

**Democratic Services**

**Reply to:** Amy Barnes  
**Direct Line:** (01993) 861522  
**E-mail:** amy.barnes@westoxon.gov.uk

31 January 2020

**SUMMONS TO ATTEND**

**MEETING:** LOWLANDS AREA PLANNING SUB-COMMITTEE  
**PLACE:** COMMITTEE ROOM 1, COUNCIL OFFICES, WOODGREEN,  
WITNEY  
**DATE:** MONDAY 10 FEBRUARY 2020  
**TIME:** 2:00 pm (Officers will be in attendance to discuss applications with  
Members of the Sub-Committee from 1:30 pm)

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Membership of the Sub-Committee

Ted Fenton (Chairman); Carl Rylett (Vice-Chairman); Owen Collins,  
Maxine Crossland, Harry Eaglestone, Duncan Enright, Hilary Fenton, Steve Good,  
Jeff Haine, Nick Leverton, Kieran Mullins and Harry St John

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**RECORDING OF MEETINGS**

The law allows the council's public meetings to be recorded, which includes filming as well as audio-recording. Photography is also permitted.

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.

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**A G E N D A**

- 1. Minutes of the meeting held on 13 January 2020 (copy attached)**
- 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. Applications for Development (Report of the Business Manager – Development Management – schedule attached)**

Purpose:

To consider applications for development, details of which are set out in the attached schedule.

Recommendation(s):

That the applications be determined in accordance with the recommendations of the Business Manager – Development Management.

**5. List of Applications Determined under Delegated Powers together with appeal decisions (Report of the Business Manager – Development Management - copy attached)**

Purpose:

To inform the Sub-Committee of the list of applications determined under delegated powers, together with appeal decisions.

Recommendation:

That the report be noted.

**6. 4 Chimney Farm Cottages, Chimney, Bampton (19/00070/PENF) – Unauthorised Operational Development (Report of the Head of Planning and Strategic Housing - copy attached)**

Purpose:

To enable Members to consider whether it is expedient to authorise the issue of an enforcement notice.

Recommendation:

Issue an enforcement notice to require removal of an incomplete building within the curtilage of 4 Chimney Farm Cottages, to require the reinstatement of an access that has been made onto the adjoining unmade road and removal of associated hardstanding.

**7. Unauthorised Operational Development – 106 Raleigh Crescent, Witney, OX28 5FY (1800089/PENF) (Report of the Head of Planning and Strategic Housing - copy attached)**

Purpose:

To enable Members to consider whether it is expedient to authorise the issue of an enforcement notice.

Recommendation:

Issue an enforcement notice to require:-

- i) The removal of a fence; and
- ii) The reinstatement of land within the contravenor's ownership appropriated as garden but designated under the enabling consent as landscaped amenity area.



Giles Hughes  
Chief Executive

This agenda is being dealt with by Amy Barnes Tel: (01993) 861522  
Email: [amy.barnes@westoxon.gov.uk](mailto:amy.barnes@westoxon.gov.uk)

WEST OXFORDSHIRE DISTRICT COUNCIL

Minutes of the Meeting of the  
**Lowlands Area Planning Sub-Committee**  
held in Committee Room 1, Council Offices, Woodgreen, Witney, Oxon  
at 2:00 pm on **Monday 13 January 2020**

PRESENT

Councillors: Ted Fenton (Chairman), Carl Rylett (Vice Chairman), Joy Aitman, Maxine Crossland, Harry Eaglestone, Hilary Fenton, Jeff Haine, Nick Leverton, Kieran Mullins, Carl Rylett, Harry St John and Alex Postan.

Officers in attendance: Miranda Clark, Joan Desmond and Amy Barnes.

43. MINUTES

Councillor Haine advised that the appendices referred to were not attached to the minutes and the wording relating to one of the public speakers needed amending.

**RESOLVED:** that the Minutes be confirmed as a correct record and signed by the Chairman subject to the amendment to Minute number 40.

44. APOLOGIES FOR ABSENCE AND TEMPORARY APPOINTMENTS

Apologies for absence were received from Councillor Owen Collins and the following temporary appointments were noted:

Councillor Postan for Councillor Good

Councillor Aitman for Councillor Enright

45. DECLARATIONS OF INTEREST

Agenda Item 4 – Applications for Development

19/02719/RES – Land East of Mount Owen Road, Bampton

Councillor Ted Fenton advised that he was the elected member for Bampton as well as being a resident of the village.

19/02406/FUL & 19/02407/FUL – Greensleeves, Blackditch, Stanton Harcourt

Councillor St John advised that he had undertaken work for the owners of the property but this had taken place a number of years ago.

46. APPLICATIONS FOR DEVELOPMENT

The Sub-Committee received the report of the Business Manager – Development Management giving details of applications for development, copies of which had been circulated.

A schedule outlining additional observations received following the production of the agenda was circulated at the meeting, a copy of which is included within the Minute Book.

## **RESOLVED:**

That the decisions on the following applications be as indicated, the reasons for refusal or conditions related to a permission to be as recommended in the report of the Business Manager – Development Management, subject to any amendments as detailed below;

### **3** 19/02371/FUL Lavender Place, Queen Street, Bampton

The Planning Officer, Mrs Joan Demond, introduced the application and advised that the report included a recommendation of approval.

Mr Marc Bowles addressed the meeting in objection to the application. A summary of his submission is attached as Appendix A to the original copy of these minutes.

In response to a question from Councillor Crossland, Mr Bowles advised that the swimming pool was for his family's personal use and would be used recreationally by children aged 6 to 15 years old.

In response to a question from Councillor St John, Mr Bowles advised that he should have unfettered access across his land at all times, as detailed in his deeds.

The Planning Officer then presented her report and advised that there had been an increase in parking provision along with a number of amendments since the previous application to include privacy screens and obscured glazing on certain aspects of the building. She advised that officers were satisfied with the redevelopment for elderly accommodation, the amended plans and subject to conditions.

In response to a question from Councillor St John, Mrs Desmond confirmed that the existing ridge height was seven metres with the proposed ridge height under nine metres. This equivalent to the height of Bampton House and equalled a 1.7 metre increase.

Mrs Desmond also confirmed that accommodation for the elderly was nationally recognised as being for those aged over 55 years. Cottsway Housing and WODC would manage that requirement and there was no need for a condition.

Councillor Haine referred to the speakers concern relating to the private right of way and noted that should scaffold be erected to the revised building line, this would encroach onto the road. Officers advised that this was a private legal matter and not a planning issue.

Councillor Haine also felt that the Juliette balconies to the rear of the property were not necessary, there should be planting added to screen the neighbouring swimming pool and queried if reconstituted stone could be used instead of buff brick and render.

He therefore proposed that the application be approved subject to the removal of balconies, additional planting to be added to screen the pool and for materials to be agreed with officer with a view to using reconstituted stone where possible.

This was seconded by Councillor Eaglestone.

During discussions, Members noted that the site visit had been useful and the query was raised as to what the Juliette balconies could be replaced with, as some of the Committee were conscious that adequate ventilation was needed, especially in the summer months.

Officers suggested that the agreement of details and revised plans be delegated to officers as the applicant would need to reconsider the windows and balconies. Councillor Haine agreed to the delegation.

Councillor Leverton raised a concern that the parking provision was very tight as many residents would have cars and he did not feel the bus service was very frequent. However, it was noted that the County Council had raised no objection subject to appropriate conditions, including a Construction Traffic Management Plan.

Members discussed the fact that the proposal did not appear to make provision for the installation of a lift and officers agreed to check the plans. It was felt that the Council should be demonstrating their expectation of this to developers. The Chairman also queried whether the length of time afforded to Condition 11, which related to the replanting of dying or damaged trees or shrubs, was long enough. Officers advised that any increase on the five year term could be challenged by the planning inspectorate.

A recommendation of approval subject to the removal of all balconies, additional adequate planting to screen the neighbouring swimming pool and materials to be amended to use reconstituted stone where possible, was then put to the vote and was carried. The approval of these details, via amended plans, was delegated to officers.

Approved

16 19/02406/FUL Greensleeves, Blackditch, Stanton Harcourt

Senior Planner, Mrs Clarke introduced the application and advised that the report contained a recommendation of refusal. She advised that the development site was in the Conservation Area, was adjacent to a listed building and Members had attended a site visit last week. She stated that the approximate height of the building was 8.5 metres, was of a mixed barn style with domestic fenestration details.

Mrs Judith Norris addressed the meeting in support of the application. A summary of her submission is attached as Appendix B to the original copy of these minutes.

The Senior Planner then presented her report and advised that officers did not feel the development related well to the area.

Councillor Postan stated that he supported the officers' recommendation of refusal because, in his opinion, one of the greatest monuments of this country was the open field pattern. He, therefore, proposed that the application be refused.

This was seconded by Councillor Fenton who felt that there was too much to lose by granting this permission and many trees would be lost as well as raising a number of underground issues.

A number of Members made reference to a nearby development, Butts Piece, which they felt was relevant to this application. Officers advised that the Butts Piece development had been considered when the Council did not have a Local Plan in place and the refusal reasons relating to this application remained relevant.

The Officer recommendation of refusal was then put to the vote and was carried for the reasons outlined in the report.

Refused

22 19/02407/FUL Greensleeves, Blackditch, Stanton Harcourt

Senior Planner, Mrs Clarke introduced the application and advised that the report contained a recommendation of refusal. The report stated that this application was for four dwellings, car parking and access and Members had undertaken a site visit following it's deferral at the last meeting.

Mrs Judith Norris addressed the meeting in support of the application. A summary of her submission is attached as Appendix B to the original copy of these minutes.

The Senior Planner then presented her report and explained that officers were concerned with the scale and layout of the development which would urbanise the area. She reminded Members that the hedgerow referred to in the report could be removed in the future and she reiterated the reasons for refusal as detailed.

Councillor Levy stated that he felt the development was incongruous with the surrounding area and supported the officer's recommendation. He therefore proposed that the application be refused for the reasons laid out.

This was seconded by Councillor Postan who made reference to the previous application along with the application refused in 2017. He felt strongly that heritage meadows needed to be saved and preserved and the character of the area should remain open.

The Officer recommendation of refusal was then put to the vote and was carried for the reasons outlined in the report.

Refused

32 19/02904/FUL The Bungalow, New Road, Sutton

Senior Planner, Mrs Clarke introduced the application which contained a recommendation of approval.

Mr Paul Hoddy addressed the meeting in support of the application. A summary of his submission is attached as Appendix C to the original copy of these minutes.

The Senior Planning Officer then presented her report and advised that the previous application had been withdrawn and resubmitted. Officers had no objection to the materials and there was no objection from the County

Council regarding parking provision. She highlighted the conditions relating to the need for a Construction Management Plan and the residential restriction to the first floor of the garage. In summary, officers did not feel there would be any visual harm to the Conservation Area or adjacent properties.

Councillor Postan proposed that the application be approved as he did not feel that the development materially affected the value of the Conservation Area.

This was seconded by Councillor St John.

Following a question from Councillor Haine, officers confirmed that there were two parking spaces available in the garage plus the turning area where additional space could be used. It was also confirmed that the driveway would require constructing prior to the dwelling to allow construction traffic access.

The Officer recommendation of approval was then put to the vote and was carried.

Approved

#### 47. APPLICATIONS DETERMINED UNDER DELEGATED POWERS AND APPEAL DECISIONS

The report giving details of applications determined by the Business Manager – Development Management under delegated powers and appeal decisions was received and noted.

The meeting closed at 3.20 pm.

CHAIRMAN

# WEST OXFORDSHIRE DISTRICT COUNCIL

## LOWLANDS AREA PLANNING SUB-COMMITTEE

**Date: 10th February 2020**

**REPORT OF THE  
BUSINESS MANAGER – DEVELOPMENT MANAGEMENT**



**WEST OXFORDSHIRE  
DISTRICT COUNCIL**

**Purpose:**

To consider applications for development details of which are set out in the following pages.

**Recommendations:**

To determine the applications in accordance with the recommendations of the Business Manager. The recommendations contained in the following pages are all subject to amendments in the light of observations received between the preparation of the reports etc and the date of the meeting.

***List of Background Papers***

All documents, including forms, plans, consultations and representations on each application, but excluding any document, which in the opinion of the 'proper officer' discloses exempt information as defined in Section 1001 of the Local Government Act 1972.

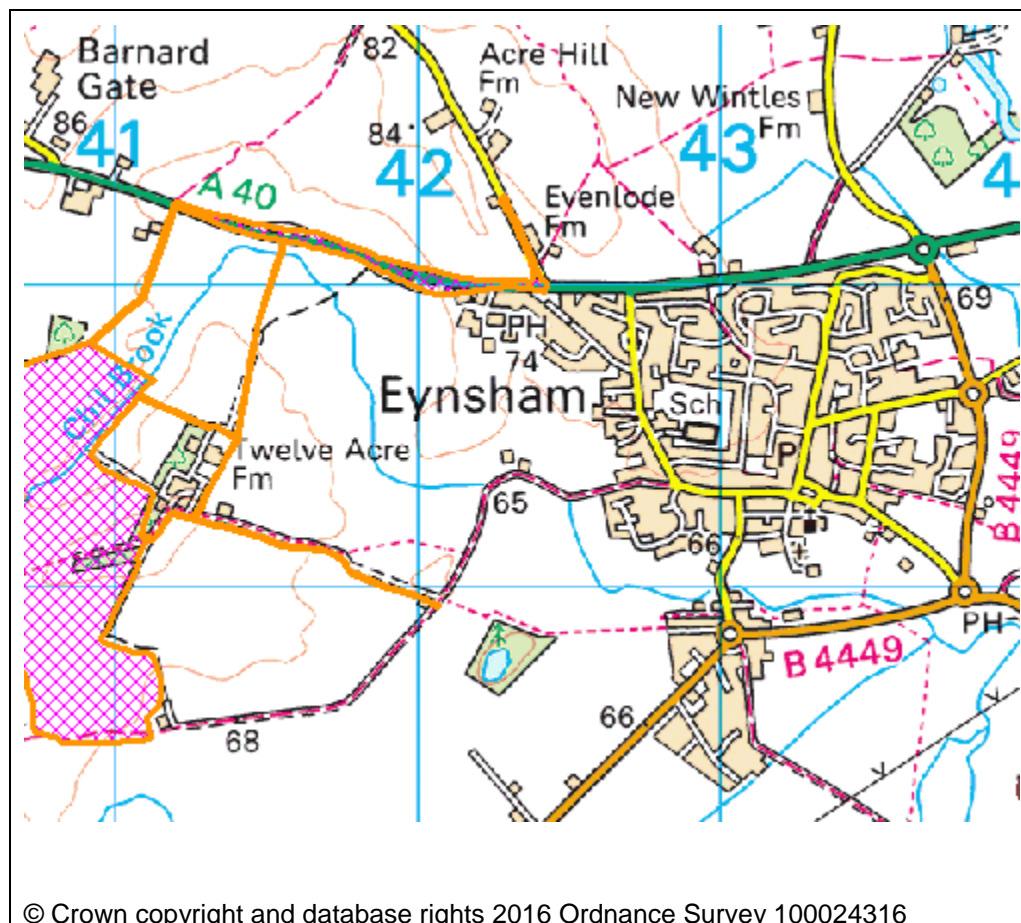
Please note that observations received after the reports in this schedule were prepared will be summarised in a document which will be published late on the last working day before the meeting and available at the meeting or from [www.westoxon.gov.uk/meetings](http://www.westoxon.gov.uk/meetings)



<b>Application Number</b>	<b>Address</b>	<b>Page</b>
19/02516/FUL	<a href="#"><u>Twelve Acre Farm, Chilbridge Road, Eynsham</u></a>	3
19/02616/FUL	<a href="#"><u>Manor Dairy Farm, Shilton</u></a>	19
19/02624/FUL	<a href="#"><u>43 Valence Crescent, Witney</u></a>	31
19/03242/HHD	<a href="#"><u>Ivydene, Delly End, Hailey</u></a>	35
19/03243/LBC	<a href="#"><u>Ivydene, Delly End, Hailey</u></a>	39
19/03376/FUL	<a href="#"><u>Land adjacent to Westfield House, Bampton Road, Aston</u></a>	44

Application Number	19/02516/FUL
Site Address	Twelve Acre Farm Chilbridge Road Eynsham Oxfordshire OX29 4BH
Date	29th January 2020
Officer	Joan Desmond
Officer Recommendations	Provisional Approval
Parish	Eynsham Parish Council
Grid Reference	441242 E 209314 N
Committee Date	10th February 2020

### Location Map



### Application Details:

The construction and operation of a solar photovoltaic farm, and other associated infrastructure.

