th century annex, will ensure the steeple of St Johns will be revealed. Notwithstanding this, the Yew trees/hedge is located within the curtilage of the church and as such, falls outside of the red line site boundary of this application. Given this, this element of the landscaping proposal is not a material consideration for this application and therefore cannot be conditioned accordingly.

Highways

The proposal seeks to close the existing vehicular access and to relocate this to the east using the same stone work allowing a clear entrance to the two properties. This action is sought to improve the vision splay to the north, retaining the southern vision splay within safe limits. OCC Highways have been consulted on the application and have raised no objections in regards to highways safety and convenience. On this basis, the scheme is considered acceptable and complies with policy T4 of the West Oxfordshire Local Plan.

Conclusion

5.20 In light of the above, the principle of a new dwelling is unacceptable given its unsustainable location. Further, it is not considered that the special interest of the heritage assets would be preserved, and the less than substantial harm which would result from the development proposed would not be outweighed by any discernible public benefits. There are insufficient material considerations to justify setting the policy and heritage harms aside and an adverse precedent could be set that would undermine the strategy of seeking sustainable development


5.21 Therefore, the development is considered to be unacceptable and contrary to policies OSI, OS2, OS3, OS4, H2, EH9, EH10, EH11, EH12, EH13 and EH16 of the adopted West Oxfordshire Local Plan 2031, and the relevant provisions of the NPPF, West Oxfordshire Design Guide and Little Tew Conservation Area Assessment.

6 RECOMMENDATION

I The proposed development would not represent sustainable development given the very limited range of services and facilities within Little Tew. The applicant has failed to demonstrate justification for this development proposal as either essential operational or other specific local need that cannot be met in any other way, as a residential development that would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of a heritage asset, as

residential development of exceptional quality or innovative design. The site has not been allocated for housing development within the adopted West Oxfordshire Local Plan 2031 or an adopted (made) neighbourhood plan. The proposed development would therefore, be contrary to policies OS1, OS2, OS3 and H2 of the Adopted West Oxfordshire Local Plan 2031, and the provisions of the NPPF 2019.

2 The proposed development, by reason of its siting and scale, which does not build on the pre-existing historic character (including building layouts), does not respect the historic character of the landscape, nor does it respect the building's historic curtilage or context and setting, including the pattern of development and does not respect the form, scale, massing, density, layout, landscaping, use, alignment and external appearance of the listed building and wider conservation area, fails to conserve or enhance and indeed harms the appearance and setting of the heritage assets. The proposed development would therefore be contrary to policies OS2, OS4, EH9, EH10, EH11, EH12, EH13, EH15 and EH16 of the adopted West Oxfordshire Local Plan 2031, The National and West Oxfordshire Design Guides, the advice of the Conservation Area assessment and the provisions of the National Planning Policy Framework 2019.

 WEST OXFORDSHIRE DISTRICT COUNCIL	West Oxfordshire District Council
Name and date of Committee	Development Control Committee: Monday 2 March 2020
Report Number	Agenda Item No. 5
Subject	Update: Good Practice Guidance and Training
Wards affected	All
Accountable member	N/A
Accountable officer	Phil Shaw Business Manager Development Management Tel: 01993 861687 Email: phil.shaw@publicagroup.uk
Summary/Purpose	To advise members of a previous resolution of the Committee and to enable consideration of external Planning Training.
Annexes	Annex 1 : Report and minutes of the Committee's consideration of Good Practice Guidance dated 25 April 2016
Recommendations	<p>(a) That the need for updated Planning Good Practice Guidance be confirmed, based on the principles agreed in April 2016; and</p> <p>(b) That the Business Manager, Development Management be requested and authorised to arrange for the commissioning of external planning training, in consultation with the Chairman of the Committee.</p>
Corporate priorities	N/A
Key Decision	N/A
Exempt	No
Consultees/ Consultation	N/A

I. BACKGROUND

- 1.1. Members will be aware that the DC committee only sits when required and so this report uses the opportunity created by the need to convene the Committee to consider a planning application to undertake some 'housekeeping' as regards a matter which has previously been considered by this committee and to decide whether to undertake external training

2. MAIN POINTS

Good Practice Guidance

- 2.1. In April 2016 a report was prepared and members endorsed the heads of terms that they would wish to see incorporated into new planning good practice guidance. The report and minute are included at [Annex I](#).
- 2.2. Work commenced but legislative changes at national level along with internal changes in the way that the Council was structured meant that it was never completed. Officers continued to give Members advice as to best practice in terms of probity/interests etc and as such the need to formally reinvigorate the code was perceived as diminished. However recent events at a Council in the NE of England (where the planning system has been heavily criticised and where some key officers and members appear to have strayed from good practice) have brought the matter back into focus. The Planning Advisory Service has also very recently produced a national guide to probity in the planning process that could be readily adapted/used and as such it is hoped that a new local guide could be introduced relatively quickly. Given the profile of Planning and the reputational damage that can be caused if Members or Officers are perceived to have departed from best practice it is considered that this matter should be carried forward.
- 2.3. Members are thus asked to review the earlier report and minutes and advise as to whether they wish to confirm the initial resolution. Your Officers would advise that this seems an appropriate course of action.