### Applicant Details:

Mr Mike Rutgers, 13 Berkley Street, London, W1J 8DU

## I CONSULTATIONS

- I.1 Adjacent Parish Council
- In principle, South Leigh Parish Council are supportive of green energy proposals but we do have concerns here - particularly over the visual impact aspects of the development. We feel that this proposal will negatively impact the local environment and landscape setting particularly due to the height of the site and the low level land in between the site and the easterly part of our Parish.
- We recognise that the site itself lies in a neighbouring parish but this development will greatly affect our parish. Our neighbourhood Plan (Policy SLE1) explicitly sets out that one of its key aims is to protect the rural environment, and its views for the enjoyment of all - residents and visitors alike. In particular we are concerned about the impact on quiet recreational use and enjoyment of the footpaths and roadways that will look over the site. Indeed, the existing Right of Way (part of the Circular Path from South Leigh to Eynsham) runs through the centre of the site and this development will affect enjoyment of this popular and well used rural amenity.
- However, we have had several meetings with the developer, Low Carbon, who have now agreed to improve the screening of the site through increased planting. They are in the process of creating new documentation reflecting this and, I believe, have asked for an extension to the comment deadline from yourselves. We expect to receive this further documentation by the middle of next week.
- South Leigh Parish Council believes that strict following of the improved planting schemes will offer sufficient mitigation to ameliorate the worst of the impact of the development and on that basis we would have no objections to the plans being given approval. At our meeting Low Carbon did suggest that South Leigh Parish might like to pursue a claim for various 'community benefit' monies. We would like to do that to mitigate further the impact of the development on the local environment.
- As this development affects an amenity of the parish, we would like the following schemes to be supported which are for the good of our community.
- Repair and improvement to our village hall including the payment of the outstanding loan from West Oxfordshire District Council of £40,000 - Total £50,000.
- Provision of solar powered speed monitoring and speeding prevention units throughout the village to enable residents safely to enjoy their surroundings where no footpaths are available Total £20,000
- Repair and improvement to parish church £20,000
- Provision of new bus shelter at Shaws Green £5,000
- I.2 Parish Council
- Eynsham Parish Council is supportive of green energy principles, however we wish to draw the following concerns to your attention for consideration:-
- Visual Impact
1. The proposal will negatively impact on the environment and

landscape setting due to the land at the site rising to 84m above sea level - the village is 14m lower.

2. The existing Public Right of Way (206/18/10) across the site will be negatively impacted by the installation of obtrusive fencing.

Consideration will be required to s.44 (h) of 'Oxfordshire County Council's Position Statement - Major Development Proposals for Ground-mounted Solar PV Arrays I.' (Further section numbers are referred to in this letter).

Access Route

3. Access to the site is proposed via Witney Road and down Chilbridge Road (206/18/10). We note that Oxfordshire County Council's Countryside Access Team will be consulted in order for the appropriate permissions to be obtained and consideration given to the Construction Traffic Management Plan (s.43 (h) refers).

Furthermore, we note it will be the applicant's, the contractor's or the occupier's responsibility to put right/make good any vehicular damage to the surface of the right of way (s.44 (c) refers).

4. The Public Right of Way 206/18/10 crosses the Grade II listed Chilbridge which the Council consider is unsuitable for HGVs.

Access Precedent

5. The Council consider the application will set an unwanted precedent for future construction companies and developers wishing to access the West Eynsham SDA. Consideration will need to be given to Traffic Regulation Order 1983 which prohibits HGVs from accessing Witney Road (and other Eynsham roads).

Agricultural Land Quality

6. In accordance with WOLP 2031 Policy EH6, compelling evidence is needed to support using this Grade 3 Good to Moderate Quality (part) Agricultural land over poorer quality land.

If the Local Planning Authority is minded to approve the application, Eynsham Parish Council request the following:-

7. The applicant must fulfil all commitments made in the application documents.

8. A condition is agreed that requires the applicant is to undertake a Condition Survey of the Chilbridge prior to any construction vehicles accessing the site. Following the construction phase of the Solar Farm, a further Condition Survey should be undertaken to highlight any required remediation work to the structure and this should be undertaken by the applicant within an agreed timescale. Reason - In order to protect and preserve the existing condition of the Chilbridge.

9. In view of the extensive community use of the Public Right of Way (206/18/10 Chilbridge Road) which provides access to the countryside and Witney Road for Bartholomew School pupils, the Construction Traffic Management Plan should permit access only:-

During school holidays - Monday - Friday 08.00 - 18.00

During school term time - Monday - Friday 09.30 - 14.30

Reason - To promote and protect safe pedestrian access to Bartholomew School and to the countryside.

10. Eynsham Parish Council Committees have identified and costed

(approx.) priorities for the benefit of the community and request S106 funds as follows:-

(a) Funding towards our Bartholomew Room Refurbishment Project which the surveyor anticipates will cost £100,000 approx. The Bartholomew Room is the Council's Grade II Listed building in the centre of Eynsham which is used by the community and Council for meetings and art exhibitions.

(b) Since the application has an impact on one of Eynsham's favourite walking routes, funding is requested to help improve the Fishponds where another Public Right of Way (206/3/10) is widely used. Funding towards any of the identified improvement work below would be appreciated:-

a) 300m drystone replacement wall 25000

b) Replacement boardwalk and bridge with UPVC alternative 25000

c) 100m Flow-out channel to be widened and puddled with clay to improve flow 20000

d) Re-create sluice gate 5000

I.3 Thames Valley Police  
Licensing Office

I am pleased to see that a security fence is proposed to protect the installations. This is appropriate, given the size of the proposed site that it could become a high value target for precious metal theft etc. I recommend that it is at least 2.1m high, complies with the requirements of LPSI 175, Issue 8, B3, and that the applicants also incorporate a monitored perimeter intruder protection system (PIDS).

The authority may wish to condition that the development achieves the physical security standards recommended.

I.4 Major Planning  
Applications Team

Amended plans

Highways - No objection subject to:

- An obligation to enter into a S278 agreement as detailed below.

- Construction Traffic Management Plan Condition.

Key points

A construction access from the A40 is considered acceptable if movements are restricted to left-in and left-out only

The modified Public Right of Way arrangement is welcomed.

LLFA - No objection subject to drainage conditions.

County Archaeological Officer - No objection subject to conditions.

I.5 WODC Landscape And  
Forestry Officer

Should aim to reduce coverage of panels on higher ground. Need to explore lower lying ground on surrounding areas. Prioritise increase in woodland and scrub cover for visual mitigation purposes - both from further afield and footpath users.

I.6 Biodiversity Officer

I have reviewed the Ecological Assessment report dated August 2019 and prepared by Landscape Science Consultancy Ltd. Further

information is required before a positive determination of the application.

The report recorded a single grass snake within the Phase I walk over, however, no full reptile survey was carried out so the population size of this species could not be determined. The report will need to identify the specific mitigation for the species and identify what compensatory habitat is being created for grass snakes.

Skylarks were also recorded on the Phase I walk over survey. However, the report will need to include an impact assessment for the species and identify specific mitigation or compensation measures so show how skylarks will be able to continue to use the site after development.

The Planning, Design and Access Statement as well as section 6.5 of the ecology report detail the proposal of a 2km cable route located to the north-east of the site, adjacent to the A40 road and Cuckoo Lane. This would involve digging a 1m wide cable trench along the roadside verge. This work has the potential to impact protected and priority species. For example, although the ecology report identified GCN as being absent within 3 of the ponds to the north of the site, the cable route will run in close proximity to additional ponds to the north of the A40 that were not surveyed. Therefore, there is potential for the species to be impacted by the works. Furthermore, the site, as well as the proposed cable route, is located within the amber zone of the impact risk map of the great crested newt district licence scheme. This means that the site is in close proximity to highly suitable habitat for GCN so works (e.g. the construction of the trench) may impact on suitable terrestrial habitat/features for great crested newts. One option is that the applicant may wish to consider entering the district licensing scheme administered on behalf of the council by NatureSpace. I recommend that the applicant considers entering the scheme by completing an enquiry form on the NatureSpace website. If the applicant does choose to join the scheme, confirmation is required before the determination of the planning application.

Also, the Framework Landscape and Biodiversity Plan shows the northern field to be retained pasture. However, this field is mapped as arable on the Phase I Habitats Survey Plan on p.34 of the ecology report. The plans will therefore need to be amended to clarify this issue. I also suggest that a wildlife pond is included within the Framework Landscape and Biodiversity Plan. This can be in accordance with paragraphs 170, 174 and 175 of the National Planning Policy Framework and the policy EH3 of the local plan, ensuring the creation and protection of valuable biodiversity features and habitats and providing biodiversity net gain on site.

The above issues will need to be clarified. The amended plans and

ecology report are required to be submitted to the LPA before a positive determination of the application.

- 1.7 Conservation Officer No Comment Received.
- 1.8 Major Planning Applications Team Initial plans  
Highways - No objection subject to a condition requiring the submission and approval of a Construction Traffic Management Plan.
- LLFA - Objection  
Key issues:  
Evidence required from Environment Agency of consent to develop in Flood Zones 2 and 3.
- 1.9 ERS Env. Consultation Sites Thank you for consulting our team. I have reviewed the application in relation to potential risk posed to human health from contaminated land. Review of our records indicate there may be a small area of filled ground within the development site. Please consider adding a condition to any grant of permission.

## 2 REPRESENTATIONS

2.1 7 letters have been received objecting to the application on the following grounds:

- The proposed development will encompass a public right of way and ruin it.
- Harmful from views across the valley and from the east (Eynsham).
- Development should be kept away from the public footpaths so people can still enjoy these beautiful walks.
- Proposed access during the construction phase via Chilbridge road is not acceptable. The road is in very poor condition up to the boundary with the access to 12 acre farm. The road is a very popular bridle way and is a significant recreation resource to walkers, runners, cyclists and families.
- The solar panels and the batteries, inverters, substations etc will impose artificial structures on a natural landscape. They will be visually unattractive and visible on rising ground
- Will reduce areas for wildlife to thrive
- Unwanted precedent for future construction companies and developers to access west of the village
- Brownfield sites should be considered

2.2 One objector has requested that their objection is changed to comments as follows:

There is a 75 metre contour running through the site with land mostly to the east that is higher and if there were panels only on land lower than that 75 metre contour then some of my concerns would be addressed since the panels would be less visible from afar.

### 2.3 Letter of support from Green TEA (Transition Eynsham Area) Energy Group:

- In principle GreenTEA supports renewable energy generation as an essential part of decarbonisation. Given the scale of development generally in our area, we would expect that a scheme as large as this (67MW) would deliver benefits to the local area and, in time, complement other projects such as Project LEO and the emerging Eynsham Energy Plan.
- The intention is to reach an agreement for an option for the Low Carbon Hub to purchase the solar farm, if consented, as a community asset. This would bring a range of benefits to the community throughout the operation of the farm. If the sale does not proceed, Low Carbon Ltd have suggested a fall back of a relatively small one-off donation to the local community. We assume that benefits to host communities would be a material consideration.
- We understand that the application site does not contain 'best and most versatile agricultural land,' being grade 4 with a small amount of grade 3 land; and that food will still be produced by raising sheep.
- The LDA's 2016 Renewable Energy And Low Carbon Energy Assessment And Strategy For West Oxfordshire identifies the Eynsham Vale area as being 'more suitable'.
- The site is currently under 'traditional' intensive agriculture including some large open fields with no trees or hedgerows. There is significant potential to improve biodiversity as well as improving carbon sequestration by introducing new trees, hedgerows and grazed pasture with wildflower rich areas. There is also the opportunity to create habitats for endangered ground nesting birds, such as the skylark,
- The land is elevated and there were concerns about visibility. However there was also a view that planting of groups of trees, small copses and low, discontinuous hedgerows would be preferable to the tall continuous hedges illustrated in the supporting documents. The group felt that planting which completely obscured long views from footpaths was not welcome.
- The environmental benefits of renewable energy outweigh any minor local adverse impacts and community involvement would increase these benefits greatly. Given the existential threat of Climate Change, and the declaration of a Climate Emergency by the
- District and County Councils and central Government, the overall benefits of the proposal are even greater.

### 2.4 4 letters of support:

- Will not see the solar panels as the site is over the brow of the hill not facing the village.
- The community would benefit from it in the region. The battery storage is an essential part of this solar farm.
- With a greater dependency on electricity and becoming carbon neutral, this solar project is another way for us to help achieve this goal.
- It will protect the environment and the land will return to agricultural use at the end.
- Development will be mitigated. In addition the grass & wildflowers will help to assist our pollinators which are in serious decline.
- This would be a silent neighbour in the countryside which will reap benefits for us all without any noise or pollution.
- HGVs and farm vehicles already use this road and increased traffic even during the construction period would hardly result in anyone encountering a convoy of vehicles whilst using it. The bends and narrowness of the road force drivers to take extra care.



- 2.5 Councillor Levy has objected to the application on the following grounds:
- Loss of amenities
  - Harmful visual impact
  - Use of Chilbridge Road for the construction phase is unacceptable and would be dangerous
  - Risk to listed bridge from HGV traffic
  - Financial risk to WODC when site is decommissioned

### **3 APPLICANTS CASE**

3.1 Several supporting documents were submitted with the application and are available to view online. The supporting letter and Planning, Design and Access Statement advise that:

- It is estimated that the solar panels would generate up to 31.9 MW peak, enough to power approximately 9,900 homes. The battery storage system (up to 18 megawatts in total) would charge at times of low demand and export power back onto the electricity grid at times of high demand or when solar irradiation is low. The Proposed Development benefits from an agreed point of connection to an existing electricity substation on Cuckoo Lane.
- The principle of renewable energy, such as solar power, is supported by local and national planning policy. It is also notable that the UK Government has committed to meeting a legally binding target of net-zero carbon emissions by 2050.
- The Proposed Development complies with planning policy and there are significant benefits associated with it. The environmental and technical reports that form part of the planning application submission demonstrate that there would be no unacceptable environmental impacts, and there are a number of added benefits, including habitat creation.
- These factors, when combined with the significant need for renewable energy, mean that the planning balance (and, in particular, when considered in the context of the tests under Section 38(6) Planning and Compulsory Purchase Act 2004) is weighted significantly in favour of the Proposed Development.

### **4 PLANNING POLICIES**

OS1NEW Presumption in favour of sustainable development

OS2NEW Locating development in the right places

OS3NEW Prudent use of natural resources

EH2 Landscape character

EH3 Biodiversity and Geodiversity

EH6 Decentralised and renewable or low carbon

EH7 Flood risk

EH9 Historic environment

EH11 Listed Buildings

NPPF 2019

EH16 Non designated heritage assets

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

## 5 PLANNING ASSESSMENT

- 5.1 The application seeks planning permission for the construction and operation of a solar photovoltaic farm, with battery storage and other associated infrastructure, including inverters, security cameras, fencing, access tracks and landscaping. Planning permission is being sought to operate the proposed development for 40 years, at which point it would be decommissioned and the land returned to its previous state. The site includes a cable route from the main solar farm site to an existing substation on Cuckoo Lane.
- 5.2 The proposed site comprises approximately 63.4 hectares of land, primarily at Twelve Acre Farm located to the west of the village of Eynsham. The farm house at Twelve Acre Farm is Grade II listed. The Chil Brook runs through the site from east to west and a public right of way (206/18/10) runs from Chilbridge Road running east to west towards South Leigh. A public right of way (206/19/10) also runs along the southern boundary of the site. There is a plantation woodland belt in the southern portion of the Site.
- 5.3 The application has been submitted following pre-application advice and a screening request, which concluded that an Environmental Impact Assessment was not required.
- 5.4 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

Use of agricultural land

Impact on the Landscape Character/Visual Amenities of the area

Impact of heritage assets

Highway Issues

Flooding and Drainage

Biodiversity

### Principle

- 5.5 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 requires applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise. Section 70 (2) of the Town and Country Planning Act 1990 provides that the local planning authority shall have regard to the provisions of the development plan, so far as material to the application, and to any other material considerations. In the case of West Oxfordshire, the Development Plan is the Local Plan 2031 adopted in September 2018.
- 5.6 Policy EH6 'Decentralised and renewable or low carbon energy development (Excepting wind turbines)', supports the principle of renewable energy developments. It goes on to state that such development should be located and designed to minimise any adverse impacts, with particular regard to conserving the District's high valued landscape and historic environment. It also states that in assessing proposals, local issues such as environmental impacts, opportunities for environmental enhancement and potential benefits to host communities need to be considered and satisfactorily addressed. The policy also refers to detailed guidance published in the 'West Oxfordshire Renewable and Low Carbon Energy Guidance and Landscape Capacity Study' (2016). This latter document will be referred to in more detail below.

- 5.7 The NPPF supports proposals for renewable and low carbon energy. Paragraph 154 states that when determining planning applications for renewable development local planning authorities should not require applicants to demonstrate need for renewable energy and should approve an application if impacts are (or can be made) acceptable. There is also 'Planning Practice Guidance' relating to 'Renewable and Low Carbon Energy'; this sets out the particular planning considerations that relate to large scale ground-mounted solar PV farms, including referencing to landscape and visual impact, heritage assets and greenfield land. Where a proposal involves greenfield land, an LPA will need to consider, whether (i) the proposed use of any agricultural land has been shown to be necessary and poorer quality land has been used in preference to higher quality land; and (ii) the proposal allows for continued agricultural use and/or encourages biodiversity improvements around arrays.
- 5.8 It is estimated that the solar panels would generate up to 31.9 MW peak, enough to power approximately 9,900 homes. The battery storage system (up to 18 megawatts in total) would charge at times of low demand and export power back onto the electricity grid at times of high demand or when solar irradiation is low. The panels would be erected for a period of 40 years and would represent a contribution to the UK's renewable energy targets.
- 5.9 These benefits would accord with the NPPF's renewable energy provisions, which indicate that the delivery of renewable, low carbon energy is central to the economic, social and environmental dimensions of sustainable development and that local communities have a responsibility to contribute to the generation of such energy amongst other things.

#### Use of Agricultural Land

- 5.10 The NPPF advises that account should be taken of the benefits of the best and most versatile (BMV) agricultural land, and where it is necessary to use agricultural land that poorer quality land should be used in preference to that of a higher quality. As noted above, this principle is espoused in PPG relating to solar farms. Best and most versatile is land within grades 1, 2 and 3a of the agricultural land classification.
- 5.11 The majority of the agricultural land within the site is Agricultural Land Classification Grade 4 (Poor Quality), although a section through the middle is Grade 3 (Good to Moderate Quality). The applicant advises, however, that the site consists of several individual fields, none of which are wholly Grade 3 and is not farmed separately to the Grade 4 land. Therefore, due to the prevalence of Grade 4 land across the Site, the land is broadly farmed to reflect this lower grade status.
- 5.12 Alternative sites have been considered but the report concludes that none of the short-listed sites comprise a more feasible alternative to the proposed site which is immediately available to the Applicant for the development of a solar farm; benefits from an agreed grid connection in close proximity (approximately 1.2 km to the north east); both the site shape and topography are suitable; the solar panels and other infrastructure would be located in Flood Zone 1 and the site is predominantly Grade 4 agricultural land.
- 5.13 In conclusion, there are considered to be no available or suitable brownfield sites or areas of lower quality agricultural land suitable for the solar farm development.

### Impact on Landscape Character/Visual Amenities of the area

- 5.14 Policy EH2 of the Local Plan also seeks to protect landscape character and ensure that new development conserves and, where possible, enhances the intrinsic character, quality and distinctive natural and man-made features of the local landscape. This site lies within the Wychwood Project area where special attention and protection will be given to the landscape and biodiversity.
- 5.15 The West Oxfordshire Renewable and Low Carbon Energy Guidance and Landscape Capacity Study' (2016) states that, "in general terms, there is significant potential for further solar farm development in the district subject to careful consideration of individual development proposals". The report states that very few constraints exist in West Oxfordshire and those that do, such as public rights of way, woodland and rivers, cover a small portion of the district, although sites on best and most versatile agricultural land are likely to be heavily constrained by that fact. The site lies in an area of gently rolling hills with broad low ridge lines and wide valleys, reflective of the underlying rocks and sediments. Within the site the landform contains three distinct elements: the valley of the Chil Brook which rises near the western boundary of the site and meanders across the site towards the north east; the linear knoll created by the further meandering course of the Chil Brook which extends across the centre of the site; and thirdly to the south is the gentle slope stretching south towards the broad valley of the Limb Brook. A mixed plantation woodland belt marks the higher sections of the knoll. The site area is dominated by arable and pasture fields, with associated hedge lines and scattered trees.
- 5.16 A Landscape and Visual Impact Assessment (LVIA) submitted with the application concludes that the significant landscape effects identified as a result of the Proposed Development would be restricted to the change of land use from arable/agricultural to renewable energy generation. In the context of a dominance of agricultural/arable land use within the Survey Area and the local environs, this is considered to be of Medium Magnitude, with regards to Land Use. The remaining aspects of the landscape character would receive no direct impact or, in the case of vegetation with proposed mitigation planting, are of minor-beneficial magnitude. A range of potential visual receptors are identified within and around the Survey Site including residential properties, roads and PROWs. The majority of visual receptors would experience minor or negligible impacts. Where higher degrees of effect were noted, mitigation measures are proposed in order to address these. Whilst the higher levels of effect would still occur at Year Zero following construction, they would all reduce to minor-moderate or less at Year Fifteen of operation, with the exception of the Homestead whose elevated position in close proximity to the Site would require a greater period of time for the infill planting of the shelter belts to provide effective screening. It is anticipated that this receptor too would have a magnitude of impact reduced to minor-moderate after 10-15 years of growth.
- 5.17 In terms of the landscaping strategy, it is stated that the proposed development has been designed to respect the character of the landscape and uses the strong field pattern to integrate the scheme into the landscape as far as practicable. Existing landscape features are to be protected and strengthened. All trees on the site would be retained and additional planting provided, where necessary, to fill in the gaps of the existing boundary planting. In terms of concerns raised by South Leigh Parish Council the framework landscaping scheme has been amended to include more tree planting, this being along the western (southern section) and southern boundary. In respect of the footpath that runs through the centre of the site, the proposed wildflower buffer strips will now be next to the footpath thereby providing a much wider footpath corridor running through the site. It is also proposed to maintain the hedgerow

along the footpath at a lower level (approx. 1.5m), to provide a less enclosed environment and to add some oak to the tree planting mix.

- 5.18 The Council's Landscape Officer has commented that the development will have a transformational impact on a very wide area of open countryside; will have a considerable impact on the network of well-used network of public rights of way and that the areas of solar panels on higher ground will be visible from longer distance vantage points. Whilst it is acknowledged that Officers would be generally supportive of some solar development in the area, it should be designed to reduce its visual impact and impact on users of the public rights of way and that greater mitigation measures are required if a solar farm of this scale is to be supported. As such, the Landscape Officer has recommended that the area of solar panels on higher ground should be reduced; lower lying ground should be explored on surrounding land and priority should be given to an increase in woodland and scrub cover for visual mitigation purposes - both from further afield and to mitigate the impact on footpath users.
- 5.19 Discussions are still on-going regarding these concerns and the possibility of relocating some of the solar panels from the higher ground and enhanced mitigation measures. Members will be updated at Committee.

#### Impact on Heritage Assets

- 5.20 The Planning (Listed Buildings & Conservation Areas) Act 1990 Section 66(1) requires special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest it possesses. The NPPF advises that Local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset). They should take this into account when considering the impact of a proposal on a heritage asset, to avoid or minimise any conflict between the heritage asset's conservation and any aspect of the proposal.
- 5.21 Paragraph 193 of the NPPF provides when considering the impact of a proposal on a designated heritage asset, great weight should be given to the asset's conservation. It continues that significance can be harmed or lost through alteration. It draws a distinction between substantial harm and less than substantial harm to such an asset. In terms of non-designated heritage asset the NPPF advises that in weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset. These duties are reflected in policies EH9, EH11 and EH16 of the Local plan.
- 5.22 A Historic Environmental Impact Assessment has been submitted which concludes that there is a potential for unknown archaeological assets within the site. This desk-based assessment has predicted the following potential: low for Palaeolithic, Mesolithic, Roman, and early medieval remains; and medium for Neolithic, Bronze Age, Iron Age, medieval, postmedieval, and modern remains. There is, however, still a risk that unexpected archaeological remains of all periods may be discovered within the site. D

#### Assessment

- 5.23 The County Archaeological Officer (CAO) originally raised concerns on the grounds that a geophysical survey should be undertaken, which would indicate whether a phase of evaluation (trenching) would be required. Following further discussions with the agent and the submission

of further details including areas of archaeological potential where plinths may be utilised, dependent on the results of any investigation, the CAO is now satisfied with the proposal subject to appropriate mitigation being carried out, which can be secured by condition.

- 5.24 In terms of designated heritage assets, Twelve Acre farmhouse is Grade II listed. The development would be some distance from the farmhouse and would not be visible from the listed building. The Conservation Officer does not consider that the proposed development would have an adverse impact on the setting of the farmhouse but has commented that the solar panels on the higher ground would be visible from long distance views from the churchyard at South Leigh.

#### Highway Issues

- 5.25 The access to the site during both the construction and operational phases was originally proposed to be solely via Chilbridge Road and then utilising the existing access to the farm. The application has been amended, to allow the possibility of using a different access for the construction phase via the A40. If utilised, it is proposed that this access route will be widened with 5m x 5m entry splays tapering down within the site, to allow large vehicles (HGV's) to turn into and out of the site. Junction visibility has been reviewed in respect of the existing de-restricted (60mph) speed limit and to ensure that the full visibility is available, and it is anticipated that some vegetation clearance would be required, although all the associated land is public highway land or within our landowner's control.
- 5.26 Within the development site, new access tracks will be utilised to facilitate movement within the site for construction and maintenance, where an existing track is not available. It is envisaged that topsoil layers will be excavated to expose a suitable base on which to build the track. It is envisaged that the tracks will then be built up by laying crushed stone, rolled in layers. It is proposed that the track(s) will utilise existing access points between fields and crossing points over ditches, with no need to remove trees or hedgerows.
- 5.27 The Transport Statement concludes that the proposed development is expected to generate a limited number of vehicles once the site becomes operational, and similarly, only a limited number of vehicle trips during the construction phase. During the 16 week construction programme, vehicle movements are typically expected to comprise of 15 car and 10 LGV trips, arriving in the morning and leaving in the evening. Around 5 HGV trips are expected per day, with a total of 10 further HGV trips during the whole of the construction period, associated with the delivery of the batteries which will be housed in shipping containers.
- 5.28 The County's Highway Officer (CHO) has raised no objection to the application and notes that the number of trips to and from the site, when it is operational, will be minimal and will have a negligible impact on the highway network. It is noted that the northern part of Chilbridge Road falls within the West Eynsham Strategic Development Area (SDA) and whilst it is not yet known how it will be accommodated within the development, the CHO is confident that access could be accommodated one way or another. No objection has been raised to the use of Chilbridge Road subject to careful management of construction traffic along the Chilbridge Road bridleway being required. In terms of the revised construction access arrangements from the A40, the CHO has advised that in order to avoid obstruction to the free flow of the traffic and to prevent an increase in the likelihood of collisions, the access must be limited to left-turn movements only for vehicles entering and leaving the site. All vehicles will have the opportunity to change direction on the A40 either at the Eynsham roundabout (to the east) or at the Shores

Green interchange (to the west). Vehicles must be barred from turning at Barnard Gate because there is no ghosted right-turn filter lane, so HGVs in particular would cause an obstruction if they were waiting to turn right off the A40 here. Vehicles must also be advised not to attempt to use the adjacent laybys to change direction. These measures could be controlled through an agreed Construction Traffic Management Plan.

- 5.29 A Section 278 Agreement will be necessary for the construction of the new access. It will need to be wide enough so that two HGVs can be accommodated between the carriageway and the gate.
- 5.30 In terms of impact on the existing public right of way (PRoW) the revised PRoW footpath cross-section is considered an improvement for users of the path and is acceptable to OCC. Providing an alternative route for construction vehicles away from the PRoW is also an advantage for path users. OCC therefore raise no objection to the application subject to a S278 agreement and Construction Traffic Management Plan condition.

#### Flooding and Drainage

- 5.31 The majority of the site is located within Flood Zone 1, the zone with the lowest risk of flooding. A small part of the site is located within Flood Zones 2 and 3, indicating that this land is at a 'medium' and 'high' risk of river flooding. The development proposals for the site indicate that development will be located outside the Flood Zones 2 and 3.
- 5.32 The submitted Flood Risk Assessment concludes that no significant surface water is predicted to enter the site from outside the site boundaries. Any surface water flowing towards the site will largely be intercepted by the Chil Brook. It is proposed that Finished Floor Levels of any buildings are set no less than 71.9m AOD (0.6m over the estimated flood level based on the EA maps) and set above local ground levels (ideally by 0.3m) to prevent surface water flooding. The proposed development will result in no more than 0.27% impermeable area, leaving 99.73% of the site as permeable. 92.5% of impermeable area will be located at the north-east corner of the site, with the remaining five different locations. SuDS measures are proposed to manage additional surface water runoff generated by the proposed impermeable areas. These include swales. During the construction phase, additional drainage measures would be implemented to attenuate the increase in surface water flows and reduce pollution. Overland flow paths will be similar during an exceedance event, with excess flows draining to the Chil Brook within the top half of the site and draining towards small drains to the south-east and south-west from the bottom part of the site.
- 5.33 No significant risk of flooding from other sources has been predicted.
- 5.34 Following the submission of additional drainage information, the County Council, as the Local Lead Flood Authority, has raised no objection to the application subject to surface water drainage conditions.

#### Biodiversity

- 5.35 Policy EH3 of the local plan seeks to protect and enhance biodiversity in the district to achieve an overall net gain in biodiversity and minimise impacts on geodiversity. This includes protecting and mitigating for impacts on priority habitats, protected species and priority species, both for

their importance individually and as part of a wider network, and that all developments retaining features of biodiversity value on site and incorporating biodiversity enhancement features.