Training

- 2.4. There are a number of national bodies which are currently offering planning training for Members. Historically this training has generally been undertaken in house. The advantage of this is that there is little cost and it can be tailored to meet local requirements but the disadvantage is that perhaps Members only get one message and have no opportunity to sense check it against a national perspective. As advised above, it is essential for probity and reputational reasons that a high profile service such as Planning operates with the highest ethical standards and with the advantage of informed and properly trained Members. As such Officers consider that taking up one of the offers of training may be useful in consolidating some of the in house training that has already been undertaken.
- 2.5. Accordingly, [recommendation \(b\)](#) seeks appropriate authority.
- 2.6. Obviously, it will be as essential that as many members of the Committee as possible attend the training when it is delivered.

3. FINANCIAL IMPLICATIONS

- 3.1. Adopting Good Practice Guidance will reduce the likelihood of inappropriate decision making processes being challenged with consequent legal and reputational costs. Training costs can be met from existing budgets and some training courses are now offered free of charge

4. LEGAL IMPLICATIONS

- 4.1. Fully trained Members acting in accordance with an adopted code of good practice is likely to reduce the potential for legal errors

5. ALTERNATIVE OPTIONS

- 5.1. None considered relevant

6. BACKGROUND PAPERS

- 6.1. None.

WEST OXFORDSHIRE DISTRICT COUNCIL
DEVELOPMENT CONTROL COMMITTEE

MONDAY 25 APRIL 2016

AMENDMENTS TO THE PLANNING GOOD PRACTICE GUIDANCE
REPORT OF THE HEAD OF PLANNING AND STRATEGIC HOUSING

(Contact: Phil Shaw, Tel: (01993 861687)

(The Committee decision on this matter will be a resolution)

1. PURPOSE

To enable Members to consider some key issues that will need to be included in any refreshed protocol/guidance and advise as to any further areas where they would want additional guidance.

2. RECOMMENDATIONS

- (a) That the Committee endorses the key heads of terms set out at paragraph 4.1 below as being areas where guidance is required; and
- (b) That the Committee advises of any further areas not mentioned where guidance would be welcomed/required.

3. BACKGROUND

- 3.1. The Planning system operates very largely in the public domain, there are winners and losers for most decisions made and planning decisions often have substantial financial consequences. As such it is essential that the system operates in an open and transparent manner that gives confidence to all parties that they have been treated equitably and applications are properly assessed and determined solely on their planning merits and in accordance with the relevant legislation. It is also important for Members and Officers to know that if they have followed protocols that they will be protected to some degree from allegations of malpractice etc. In that regard the Council has historically produced a protocol for the assistance of both the public and Officers/ Members setting out the key principles to be applied when dealing with planning applications.
- 3.2. However, as part of its reforms the last Government substantially amended the laws regarding such matters as pre-determination, and the registration and disclosure of interests, as well as abolishing the Standards Board for England and introducing the ability for members of the public to record and film local authority meetings, including planning meetings. Thus the previously adopted protocol had to be withdrawn. This is far from ideal in that periodically the Ombudsman or persons with a complaint will seek to ensure that proper protocols have been followed by Officers or the Sub-Committees and there is at present no readily available reference to give a context for a response. Thus as the Council year comes to a close Officers considered that it would be a useful opportunity to sound out Members using the experience of the retiring committee to inform the debate as to what a new protocol should cover with a view to creating some new guidance early in the new council year.

4. ASSESSMENT

4.1. Your Officers would envisage any refresh of the previous document would cover the following matters:

- Appropriate training for both Officers and Members
- Officers/members as applicant
- Lobbying
- Protocols regarding Member referral of applications to committee
- Registering to speak at the meetings
- The order of public speakers and who is allowed to speak
- Use of the half hour slot before meetings to clarify matters with Officers
- Chairman's role in relation to opening address, control of speakers, ensuring speaking time limits are adhered to, control of interruptions, control of filming and recording etc
- Declaration of interests
- Chairman's discretion to allow additional speakers
- Questions allowed of public speakers- what is clarification and what is new debate?
- Chairman's decisions to bring applications out of schedule order
- Which member speaks first to the application?
- Should the Officer response be 'question by question' or grouped?
- Officer ability to correct matters of law or policy
- Should ward members be allowed to vote on applications in their ward?
- Role of Chairman when application is in their ward
- Protocol for going into private session
- Protocol for Member overturns
- Protocol for referral to DC committee
- Protocol for requiring a site visit
- Conduct of site visits
- General conduct expected of officers and members when determining applications
- Bias and pre determination
- Members as advocate/agent/ward member/applicant/lobbyist
- Voting powers of cabinet members