- 5.36 The site has been subject to an Extended Phase 1 Ecological Assessment and Preliminary Protected Species Survey along with Phase 2 surveys for great crested newts (GCN). The Ecological Assessment concludes that the habitats to be directly affected by the proposed development - the arable and pasture fields - are of low ecological value and the proposals would result in a net gain through the conversion of arable to pasture and the creation of new wildflower grassland habitats. New tree and shrub planting would enhance the connectivity of the site once established and provide additional habitat for a range of species.
- 5.37 The results of the Preliminary Protected Species Survey and targeted Phase 2 GCN surveys identified the presence and potential presence of protected species. These concluded that:
- There is no evidence of badgers; however, they are known to be in the local environs and therefore standard Good Practise should be followed during the Construction Phase;
  - The Site is likely to be used by local bat populations for foraging and commuting; no roosting habitats are identified as being directly or indirectly impacted by the proposals;
  - No GCN were identified within ponds situated within 500m of the Site, therefore this species is not a constraint to development;
  - A grass snake was recorded onsite and the habitats have the potential to support populations of further common reptile species such as common lizard and slow worm - an appropriate Precautionary Method of Works is proposed to ensure that these species are not impacted;
  - Breeding birds, including ground nesting birds, are likely to use appropriate habitats within the Site and on the Site boundaries - an appropriate Precautionary Method of Works is proposed to ensure that these species are not impacted; and
  - The Chil Brook has the potential to provide suitable habitat for watervole and transient habitat for otter - however no evidence of either species was recorded during the surveys.
- 5.38 The assessment concludes that provided the measures detailed in this report are adopted, the Proposed Development is considered to represent a net gain for habitats and species.
- 5.39 Having reviewed the Ecological Assessment the Council's Biodiversity Officer has requested further information relating to the need to identify the specific mitigation for reptile species (grass snakes) and identify what compensatory habitat is being created for grass snakes and an impact assessment for skylarks including specific mitigation or compensation measures so show how skylarks will be able to continue to use the site after development. Concerns were also raised relating to the proposed cable route which has the potential to impact protected and priority species. It has also been suggested that a wildlife pond is included within the Framework Landscape and Biodiversity Plan.
- 5.40 Discussions are on-going regarding the additional information required and suggested proposed changes to the Landscape and Biodiversity Plan and Members will be updated at Committee.

#### Other Matters

##### *Community Benefits*

- 5.41 As set out in the representations section above, Green TEA (Transition Eynsham Area) Energy Group comments that it is their intention is to reach an agreement for an option for the Low



Carbon Hub to purchase the solar farm, if consented, as a community asset or if the sale does not proceed, Low Carbon Ltd has suggested a fall back of a relatively small one-off donation to the local community. They have stated that they assume that benefits to host communities would be a material consideration. Whilst the public benefit of this renewable energy project is recognised, recent case law has held that benefits such as a donation is not a material planning consideration and that a Council would be acting unlawfully by taking it into account.

### Conclusion

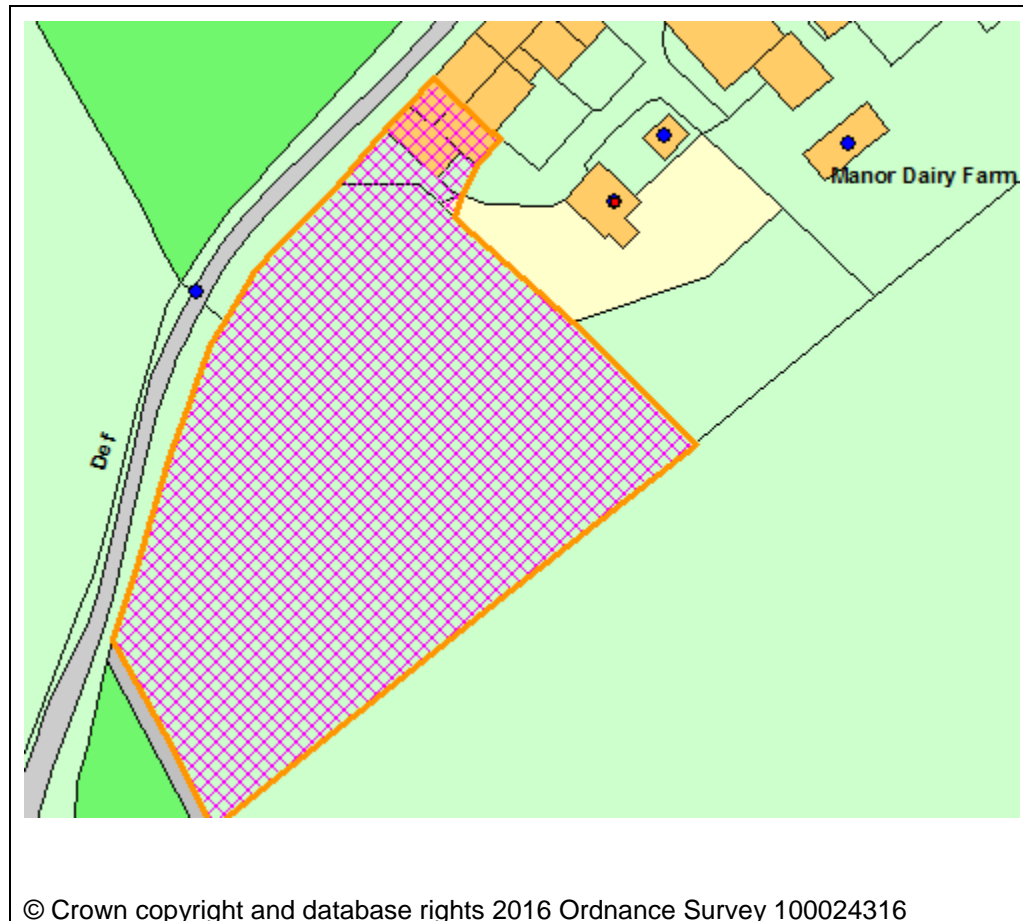
- 5.42 In conclusion, the proposed development would make a significant contribution to meeting targets for renewable energy and would contribute to the reduction of greenhouse gases. There are considered to be no available or suitable brownfield sites nor areas of lower quality agricultural land suitable for the solar farm development. Nevertheless, it is recognised that the proposal, which includes locating panels on higher ground would have a harmful impact on the landscape including views from local public rights of way and more distant public vantage points. Discussions including the possibility of relocating some of the panels to lower lying land and enhanced mitigation measures are on-going. Additional information is also required in respect of ecology issues and the possibility of including a wildlife pond as part of the mitigation measures.

## **6 RECOMMENDATION**

Whilst the principle of a solar farm in this location is considered to be acceptable, there are concerns relating to the harmful landscape impact of the solar panels on the higher ground. Discussions are on-going including the possibility of relocating some of the solar panels from the higher ground onto lower lying ground and enhanced mitigation measures. Additional information is also required in respect of ecology issues and the possibility of including a wildlife pond as part of the mitigation measures. Members will be updated at Committee in respect of these outstanding issues.

Application Number	19/02616/FUL
Site Address	Manor Dairy Farm Shilton Burford Oxfordshire OX18 4AP
Date	29th January 2020
Officer	Kim Smith
Officer Recommendations	Approve
Parish	Shilton Parish Council
Grid Reference	425303 E 207591 N
Committee Date	10th February 2020

### Location Map



### Application Details:

Conversion of agricultural barn to model aviation clubhouse - reception and rest/tea room, model aircraft workshop and storage area. (Retrospective)

Change of use of adjacent paddock for the launching and landing of the model aircraft.

## **Applicant Details:**

Mr Nicholas Blackwell, Manor Dairy Farm, Shilton, Burford, Oxfordshire, OX18 4AP

### **I CONSULTATIONS**

- I.1 OCC Highways Access is taken from a sub standard single track lane. However given the scale of development, together with the existing low traffic speeds and flows along the lane I cannot demonstrate sufficient harm that would warrant the refusal of the application for reasons of highway safety and convenience.
- The proposal, if permitted, will not have a significant detrimental impact ( in terms of highway safety and convenience ) on the adjacent highway network.
- 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.
- I.2 WODC Env Health - Lowlands I have No Objection in principle and no conditions to recommend.
- I.3 WODC Planning Policy Manager No Comment
- I.4 Adjacent Parish Council No Comment
- I.5 Adjacent Parish Council No Comment
- I.6 British Horse Society Thank you for consulting the British Horse Society on this application. We note that there is no mention within the application or supporting documents of the site's close proximity to Shilton Bridleway no. 9 / Kencot Bridleway no. 4. It is merely stated in section 22 of the Application that the site cannot be seen from a public road, public footpath, bridleway or other public land. Our concern is for the safety of horses and the general public (pedestrians and cyclists, as well as equestrians) while exercising their legal rights to pass and re-pass along this path. Horses are prey animals and their usual response to any perceived danger is flight. They have a much greater range of hearing than humans and are easily startled by sudden and/or unfamiliar sounds. Variation in their temperament, the nature of the environments they have known and their confidence will affect how horses respond to a noise. Generally, sudden noises are likely to trigger flight responses with the severity of reaction increasing with proximity of the noise. The abrupt reaction could be dangerous to a rider or handler, and potentially to others in the vicinity if the horse cannot quickly be controlled. There are many horses kept in this part of the county and this bridleway provides an important link within the wider equestrian network.

We therefore OBJECT to this application, on the grounds that there appear to be no procedures in place to ensure the safety of the public using the adjacent bridleway while model aircraft are being flown from the site.

1.7 MOD MOD (Brize Norton)

Thank you for consulting the Ministry of Defence (MOD) on the above proposed development which was received by this office on 09/10/19. I can confirm the MOD has no safeguarding objections to this proposal.

I trust this is clear however should you have any questions please do not hesitate to contact me.

1.8 Parish Council

Objection

We would question the suitability of this building to be a club house. In particular if there are sufficient fire precautions in place. The application gives no detail.

We do not consider the proposed field to be a suitable area for taking off and landing model aircraft due to its proximity to the bridle path and the adjacent stud farm.

Access to the property is via a single lane bridle path that is not suitable for additional traffic.

If the council were minded to grant the application we would suggest that a restriction be placed to ensure that it was not used as overnight accommodation for any reason.

If as suggested the facility was to be used by the public, local communities and schools, we would require significant reassurances that the organisation complied with all health and safety, guarding and other statutory obligations.

## 2 REPRESENTATIONS

2.1 Objections have been received from the following:

Marianne Key, Stephen Key, Stephen Hobbs, Wynne Hobbs, Ceyhan Halim, Jayne Lewington, Natasha Pollington, Duncan Hobbs and Louise Hobbs.

The objections are summarised as follows:

2.2 Concerns regarding horse and human welfare and safety

- Model aircraft flying, taking off and landing can spook horses and potentially cause them injury as well as stopping them from grazing when aircraft are flying. The horses are our main source of income and are valuable. This is an animal welfare issue as well as financially a potential drain on our business from any horse injuries;

- Myself and my young children regularly ride our horses along the bridleway that goes alongside of Manor Dairy Farm. Aircraft landing and taking off next to us would really frighten the horses and may cause a nasty accident for anybody riding along the bridleway;
- I'd like you to note that the field which has been used in the past is a different one to the application site roughly 300 m away and the airstrip which was being used is about 250m from the bridleway and in the open so the use in that location would be much less likely to spook horses on the bridleway. The strip that has been mown in the planning application would take model aircraft over our fields of horses at low level;
- The remote controlled aircraft can fall out of the sky and can cause injury and even death.

### 2.3 Inaccuracies in the application

- The application is so inaccurate as to be invalid;
- It states no land contamination but the building is an old tractor shed;
- It states no altered access but a section of drystone wall has been removed to create a new access from the bridleway for his vehicles;
- The application states that there is parking for 2 vehicles yet there are 11 members so not enough parking for its purpose;
- States that there are no trees or hedges on site but this is untrue as two sides of the site have hedges and there are trees in the middle;
- It states that foul drainage is to a septic tank, the one fitted is in no way suitable for the proposed application; It states there is no requirement for employment at S18 but later in S4.1 it states it will create employment;
- It states that opening hours are not relevant, they are very relevant as to when he intends operating;
- It states that the development cannot be seen from a public road, footpath or bridleway. It can clearly be seen from the bridleway;
- We object as he says only family members live on the farm which is not the case;
- As for the claim that is made about the profit going back into the farm, this is not a viable economic proposition as with 11 members this would equate to £550 per year which wouldn't cover the overheads of the building let alone put anything back into the farm.

### 2.4 Impact on residential amenity

- We object to the noise and disturbance that will be caused by the development;
- I am a neighbour and with no formal opening hours, along with unmanned aircraft flying at any time barbeques and drinking into the hours of darkness we are aware of what constitutes a meeting;
- The skies are already busy with aircraft manoeuvres day and night from RAF Brize Norton;
- CAA regulations state that you cannot use unmanned aircraft within 50 metres of people and buildings not under your control. With the size of the site and positioning it is no possible for the applicant to fly his unmanned aircraft. Also the CAA would have to 'license' this as the applicant states that he will try to make money from it.

## 2.5 Impact on visual amenity

- The clubhouse was built without permission not in keeping with the farm at all. There are cars parked in the field and a large yellow and blue porta loo;
- It states that the building is low impact. It isn't it's an eyesore thrown together in an amateurish manner and in no way meets any building regulations and is clearly not fit for purpose.

## 2.6 Impact on wildlife

- Flying model aircraft and the added traffic could cause disturbance to wildlife in neighbouring woodland areas;
- Wildlife that live in the woods surrounding the site could perhaps leave the area.

## 2.7 Other

- It doesn't represent any form of diversification and should not be allowed to proceed.
- Privacy concerns from potential of flying drones photographing/videoing.

## **3 APPLICANT'S CASE**

### 3.1 The applicant's case is summarised as follows:

- The application site forms a small part of an existing farmyard and represents a diversification of part of that yard. The work has already been started and is almost entirely complete. The clubhouse is already used by the Shilton Model Flying Club, which has 11 members and (if approved) can then be affiliated with the BMFA.
- The club permits only electric and glider aircraft, with the exception of two Vintage 'fly-in' events held each year, using the adjacent airfield. The noise impact is therefore very minor.
- The conversion work is complete, but the barn was a timber-framed GP barn, too low and in too poor condition for modern agricultural use, so was used for general storage.
- The proposed work has been largely completed and the building has been used informally as the clubhouse since substantial completion with timber cladding and internal improvements appropriate for a clubhouse, comprising tea and rest room, member wash/wc facilities, meeting area, model aircraft workshop, model aircraft storage and presentation area, with the adjacent paddock used as the model aircraft airfield.
- It is entirely understood that although the applicant had previously intended to convert the barn to a dwelling under Class Q, this is not possible and the continued use as a clubhouse is the intended ongoing and future use and a condition restricting the use to such would be entirely acceptable.
- The application is policy compliant.

- The proposal is a farm diversification enterprise, re-using an existing redundant agricultural building, that was and remains structurally sound and capable of conversion, for a low-key, community purpose, which will create indirect and potential direct employment.
- The Council supports the re-use of existing buildings to provide new employment premises in accordance with Policy E3.
- For obvious reasons, the need for a model aircraft aviation club cannot be met by the use of existing urban premises and the proposal does re-use an existing building.
- The re-use of the building will safeguard the amenity of local residents, because it is low-key, restricted to electric and glider models (so little or no noise) and there are no local resident other than family members of this long established farm.
- The farm has been reduced and sub-divided amongst family members in a manner sadly typical throughout the history of farming, but this diversification enterprise seeks to contribute towards the farming income, to retain the viability of the main business, which continues to be run by the applicant's nephew and supported by family members. The diversification is vital to the continuing viability of the farming business, whilst having a minimal reductive impact on the core business. The building was not suitable for modern agricultural purposes and the land used as the airfield can still be both grazed and cut for grass.
- With no conflict with either the agricultural operations or the dominant land use and a long-term approach to the already established club, the club profits will provide on-going additional income to the farm.
- The conversion is no larger than the original building and is discrete and discreet within the farmyard, providing an economic need that cannot be met within the settlement.
- The Clubhouse is modest in size, within and adjacent to the existing yard of buildings, integrating within the landscape and consistent in scale with the need of the club, both now and with the intended expansion, with no loss of amenity to local residents, or other users of the countryside. Indeed, the use of the area as a model aviation club is of interest to rural users, who enjoy the visual, technical, mechanical and historic aspects of the models and their flight. It is intended to provide educational and leisure support to the local community and schools.
- The enterprise will operate as part of the existing farm and add value to the core farm business and is compatible and consistent in scale to it.
- Although not a building of particular architectural merit, the building was no longer suitable for modern agricultural purposes and the re-use reduces the need for new buildings in open countryside and provides unobtrusive economic and community facilities.
- The re-use of the building for a community use with potential for employment in accordance with NPPF, with minimal alterations and making a valuable contribution to maintain the vibrancy of the rural economy. This club did not exist before and its retention is important to the local community.

- The conversion is minimal impact and the timber clad design is low-key and of the vernacular, not harmful to the surroundings.
- The proposal seeks to use the existing vehicular and pedestrian access, as shown and no alterations are required.
- The proposal is a low-key conversion of a modest building that formed part of the existing agricultural yard, but was no longer suitable for modern farming function. The result is a similarly low-key conversion as a community facility that will contribute towards the farm income as a diversification enterprise, run and supported by the family which continues to run the farm.
- The existing use is similarly low-key and has no negative impacts on local residents or the host farm.

### 3.2 Additional information received from the applicant in respect of the consultation responses received and questions of clarification by Officers

- There are two areas of relevant land and the distinction (highlighted in fact by one of the objectors, which is helpful), is important. There is the land adjacent to the proposed clubhouse and the airfield which is some 300m away and has been used by the club since 1980.
- The adjacent land is used (in general) between:
  - 12.00-15.00 in the winter
  - 12.00-20.00 in the summer
- Frequency is weather dependent and at the moment for example, with Storm Brendan bringing gusts of 80mph and driving rain, there is no activity at all, but otherwise meets are 4 days a week, with around 10-15 flights per day from the adjacent land. The land is also waterlogged at the moment so although water-planes can be used, the club is keeping off it. Turbulent winds affect controls and rain can get damp in the electronics.
- These models flown from the adjacent land are all 'Silent flight' electric planes, but when IC (internal combustions) planes are flown, they are always taken up to the airfield (300m away where 3 annual meetings are held a year - 2 vintage (some IC) and one electric soar meeting - June, July, September each year - ). For each of these events, some practice flights are undertaken on Saturday (10-15 people, 2-3 machines each, 2-3 times flying), with the show on Sunday (25-30 people with corresponding numbers) and this is all carried out at the airfield, not the adjacent land and all by long-established landowner permission since 1980, but those IC planes are prepared and maintained, repaired and cleaned at the clubhouse, where refreshments and technical discussion also happens. As well as all the IC planes, all large models are flown from the airfield, with wingspans over 40 inches, except some gliders which can use the adjacent land.
- The clubhouse is used for meeting of members, club administration, refreshments during flying events, preparation, maintenance, repair and building of models and as a meeting point whenever there is flying either at the adjacent land or at the airfield (so during the times given above for both airfields). So, 4 days per week afternoons in association with the flying,



together with repair and maintenance (these are miniature motors and models, so the tools and type of work is light-duty as one might expect) at other times, mainly late mornings before the flying and club administration.

- The three annual meetings mentioned above - all held at the airfield - are the special occasions. The club wants to add one more electric (no noise) 'aerotow' event, with the flying up at the airfield, but all the preparations, repairs, refreshments etc held at the clubhouse. Normally, model gliders have a small electric motor on the front of gliders, used only for launch. With aerotow, there are two 'silent flight' electric-powered towing tugs, used in rotation to launch unmotorized gliders. One event is planned in the summer, linked to the existing electric soar July event, with hopefully around 10-15 people on the Saturday and 25-30 on the Sunday. All noise free - electric and run from the airfield, but with the same arrangement in terms of use of the clubhouse facilities.
- The proposed clubhouse and adjacent land are part of a retained family farm, which extends to 25 acres of rented land and 5 acres owned by the family. There are currently 8 sheep, with complete re-stocking intended. Haylage is made on the remainder, cut, baled and stored wrapped on the edge of the airfield, some 300m from the farmyard. The farm offers contract work for three other farms - tractor driving, cultivation, stock keeping, forestry, fencing, combining, topping, baling, hedge trimming etc, but this is a small family farm, which used to be much bigger - 15 years ago there were 50 pedigree Aberdeen Angus cattle, with an additional 80 acres held. The intention is to build this back up again, using the farming income and the club income to help with that, as a farm diversification enterprise.

### 3.3 Applicants response to British Horse Society Objection

- The proximity to the bridleway is a matter of public record and is wholly accepted.
- The safety of pedestrians, cyclists and equestrians is entirely accepted and has been carefully considered by the applicant.
- Horses are indeed prey animals and humans are predators, but the horses using bridleways such as this are not wild horses in a herd. The relationship between rider and trained horse along a bridleway engenders a wholly more controlled behavioural environment.
- This is entirely accepted and has been considered over the use of the site for many years.
- Detailed records have been kept on the daily use of this bridleway since November 2019 and a maximum of 2 riders per day have been using it, often by horses and riders that have become familiar with the route and the activities on the site, which is also an active farmyard. Since 1980, when the adjacent land was first used for flying model aircraft, not one such event has been witnessed. In all that time, some 40 years, there have been no complaints whatsoever of any shying or reactions to any use of the site and that is not surprising, because in amongst cattle and sheep, tractors and other farm vehicles, delivery trucks noisily reversing and other farm noises, the very low sound emitted by an electric model aircraft, not immediately adjacent to the bridleway at all, is extremely minor.

- 3.4 The British Horse Society therefore OBJECT to this application, on the grounds that there appear to be no procedures in place to ensure the safety of the public using the adjacent bridleway while model aircraft are being flown from the site

This point is noted and the applicant responds by proposing two measures:

1. A temporary sign will be placed on the track by the main gate to the farm, whenever flying is taking place on the adjacent land.
2. For new riders and horses, controlled demonstration events can be organised, to ensure the horses become completely familiar with the low-level electric motor noise and the shape and flight pattern of the aircraft. This is not required of course, because as stated already, there have been absolutely no witnessed incidents in 40 years of use and any 'disturbance' just does not compare to that of a combine harvester driving into the yard, or the beeping of a lorry reversing.

A demonstration for you as officer (or any other statutory consultee) can be arranged very simply, so you can see just how low level the matter is in reality.

#### **4 PLANNING POLICIES**

OS2NEW Locating development in the right places

E3NEW Reuse of non residential buildings

EH2 Landscape character

EH8 Environmental protection

E4NEW Sustainable tourism

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

#### **5 PLANNING ASSESSMENT**

- 5.1 This application is part retrospective and seeks planning permission to regularise the extension and remodelling of a former agricultural building for use as a clubhouse in association with a model flying club that has been operating from land some 300m from the site for in excess of 10 years.
- 5.2 The application also proposes the use of the paddock land immediately adjacent to the proposed clubhouse for the flying of model aircraft.
- 5.3 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

- 5.4 The application has two key elements- the use of the land and the erection of the new clubhouse building on the site of the former agricultural building. Looking at the first of these elements the use of land for up to 28 days for the flying of model aircraft would not even require planning permission. As such it would not be possible to control the impacts of 28 days of use in terms of numbers, noise, types of aircraft etc through planning legislation albeit there may be controls exercisable through other safety or environmental legislation. This permitted

development allowance sets a benchmark in terms of a fall-back position for the levels of use that do not even trigger the need for planning consent. Uses that fall below that threshold, or where above the threshold where conditions can be imposed to limit the impacts such as to be equivalent/better are considered acceptable in principle. That is the case here where officers consider that through the imposition of conditions the potential harms can be mitigated/ameliorated such that the use beyond the permitted development limits can be supported as it offers the opportunity to exercise controls to limit potential adverse impacts. The policies of the local plan seek in general terms to promote recreational activity. The use is in this context considered not unacceptable in principle.

- 5.5 The second element of the proposals is the building. It replaced a former agricultural shed of no merit and of itself is of no historic or architectural merit. It is essentially a new chalet style building albeit it incorporates a small part of a former barn. Officers have assessed it as if it were a new building and formed a judgement as to whether, in light of the permitted right to use the land, it is an appropriate building to support that use- in a similar way that a cricket pavilion is associated with a cricket pitch or a stable with horse riding activity. Its somewhat domestic appearance would not generally be considered acceptable in an isolated location such as this were it visually unrelated to an existing residential use, but when viewed from the adjoining bridleway it appears as an ancillary domestic structure to the extant farmhouse building and its associated curtilage and as such is not as incongruous as it might be were it located elsewhere despite its appearance- albeit it is of no merit. In these terms its use ancillary to the model flying use is considered acceptable as a means to provide toilet, coffee making, meeting and repair facilities for the principal use.

#### Noise and Safety Impact

- 5.6 It will be noted that there is a strong objection to the application from the British Horse Society. Were this a green field site in a very quiet location Officers would be supporting that objection. That is not however the case. The club already operates from a field approx. 300m from this site and not the subject of this application where it is proposed to continue to use internal combustion powered models. There appears to have been no record of incidents being reported of horse/model aircraft causing issues. This may be because the site is located very close to the flight path of RAF Brize Norton where the noise impact of those aircraft far exceeds that of model aircraft. Critically however the applicants have agreed to the imposition of a condition that the new field the subject of this application will be limited to use by electrically powered models such as to substantially reduce noise harms. It is the assessment of your Environmental Health Officer that this is likely to remove any potential for noise harms being an issue but he has asked for a further test on site to confirm this. Recommendation for approval is thus subject to the results of the tests confirming the noise position.

#### Landscape Impact

- 5.7 The building is largely tucked away behind a wall/fence when seen close at hand and when the building and proposed 'runway' are viewed from further afield it is through the existing mature boundary hedge. The landscape is already somewhat compromised by the buildings and hardstandings associated with the former WW2 airfield and by the solar farm that covers half of that airfield. The aircraft noise from RAF Brize Norton similarly reinforces the impression that this is not virgin countryside but has been the subject of considerable intervention. In that context the creation of a mown area and building are not considered so alien that the landscape impact would justify a refusal

## Highways

- 5.8 County Highways has raised no objection to the proposals for the site.

## Residential Amenities

- 5.9 There are other residential properties relatively close by. However with planning conditions being recommended to limit the number and extent of people attending, number and nature of events etc it is considered that the conditional approval of the scheme offers the opportunity to levy some degree of control over hours of use, type of model aircraft etc such as to secure a better residential environment than would be the case with the unrestricted 28 day fall back allowed under permitted development rights. Thus notwithstanding the concerns raised in the representations received, subject to your Environmental Health Officer raising no objections in respect of noise matters, your Officers do not consider that there will be unacceptable levels of harm to the residential amenity of those living close to the site.

## Conclusion

- 5.10 In light of the above assessment subject to your EHO being satisfied that noise levels from the activity following 'on site' testing are not harmful, the application is considered compliant with the locational, environmental and tourism and leisure policies of the West Oxfordshire Local Plan and relevant paragraphs of the NPPF and is recommended for conditional approval based on the conditions listed at the end of this report.

## **6 CONDITIONS**

- 1 That the development be carried out in accordance with the approved plans listed below.  
REASON: For the avoidance of doubt as to what is permitted.
- 2 The development hereby approved shall only be operated in accordance with the details contained in the applicants agents email dated 16 January 2020 and not otherwise without the prior express consent of the LPA. In particular the following:

Model aircraft flown on the paddock land the subject of this application shall be 'Silent Flight' electric planes only.

The use of the adjacent paddock land for the flying of model aircraft shall be limited to the following hours:

12.00 -15.00 between October 1st- March 31st (Winter Months)

12.00 - 20.00 between April 1st -September 30th (Summer Months)

Flight days are restricted to a maximum of 4 per week with a maximum of 15 flights per day from the paddock land the subject of this application.

The clubhouse shall be limited to use during flight days only and during the following hours:

11.00- 15.00 in the Winter Months

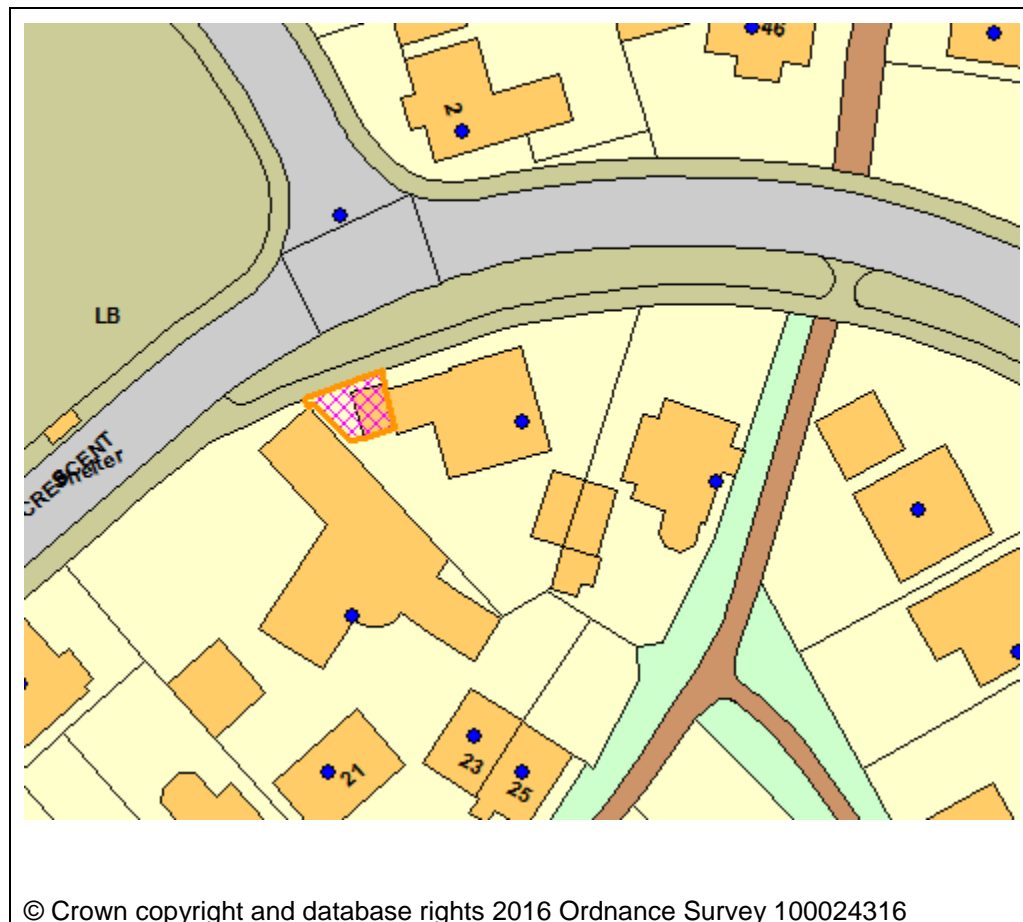
11.00 -20.00 in the Summer Months.