4.2. Your officers hope that the above list covers most matters that are likely to need guidance but if members have any additional suggestions then officers would be pleased to consider them for inclusion in the new guidance. When finalised it is anticipated that the final version will be brought back to members as early as possible in the new council year for sign off and adoption.

5. ALTERNATIVES

Members could decide not to consider re-introducing a protocol. However this would leave the potential for complaints against the operation of the system or individual participants and could open the Council to potentially adverse Ombudsman decisions/compensation. Public confidence in the system could also be undermined. It should also, of course, be remembered that a protocol is intended to help and support members and officers of the Council.

6. FINANCIAL IMPLICATIONS

This report has no financial implications.

Giles Hughes
Head of Planning and Strategic Housing

(Author: Phil Shaw, Tel: (01993) 861687; EMail: phil.shaw@westoxon.gov.uk)

Date: 13 April 2016

Background Papers:

None

**EXTRACT FROM THE MINUTES OF THE
DEVELOPMENT CONTROL COMMITTEE ON 25 APRIL 2016**

20. AMENDMENTS TO THE PLANNING GOOD PRACTICE GUIDANCE

The Committee received and considered the report of the Head of Planning and Strategic Housing regarding key issues that would need to be included in any refreshed protocol/guidance and whether there were any further areas where additional guidance was required.

Mrs Crossland indicated that she had found the training provided to be useful and enquired whether this could be extended to Town and Parish councils. In response, the Development Manager advised that this could possibly be incorporated into Parish Forum meetings.

Mr Handley suggested that it could appear premature to members of the public for a motion to be put before any discussion had taken place. Mr Cooper disagreed, indicating that a motion was always open to amendment and, once proposed, offered a position to debate.

In relation to the role of the Chairman when dealing with applications in their own ward, Mr Cooper indicated that the provisions of the Localism Act enabled them to put forward their point of view. In response, the Development Manager concurred, indicating that the matters listed had not been included as matters to be precluded but as issues in need of clarification in Good Practice Guidance. The same applied to Members voting on applications in their own ward.

In conclusion, Mr Cooper indicated that he had found the training offered by OALC to be of particular value.

Mr Robinson questioned whether, to avoid undue repetition, there was merit in introducing a limit on the time a Member could speak and on the number of times they could speak on an application.

(Mr R A Langridge left the meeting at this juncture)

Sir Barry indicated that, if Members were restricted in speaking, the same would have to be applied to Officers and suggested that such restrictions would be inappropriate. In terms of Officers responding to Members' questions, he considered that answers should be given on a question by question basis and not grouped.

In relation to questions on public participation, Mr Kelland suggested that it would be helpful to extend questioning beyond matters of clarification. In response, the Chairman advised that technical questions and questions of fact were more appropriately directed to Officers.

Mr Cotterill noted that there had been occasions when it would have been useful to have been helpful to be able to get clarification of technical issues from applicants. Dr Poskitt concurred and also indicated that she was opposed to the introduction of time restrictions.

Mr Simcox raised a question in relation to bias and pre-determination, indicating that a Member may have already formed a view before arriving at a meeting. It was explained that there was nothing to preclude a Member from forming an initial view provided that they remained open minded and prepared to consider all information provided when

determining an application at a meeting. Sir Barry added that there was nothing to preclude Members from expressing an opinion prior to determining an application provided that they made it clear that they retained an open mind.

Mr Haine noted that it was important for Members making propositions contrary to Officers' recommendations to provide clear reasons. Accordingly, it was necessary for Members to have considered and prepared these in advance.

Mr Robinson suggested that matters of detail should be considered at the time the revised draft protocol was brought forward.

Mr Kelland suggested that, in representing the views of the local council and residents, it was inevitable that Members would have an established position when attending a meeting. It was explained that the role of Members at a meeting exceeded the purely representative and was to consider and determine applications on planning grounds alone.

Mr Colston noted that, by presenting late representations at the meeting, undue prominence was being given to those views. He questioned whether an earlier deadline for submission of representations should be employed. The Development Manager advised that Officers sought to summarise late representations as far as possible but were required to present Members with all relevant facts.

RESOLVED: That the key heads of terms set out at paragraph 4.1 of the report be endorsed as being areas in relation to which guidance is required.