REASON: In the interests of the residential amenity of nearby occupiers and users of the nearby bridleway.

- 3 Within one month of the date of this grant of planning permission a block plan at a scale of 1:500 shall be submitted identifying parking provision within the site for 5 vehicles which shall be implemented prior to first use and retained for parking purposes thereafter.  
REASON: To ensure that adequate car parking facilities are provided in the interests of road safety.
- 4 That prior to each and every use of the Paddock land the subject of this application for the flying of model aircraft a temporary sign shall be placed on the track by the main gate to Manor Dairy Farm advising that flying is taking place. Details of the design and location of the sign shall be first agreed in writing by the Local Planning Authority.  
REASON: In the interests of the users of the adjoining bridleway.
- 5 No more than 5 persons (fliers) shall use the clubhouse and adjacent paddock at any one time.  
REASON: In the interests of the residential amenity of nearby occupiers.
- 6 The clubhouse hereby approved shall be used for purposes ancillary and incidental to the use of the land for the flying of model aircraft and not for any other purpose including residential or commercial purposes.  
REASON: In the interests of sustainable development given the isolated rural location and the access to the site.

Application Number	I9/02624/FUL
Site Address	43 Valence Crescent Witney Oxfordshire OX28 5GD
Date	29th January 2020
Officer	Claire Green
Officer Recommendations	Approve
Parish	Witney Town Council
Grid Reference	433964 E 210236 N
Committee Date	10th February 2020

### Location Map



### Application Details:

Change of use of land to extend domestic garden, construction of new boundary fencing and erection of outbuilding for use as home office/gym. (Retrospective).

### Applicant Details:

Mr Dale Heast, 43 Valence Crescent, Witney, Oxon, OX28 5GD

## **I CONSULTATIONS**

- 1.1 Town Council                      Witney Town Council is aware of a number of issues regarding the landscaping and restrictive covenants in this vicinity that may be considered to be in breach of planning policies. It would ask that a clear, fair and consistent approach is adopted for this application and any future ones.
- 1.2 OCC Highways                      The proposal, if permitted, will not have a significant detrimental impact ( in terms of highway safety and convenience ) on the adjacent highway network
- Recommendation:  
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

## **2 REPRESENTATIONS**

No letters of representation received.

## **3 APPLICANT'S CASE**

The applicant's case can be viewed online.

## **4 PLANNING POLICIES**

DESGUI West Oxfordshire Design Guide  
OS2NEW Locating development in the right places  
H6NEW Existing housing  
T1NEW Sustainable transport  
The National Planning Policy framework (NPPF) is also a material planning consideration.

## **5 PLANNING ASSESSMENT**

- 5.1 This is a retrospective application that has been submitted in an attempt to regularise the siting of a fenced enclosure and change of use of the land at the rear of a residential property in Valence Crescent Witney. The breach of planning control came to light following receipt of a complaint.
- 5.2 The application seeks planning permission for change of use of land, construction of new boundary fencing and erection of an outbuilding at 43 Valence Crescent, Witney. The application site relates to a modern detached property in West Witney.
- 5.3 The site does not fall within any areas of special designated control and therefore the main considerations of this application are the impact of the development on the visual amenity and the impact of the development on the residential amenity.

### Visual Amenity

- 5.4 The boundary fence is less than 2m high and replaces an earlier fence of similar size, design and materials, albeit in a new location. The fence is on an area of amenity land under ownership of the applicant, located between the highway and the former fenced boundary. The fence itself was replaced in July 2015 and as such has already become lawful, and would be immune from enforcement action. However, regardless of the 4-year exemption, it is officer opinion that the relatively small fenced section, in the same design and materials, does not represent significant harm in regards to visual amenity. It is acknowledged that a small amount of vegetation has been lost by the scheme but given the housing estate context and the limited loss of vegetation in this instance, the weathered fence is not considered to be so obtrusive as to cause harm to the amenity.
- 5.5 Behind the fence a wooden clad outbuilding has been erected which is used as a home gym and office. The outbuilding is partly visible on the street scene with the roof line sitting approximately 40cm above the boundary fence. The roof slopes slightly upwards in to the plot. It is your Officer's opinion that the small scale of the development does not have any harmful effect on the character and appearance of the area.

### Residential Amenity

- 5.6 Given the siting, size and modest scale of the outbuilding, and that it is located adjacent to the garage serving the neighbouring dwelling, Officers are of the opinion that the outbuilding does not adversely affect the residential amenity of the adjoining dwelling by way of overlooking, overshadowing or overbearing.
- 5.7 The outbuilding is of quality materials that are typical in style for a domestic outbuilding. The outbuilding features a glazed UPVC door, the glazed door facing inside the applicants garden, no other windows are installed.

### Highways

- 5.8 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 T1 of the West Oxfordshire Local Plan.

### Conclusion

- 5.9 After careful consideration, taking into account the above matters, which includes the change of use of a small area of amenity land to domestic garden, the retrospective development is considered on balance acceptable on its merits and is therefore recommended for approval. The application is considered to comply with Policies OS2, H6 and T1 of the West Oxfordshire Local Plan 2031, the relevant paragraphs of the NPPF and the West Oxfordshire Design Guide 2016.

## **6 CONDITIONS**

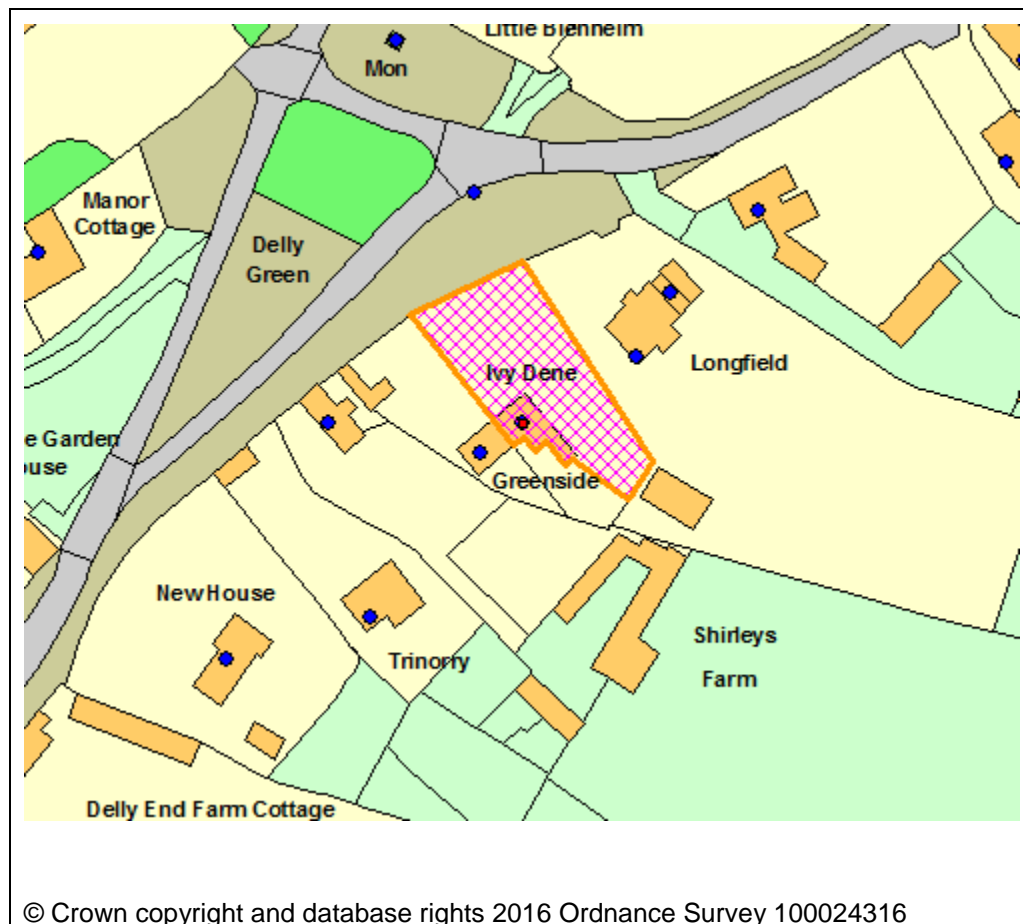
- 1 That the development be carried out in accordance with the approved plans listed below.  
REASON: For the avoidance of doubt as to what is permitted.



- 2 The development shall be constructed with the materials specified in the application.  
REASON: To ensure that the development is in keeping with the locality and for the avoidance of doubt as to what is permitted.

Application Number	I9/03242/HHD
Site Address	Ivydene Delly End Hailey Witney Oxfordshire OX29 9XD
Date	29th January 2020
Officer	Esther Hill
Officer Recommendations	Approve
Parish	Hailey Parish Council
Grid Reference	435283 E 213199 N
Committee Date	10th February 2020

### Location Map



#### Application Details:

Alterations and erection of single storey extension.

#### Applicant Details:

Mr M Hocken, Ivydene, Delly End, Hailey, Witney, Oxfordshire, OX29 9XD

## **I CONSULTATIONS**

- 1.1 Parish Council No Comment Received.

## **2 REPRESENTATIONS**

No letter of representation received.

## **3 APPLICANT'S CASE**

- 3.1 A design and access statement has been submitted. A full version of this is available on the Council's website. The statement has been summarised and concluded as follows:
- The present application seeks to join the dining room and kitchen together in one space while providing the missing Utility room, downstairs toilet and rear entrance resolving shortcomings in the existing arrangement.
  - To achieve this a modest single storey extension to the existing kitchen extension is proposed forward of the existing rear entrance.
  - A hardwood glazed door and screen gives access to the new kitchen space towards the front offering easy access to the terrace on sunny days. These glazed panels are far enough to the rear to avoid impacting on the front elevation.
  - A solid roof is proposed using zinc or single ply membrane.
  - Natural stone walling under the new line of hardwood timber windows.
  - This discreet addition allows re-organization of the functional spaces of the cottage while leaving the historical elements undisturbed.

## **4 PLANNING POLICIES**

H6NEW Existing housing  
OS4NEW High quality design  
EH11 Listed Buildings  
EH9 Historic environment  
EH10 Conservation Areas  
EH12 Traditional Buildings  
NPPF 2019  
DESGUI West Oxfordshire Design Guide  
The National Planning Policy framework (NPPF) is also a material planning consideration.

## **5 PLANNING ASSESSMENT**

### Background information

- 5.1 The application is to be heard before the Lowlands Planning Sub-Committee as partnering application 19/03243/LBC has received objection from Hailey Parish Council.
- 5.2 The proposal seeks consent for a single storey side extension to the existing host dwelling.
- 5.3 The application site relates to Iydene, Delly End, Hailey, a semi-detached grade 2 listed property situated within the Hailey conservation area.

5.4 Relevant planning history:

- Planning application Ref: 19/01330/HHD- Erection of single storey side extension- Withdrawn- 24/07/2019
- Planning application Ref: 19/01331/LBC- Erection of single storey side extension- Withdrawn- 24/07/2019
- The above applications were withdrawn due to the following comments from your Conservation and Design officer:

The proposed extension would be of no great volume, but it would make a major impact on the character of the front elevation of the listed building - noting that the previous extension was kept well back. It would also have a very uneasy relationship with the existing pitched roofing behind, and in addition has somewhat awkward proportions. From our point of view this is not an acceptable proposition. It may, however, be worth them exploring a small link in the rear angle between the single and two storey elements. Recommendation: Refusal. Appears incompliant with policies OS4, EH10 and EH11.

5.5 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:

Scale, Design and Layout  
Visual Amenity  
Neighbouring amenity

Scale, design and layout

5.6 The proposed extension is 4m in length 2.9m wide and at its highest point 2.9m. In terms of design the proposed extension will have a lean-to roof and walls consisting of a metre of glazing sitting above a 1.1m dwarf masonry wall. Materials proposed are natural stone with a grey single ply or grey zinc roof. The siting of the proposed is to the eastern elevation. Your officers consider the above to be acceptable in terms of its siting and its design.

Visual amenity

5.7 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. Further the paragraphs of section 16 'Conserving and enhancing the historic environment ' of the NPPF are relevant to consideration of the application. In this regard the proposed alterations and extension would respect the special qualities and historic context of the Conservation Area and would maintain the appearance of the heritage asset given the nature of what is proposed and its location.

5.8 The proposed extension is considered not highly visible within the streetscene, on balance due to its size, location and difference in ground levels. As such your officers are of the opinion it would not give rise to any adverse impacts in regards to visual amenity issues.

### Neighbouring amenity

- 5.9 Given the scale of the proposed and the high trees on the boundary between the host dwelling and the neighbouring property to the east, your officers are of the opinion that the proposal would not give rise to any adverse impacts in regards to neighbouring amenity.

### Conclusion

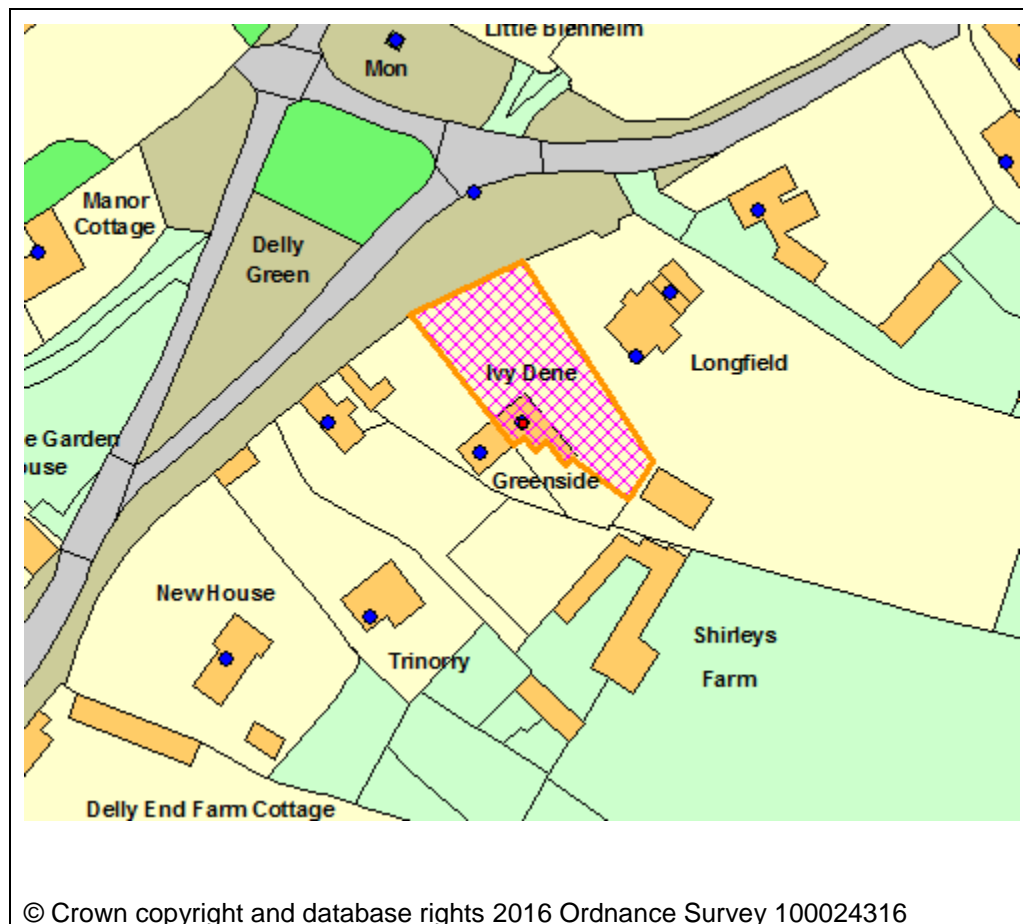
- 5.10 In light of the above assessment, your officers consider the proposed development complies with the provisions of Policies OS4, OS2, EH11, EH10 and H6 of the adopted West Oxfordshire Local Plan; the WODC Design Guide 2016, Policies E3, E2 and H1 of the adopted Hailey Neighbourhood Plan and the relevant paragraphs of the NPPF 2019.

## **6 CONDITIONS**

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.  
REASON: To comply with the requirements of Section 91 of the Town & Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act, 2004.
- 2 That the development be carried out in accordance with the approved plans listed below.  
REASON: For the avoidance of doubt as to what is permitted.
- 3 The development shall be constructed with the materials specified in the application.  
REASON: To ensure that the development is in keeping with the locality and for the avoidance of doubt as to what is permitted.

Application Number	I9/03243/LBC
Site Address	Ivydene Delly End Hailey Witney Oxfordshire OX29 9XD
Date	29th January 2020
Officer	Esther Hill
Officer Recommendations	Approve
Parish	Hailey Parish Council
Grid Reference	435283 E 213199 N
Committee Date	10th February 2020

### Location Map



#### Application Details:

Alterations and erection of single storey extension.

#### Applicant Details:

Mr M Hocken, Ivydene, Delly End, Hailey, Witney, Oxfordshire, OX29 9XD

## **I CONSULTATIONS**

- 1.1 Conservation Officer We note that this latest scheme is actually an amended version of a resubmitted scheme, and we note the following features:
- 1) Unlike the earlier proposal, this one is set well back from the facade of the main block, and it also sits within the established line of the existing rear extension.
  - 2) It is of no great volume, by comparison with the existing massing.
  - 3) It primarily impacts upon C20 extensions, physically, rather than the early fabric.
  - 4) Following our suggested amendments, the design is neat and clean.
- And in the light of this, we concluded that the impact and harm is minimal, and that the special interest of the listed building would be preserved.
- 1.2 Parish Council Hailey PC objects to this planning application.
- The PC has no objection to the extension in principle, but the original scheme is preferred, in particular the stone parapet, the lantern roof and use of original windows as this is more in keeping with the property. It is more likely to be energy saving as well.

## **2 REPRESENTATIONS**

No letter of representation received.

## **3 APPLICANT'S CASE**

- 3.1 A design and access statement has been submitted. A full version of this is available on the Council's website. The statement has been summarised and concluded as follows:
- The present application seeks to join the Dining room and Kitchen together in one space while providing the missing Utility room, downstairs toilet and rear entrance resolving shortcomings in the existing arrangement.
  - To achieve this a modest single storey extension to the existing kitchen extension is proposed forward of the existing rear entrance.
  - A hardwood glazed door and screen gives access to the new kitchen space towards the front offering easy access to the terrace on sunny days. These glazed panels are far enough to the rear to avoid impacting on the front elevation.
  - A solid roof is proposed using zinc or single ply membrane
  - Natural stone walling under the new line of hardwood timber windows
  - This discreet addition allows re-organization of the functional spaces of the cottage while leaving the historical elements undisturbed.

## **4 PLANNING POLICIES**

OS2NEW Locating development in the right places

OS4NEW High quality design

EH9 Historic environment

EH10 Conservation Areas

EH11 Listed Buildings

EH12 Traditional Buildings

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 is to be heard before the Lowlands Planning Sub-Committee as Hailey Parish Council has objected to the proposal.

5.2 The proposal seeks consent for a single storey side extension to the existing host dwelling.

5.3 The application site relates to Iydene, Delly End, Hailey, a semi-detached grade 2 listed property situated within the Hailey conservation area.

5.4 Relevant planning history:

- Planning application Ref: 19/01330/HHD- Erection of single storey side extension- Withdrawn- 24/07/2019
- Planning application Ref: 19/01331/LBC- Erection of single storey side extension- Withdrawn- 24/07/2019
- The applications were withdrawn due to the following comments from your Conservation and Design officer:

The proposed extension would be of no great volume, but it would make a major impact on the character of the front elevation of the listed building - noting that the previous extension was kept well back. It would also have a very uneasy relationship with the existing pitched roofing behind, and in addition has somewhat awkward proportions. From our point of view this is not an acceptable proposition. It may, however, be worth them exploring a small link in the rear angle between the single and two storey elements. Recommendation: Refusal. Appears incompliant with policies OS4, EH10 and EH11.

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

Impact on the listed building and its setting



### Impact on the listed building and its setting

- 5.6 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 planning permission for any works the local planning authority shall have special regard to the desirability of preserving the building, its setting and any features of special architectural or historic interest which it possesses.
- 5.7 With regard to the impact on the listed building your officers consider that the extension and alterations do not adversely affect the historic fabric of the grade II listed building. The proposed extension and alterations are not considered to have a detrimental impact to the character or setting of the listed building, given the modest scale and design and its location. Your officers consider the proposed extension to be sympathetic to the listed building and its setting. As such, your officers consider that the character and setting of the listed building is preserved.
- 5.8 Your officers have taken into consideration the Parish Council's objection however given that the proposed extension object to the proposed because they consider the design of a previously withdrawn applications 19/01330/HHD and 19/01331/LBC more in keeping with the listed building and likely to be energy saving. However your officers are of the opinion that the proposed extension will be more sympathetic in its design, scale and massing than the previously proposed scheme. In addition it only mainly affects more modern additions rather than early historical fabric of the Listed Building.

### Conclusion

- 5.9 In light of the above assessment, your officers consider that the proposed development complies with the provisions of Policies OS4, OS2, EH11, EH10 and H6 of the adopted West Oxfordshire Local Plan; the WODC Design Guide 2016, Policies E3, E2 and H1 of the adopted Hailey Neighbourhood Plan and the relevant paragraphs of the NPPF 2019.

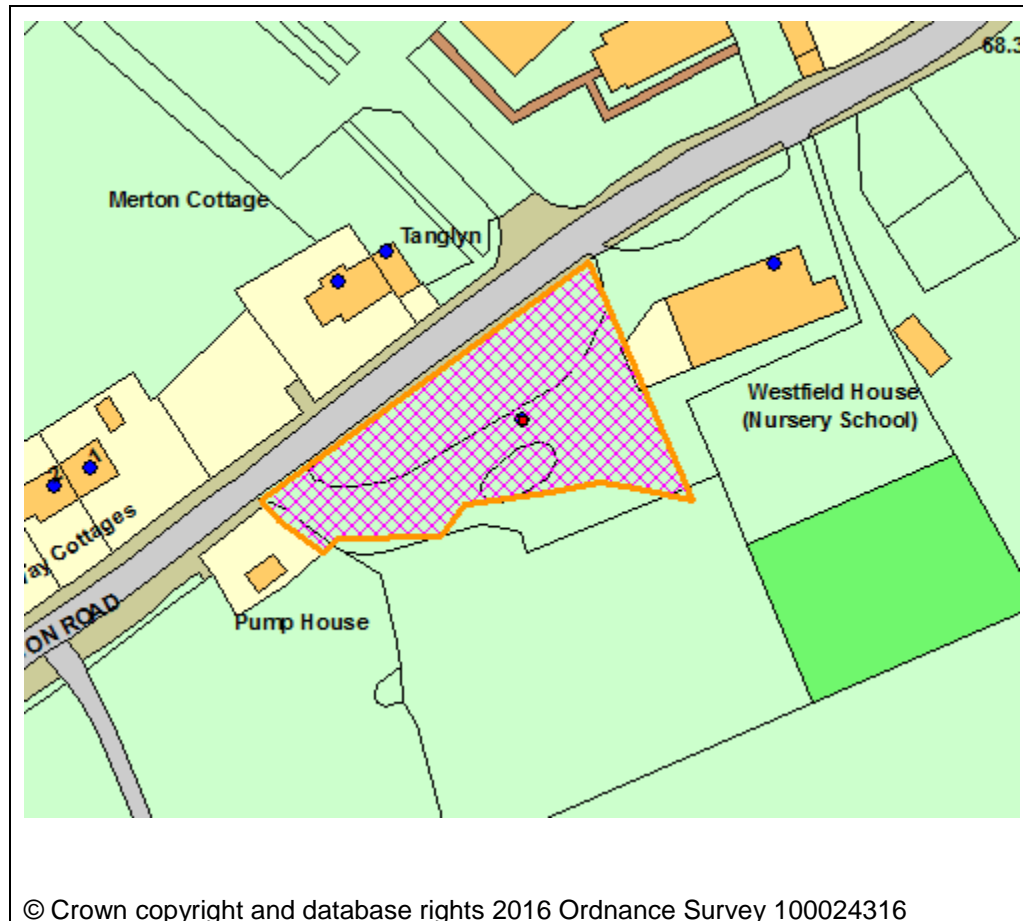
## **6 CONDITIONS**

- 1 The works must be begun not later than the expiration of three years beginning with the date of this consent.  
REASON: To comply with the requirements of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.
- 2 That the development be carried out in accordance with the approved plans listed below.  
REASON: For the avoidance of doubt as to what is permitted.
- 3 The development shall be constructed with the materials specified in the application.  
REASON: To ensure that the development is in keeping with the locality and for the avoidance of doubt as to what is permitted.
- 4 No demolitions, stripping out, removal of structural elements, replacement of original joinery or fittings and finishes shall be carried out except where shown and noted on the approved drawings.  
REASON: To preserve internal features of the Listed Building.

- 5 All new works and works of making good shall be carried out in materials, and detailed, to match the adjoining original fabric except where shown otherwise on the approved drawings.  
REASON: To preserve the architectural integrity of the Listed Building.
- 6 The external walls shall be constructed of natural local stone in accordance with a sample panel which shall be erected on site and approved in writing by the Local Planning Authority before any external walls are commenced and thereafter be retained until the development is completed.  
REASON: To safeguard the character and appearance of the area.
- 7 Notwithstanding details contained in the application, detailed specifications and drawings of all external windows and doors to include elevations of each complete assembly at a minimum 1:20 scale and sections of each component at a minimum 1:5 scale and including details of all materials, finishes and colours shall be submitted to and approved in writing by the Local Planning Authority before that architectural feature is commissioned/erected on site. The development shall be carried out in accordance with the approved details.  
REASON: To ensure the architectural detailing of the buildings reflects the established character of the area.
- 8 Notwithstanding details contained in the application, a sample of the proposed roof sheet shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.  
REASON: To safeguard the character and appearance of the area.

Application Number	19/03376/FUL
Site Address	Land adjacent to Westfield House Bampton Road Aston Bampton Oxfordshire
Date	29th January 2020
Officer	Miranda Clark
Officer Recommendations	Approve
Parish	Aston, Cote, Shifford And Chimney Parish Council
Grid Reference	433771 E 202902 N
Committee Date	10th February 2020

### Location Map



### Application Details:

Erection of dwelling with associated parking.

### Applicant Details:

Cornerstone Land LTD, C/O Agent.

## **I CONSULTATIONS**

- |     |                            |  |
|-----|----------------------------|--|
| I.1 | OCC Highways               | No objection subject to condition requiring parking as plan.   |
| I.2 | WODC Env Health - Lowlands | While I have no major concerns in relation to the proposed development, review of our historical maps suggest that the western corner of the site may have been developed in the past. Please consider adding a contamination condition to any grant of application.   |
| I.3 | Thames Water               | Informatives to be added   |
| I.4 | WODC Drainage Engineers    | No objection subject to condition  |
| I.5 | Conservation Officer       | No objection   |
| I.6 | Parish Council             | Aston PC considered this application at its meeting on the 2nd January 2020 and objects for the following reasons:<br>1. The scale of development as this would be taking this development back to the original under 16/01423/FUL which was refused.<br>2. This would seriously affect the character of the area and the parish council has requested on previous applications for this development that the 'parkland' aspects of the ground be retained as this development is in a conservation area. The parish council noted that this is the second time such an application has been made, 19/0428/FUL being the first, to which the parish council objected for the same reasons. |

## **2 REPRESENTATIONS**

No comments received at the time of writing.

## **3 APPLICANT'S CASE**

- 3.1 A Design and Access Statement has been submitted with the planning application. It has been summarised as:
- Westfield house and its immediate surroundings have approval to be converted into a pair of semi-detached houses - ref: 18/01368/FUL.
  - The rest of the plot, which the proposal site is part of, has permission for three houses amended by variation, ref: 18/01367/S73. The extant approval leaves a redundant space to the North. This application proposes to infill this space with a single detached house with private parking and garden space. Access to new dwelling will be via the existing access at the westerly corner of the site and the approved driveway for the houses to the rear. The house which is proposed has the same style and detail as the adjacent approval which in turn was designed to complement Westfield House and reflects the village vernacular and material palettes.
  - An application for a house in this location was made in February - ref: 19/00428/FUL. This application was ultimately withdrawn in response to officer concerns. These concerns

where reviewed further with the officer beyond withdrawal and have, it is felt, been fully responded to within this submission.

- This application follows a recent pre-application response, this response is positive in terms of principles of an additional house on the plot and the location this is sited. The view of the planning officer and the conservation architect wrote that the proposals are overly large. Officers have provided examples of the sizes they would find appropriate and the submitted scheme has been revised to follow this guidance.
- As a boundary plot the local character of the area is split between the village to the north, including Aston Pottery on the opposite side of the road and agricultural vale farmland and flood-plain pasture to the south. Aston is a small village with a variety of facilities, including a church, a community hall and few commercial units. It is served by a bus route providing connectivity to the wider area.
- The site itself is bounded by Aston Pottery to the north, Westfield House to the east and the approved houses, currently underway, to the south. This represents development on three sides and defines the site as an infill plot. In addition to this it could be considered that there is development to the west as Kingsway Cottages is located nearby.
- The northern boundary of the site is street fronting facing Bampton Road, although it is not accessed from it. This boundary will be screened by a Hawthorn based mixed native hedging emphasising the rural nature of this edge of the village. This is a common boundary treatment further down the road outside of the village. This new hedgerow will incorporate the existing trees which currently line the plot. It is felt that these proposals will form a dense and verdant hedgerow which will act as a defined barrier screening both the proposals and existing approved scheme beyond.
- It should be noted that within the sign off of conditions to the existing approved scheme a Laurel Hedge was agreed as the boundary finish in this location. This is felt to be a more domestic option and therefore the native hedge, now proposed, should be seen as an improvement.
- The scheme proposes a single four bed, two storey family dwelling with total gross internal floor area of approximately 262 sqm. The site is located within the Aston conservation area.
- In terms of response to the conservation area, the proposals are set back from the neighbouring Westfield House, in order that this building retain priority. The proposed native hedges also provide screening to the proposal and an appropriate boundary to the wider area. The Materiality detailing and finishes will be to match those of the existing approval to the rear of the plot.
- Any external lighting required for the proposal will be carefully managed so as not to create any unwelcome light pollution. Lighting will be predominantly placed on the building, as is appropriate to the domestic context of the proposal.
- Suitable bin storage is provided on the site within easy access of the utility. It is intended that on collection day residents move bins to the road.
- In the approval for the three houses a bin collection point has been located at the site entrance. This collection point would also be used for bin collection by the new house in this application.
- The submitted proposal represents a scheme which is of high quality design. It respects the existing site, adjacent approved schemes and the local vernacular within the area while making efficient use of the available site providing much needed quality housing.
- We believe our proposal forms a scheme which will act to enhance Aston and are fully appropriate within current policy.

## 4 PLANNING POLICIES

OS1NEW Presumption in favour of sustainable development

OS2NEW Locating development in the right places

OS4NEW High quality design

T4NEW Parking provision

EH10 Conservation Areas

EH3 Biodiversity and Geodiversity

H2NEW Delivery of new homes

H6NEW Existing housing

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

## 5 PLANNING ASSESSMENT

- 5.1 The application site is located within Aston's Conservation Area and sits adjacent to a previously approved scheme (following an appeal decision) for three dwellings to the south of the application site. The existing building, known as Westfield House has had planning permission approved for the conversion into two residential units.

### Planning History

16/01423/FUL Conversion of Westfield House from a vacant former nursery school into 4 apartments with access and car parking (Amended.) Approved

16/03910/FUL - Erection of three dwellings with associated works. Refused (Appeal allowed)

18/01367/S73 Non-compliance with condition 2 of planning permission 16/03910/FUL to allow plots 1 and 2 to be repositioned. Approved

18/01368/FUL Conversion of Westfield House into two dwellings with associated parking.

Approved

19/00428/FUL - Erection of detached dwelling and carport Withdrawn

- 5.2 The application is to be heard before the Lowlands Area Planning Sub-Committee as the Parish Council has objected to the scheme.
- 5.3 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

- 5.4 In terms of the relevant housing policies of the adopted West Oxfordshire Local Plan, your officers consider that the proposal complies with Policies OS2 and H2. Aston is categorised as a Village which is suitable for limited development which respects the village character and local distinctiveness and would help to maintain the vitality of the community.
- 5.5 Your officers consider that as the proposed dwelling has been set further back from Bampton Road, the new dwelling will appear as part of the three dwellings previously approved. As such your officers consider that the proposal will form a logical complement to the existing scale and pattern of development and the character of the area.

### Siting, Design and Form

- 5.6 The Parish Council's objections are noted. However since the withdrawn application in 2019, the siting of the proposed dwelling has been set back further into the site. As such a larger area of open space will be retained.
- 5.7 In terms of the proposed scale and form, the formal application drawings show a reduced scale from that of the pre-application submission. Your officers consider that the proposed design is in keeping with the general vernacular form and design.
- 5.8 The proposed materials of the dwelling are to be coursed stone with a slate tile and timber fenestration.
- 5.9 Your officers have suggested conditions that request samples/sample panel of materials.
- 5.10 Since the application site is 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 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.
- 5.11 Proposals are supported in Conservation Areas where they can be shown to preserve or enhance the special interest, character, appearance or setting of the area. In particular, the location, form and scale of development should be sympathetic to its surrounding context, not be detrimental to views within, into, or out of the area and should not harm the original curtilage or pattern of development within the area.

### Highways

- 5.12 OCC Highways have no objection to the proposal subject to a condition.

### Residential Amenities

- 5.13 Your officers do not consider that residential amenities of the existing or proposed dwellings will be adversely affected. The proposed siting of the dwelling is considered to be within a position not to adversely overlook adjacent dwellings or result in overbearing issues.
- 5.14 The rear garden to serve the proposed dwelling is to be adjacent to Bampton Road which will be screened via a proposed fence which is indicated on the plans inside of the proposed native hedging. This is of some concern as the native hedge will take some time to mature. As such your officers have requested further information, by condition, regarding the boundary treatments, to ensure that the existing rural character and appearance of the streetscene is not adversely affected, and different options of the type of fence and boundary treatments can be investigated. Your officers have included a condition to remove permitted development rights including those for out buildings, to ensure that the open nature of the Conservation Area is easier to protect.

## Conclusion

- 5.15 In view of the above your officers consider that due to the new positioning of the proposed dwelling, together with the smaller scale and massing, that the proposed dwelling is acceptable in terms of the relevant housing and environmental policies of the adopted West Oxfordshire Local Plan, The West Oxfordshire Design Guide, The National Design Guide, and relevant paragraphs of the NPPF.

## **6 CONDITIONS**

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.  
REASON: To comply with the requirements of Section 91 of the Town & Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act, 2004.
- 2 That the development be carried out in accordance with the approved plans listed below.  
REASON: For the avoidance of doubt as to what is permitted.
- 3 The external walls shall be constructed of either artificial stone or natural stone in accordance with a sample panel which shall be erected on site and approved in writing by the Local Planning Authority before any external walls are commenced and thereafter be retained until the development is completed.  
REASON: To safeguard the character and appearance of the area.
- 4 The roof(s) of the building(s) shall be covered with materials, a sample of which shall be submitted to and approved in writing by the Local Planning Authority before any roofing commences.  
REASON: To safeguard the character and appearance of the area.
- 5 Notwithstanding details contained in the application, detailed specifications and drawings of all external windows and doors to include elevations of each complete assembly at a minimum 1:20 scale and sections of each component at a minimum 1:5 scale and including details of all materials, finishes and colours shall be submitted to and approved in writing by the Local Planning Authority before that architectural feature is commissioned/erected on site. The development shall be carried out in accordance with the approved details.  
REASON: To ensure the architectural detailing of the buildings reflects the established character of the area.
- 6 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), no development permitted under Schedule 2, Part 1, Classes A, B, C, D, E, G and H shall be carried out other than that expressly authorised by this permission.  
REASON: Control is needed to protect the open character and appearance of the Conservation Area.
- 7 Notwithstanding the details submitted, no dwelling shall be occupied until a plan indicating the positions, design, materials, type and timing of provision of boundary treatment to be erected has been agreed in writing by the Local Planning Authority. The boundary treatment shall include provision for hedgehog highways, and shall be completed in accordance with the approved details and retained thereafter.



REASON: To safeguard the character and appearance of the area, and improve opportunities for biodiversity.

- 8 Before the erection of any external walls, details of the provision of integrated bat roosting features (e.g. bat boxes/tubes/bricks on south or southeast-facing elevations) and integrated nesting opportunities for birds (e.g. house sparrow terrace, starling box, swift brick or house martin nest cup on the north or east-facing elevations) within the walls of the new buildings, and hedgehog gaps/holes under/through walls and/or fences, shall be submitted to the local planning authority for approval. The details shall include a drawing/s showing the types of features, their locations within the site and their positions on the elevations of the buildings, and a timetable for their provision. The approved details shall be implemented before the dwelling/s hereby approved is/are first occupied and thereafter permanently retained.

REASON: To provide new features for roosting bats and nesting birds, and ensure permeability for hedgehogs, as biodiversity enhancements in accordance with paragraphs 170, 174 and 175 of the National Planning Policy Framework, Policy EH3 of the West Oxfordshire District Local Plan 2031 and Section 40 of the Natural Environment and Rural Communities Act 2006.

- 9 That a scheme for the landscaping of the site, including the retention of any existing trees and shrubs and planting of additional trees, hedge and shrubs, shall be submitted to and approved in writing by the Local Planning Authority before the first trench is dug. The scheme shall be implemented as approved within 12 months of the commencement of the approved development or as otherwise agreed in writing by the Local Planning Authority and thereafter be maintained in accordance with the approved scheme. In the event of any of the trees or shrubs so planted dying or being seriously damaged or destroyed of the completion of the development, a new tree or shrub of equivalent number and species, shall be planted as a replacement and thereafter properly maintained.

REASON: To ensure the safeguarding of the character and landscape of the area during and post development.

- 10 The landscaping details required by Condition No. 9 above shall include the planting of a hedge along the northern boundary of the land which shall be so tended as to grow to, and to remain at, a height of not less than 3 metres.

REASON: To safeguard the character and landscape of the area.

- 11 That, prior to the commencement of development, a full surface water drainage scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of the size, position and construction of the drainage scheme and results of soakage tests carried out at the site to demonstrate the infiltration rate. Three tests should be carried out for each soakage pit as per BRE 365 with the lowest infiltration rate (expressed in m/s) used for design. The development shall be carried out in accordance with the approved details prior to the first occupation of the development hereby approved.

REASON: To ensure the proper provision for surface water drainage and/ or to ensure flooding is not exacerbated in the locality (The West Oxfordshire Strategic Flood Risk Assessment, National Planning Policy Framework and Planning Practice Guidance). If the surface water design is not agreed before works commence, it could result in abortive works being carried out on site or alterations to the approved site layout being required to ensure flooding does not occur.

- 12 In the event that contamination is found at any time when carrying out the approved development, it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of

Environment Agency's Model Procedures for the Management of Land Contamination, CLR 11, and where remediation is necessary a remediation scheme must be prepared, to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property, and which is subject to the approval in writing of the Local Planning Authority.

REASON: To prevent pollution of the environment in the interests of the amenity.

Relevant Policies: West Oxfordshire Local Planning Policy EH8 and Section 15 of the NPPF.

NOTE TO APPLICANT:

The Surface Water Drainage scheme should, where possible, incorporate Sustainable Drainage Techniques in order to ensure compliance with;

- Flood and Water Management Act 2010 (Part 1 - Clause 27 (1))
- Code for sustainable homes - A step-change in sustainable home building practice
- Version 2.1 of Oxfordshire County Council's SUDs Design Guide (August 2013)
- The local flood risk management strategy published by Oxfordshire County Council 2015 - 2020 as per the Flood and Water Management Act 2010 (Part 1 - Clause 9 (1))
- CIRIA C753 SuDS Manual 2015

Application Types Key

<u>Suffix</u>		<u>Suffix</u>	
ADV	Advertisement Consent	LBC	Listed Building Consent
CC3REG	County Council Regulation 3	LBD	Listed Building Consent - Demolition
CC4REG	County Council Regulation 4	OUT	Outline Application
CM	County Matters	RES	Reserved Matters Application
FUL	Full Application	S73	Removal or Variation of Condition/s
HHD	Householder Application	POB	Discharge of Planning Obligation/s
CLP	Certificate of Lawfulness Proposed	CLE	Certificate of Lawfulness Existing
CLASSM	Change of Use – Agriculture to Commercial	CND	Discharge of Conditions
HAZ	Hazardous Substances Application	PDET28	Agricultural Prior Approval
PN42	Householder Application under Permitted Development legislation.	PN56	Change of Use Agriculture to Dwelling
PNT	Telecoms Prior Approval	POROW	Creation or Diversion of Right of Way
NMA	Non Material Amendment	TCA	Works to Trees in a Conservation Area
WDN	Withdrawn	TPO	Works to Trees subject of a Tree Preservation Order
		FDO	Finally Disposed Of

<u>Decision Code</u>	<u>Description</u>	<u>Decision Code</u>	<u>Description</u>
APP	Approve	RNO	Raise no objection
REF	Refuse	ROB	Raise Objection
PIREQ	Prior Approval Required	P2NRQ	Prior Approval Not Required
P3APP	Prior Approval Approved	P3REF	Prior Approval Refused
P4APP	Prior Approval Approved	P4REF	Prior Approval Refused

**West Oxfordshire District Council – DELEGATED ITEMS**

	Application Number.	Ward.	Decision.
1.	<b>19/02291/FUL</b>	Carterton North West	REF
	Erection of two semi-detached dwellings together with associated works and provision of vehicular accesses (amended plans) <b>14 - 16 Lawton Avenue Carterton Oxfordshire</b> Foddy Brothers Ltd		
2.	<b>19/02367/HHD</b>	Witney West	APP
	Erection of two storey side extension (amended). <b>186 Thorney Leys Witney Oxfordshire</b> Ms Parry		

3. **19/02565/HHD** Alvescot and Filkins APP  
Affecting a Conservation Area
- Demolition of 'The Paddocks'. Construction of single storey extension comprising open fronted garaging and garden store with workshop facility to form part of main dwelling. Alterations to courtyard and associated landscaping works.  
**The Old Rectory Station Road Alvescot**  
Mrs Dawn Barlow
4. **19/02587/LBC** Brize Norton and Shilton APP
- Replacement of existing front door/windows.  
**Middle Barn 24 Carterton Road Brize Norton**  
Mr Nick Henry
5. **19/02662/LBC** Alvescot and Filkins APP  
Affecting a Conservation Area
- Internal and external alterations to include demolition of 'The Paddocks' and construction of single storey extension comprising open fronted garaging and garden store with workshop facility to form part of main dwelling.  
**The Old Rectory Station Road Alvescot**  
Mrs Dawn Barlow
6. **19/02718/FUL** Witney West APP
- Erection of first floor extension and balcony to enlarge existing canteen space together with fire exit external staircase.  
**Abbott Diabetes Care Range Road Windrush Industrial Park**  
Abbott Diabetes Care
7. **19/02768/S73** Witney West APP
- Variation of condition 2 of planning permission 18/01782/RES to allow the re-planning of plots 284 - 292 to form six 1 bed and twelve 2 bed self contained apartments (amended description).  
**Land At West Witney Downs Road Curbridge**  
Mr Samuel Garland
8. **19/02793/HHD** Standlake, Aston & Stanton Harcourt APP  
Affecting a Conservation Area
- Construction of single and two storey extensions and the erection of outbuilding to form home office/ancillary accommodation (to allow the addition of rear window at ground floor, removal of two roof lights and add one rooflight. Change stable door at front first floor to part glazed door).  
**Shire Barn North Street Aston**  
Mr And Mrs Cannell

- |     |   |                        |     |
|-----|---|------------------------|-----|
| 9.  | <b>19/03054/HHD</b>   | Witney South           | APP |
|     | Two storey rear extension<br><b>10 South Lawn Witney Oxfordshire</b><br>Mr Nigel Strutt   |                        |     |
| 10. | <b>19/02829/HHD</b>   | Eynsham and Cassington | APP |
|     | Affecting a Conservation Area<br><br>Loft conversion and roof extension of a detached single storey dwelling and subsuming of an existing open porch (amended).<br><b>33A High Street Eynsham Witney</b><br>Mr Graeme Everist                                   |                        |     |
| 11. | <b>19/02833/HHD</b>   | Eynsham and Cassington | APP |
|     | Two storey side extension with first floor balcony<br><b>3 Springhill Cottages High Cogges Witney</b><br>Mrs Hana Strainge  |                        |     |
| 12. | <b>19/03124/HHD</b>   | Bampton and Clanfield  | APP |
|     | Affecting a Conservation Area<br><br>Single storey extension<br><b>Shillbrook Barn Landells Bampton</b><br>Mr Peter Ferstendik  |                        |     |
| 13. | <b>19/03125/LBC</b>   | Bampton and Clanfield  | APP |
|     | Affecting a Conservation Area<br><br>Alterations to include a single storey extension, removal of internal and external walls, alterations to fenestration and creation of new entrance hall.<br><b>Shillbrook Barn Landells Bampton</b><br>Mr Peter Ferstendik |                        |     |
| 14. | <b>19/02949/HHD</b>   | Eynsham and Cassington | APP |
|     | Affecting a Conservation Area<br><br>Single storey rear extension<br><b>1A Queens Close Eynsham Witney</b><br>Mr And Mrs Webster  |                        |     |
| 15. | <b>19/02952/RES</b>   | Witney West            | APP |
|     | Primary school sub-station<br><b>Land At West Witney Downs Road Curbridge</b><br>Mr Mark Davies   |                        |     |

16. **19/02986/HHD** Hailey, Minster Lovell & Leafield APP  
 Two storey rear and single storey rear extensions and single storey side extension. Demolition of existing garage. Erection of car port with workshop and additional living space/study above.  
**Ivydene Burford Road Minster Lovell**  
 Mr And Mrs C Suart
17. **19/03010/CLP** Eynsham and Cassington APP  
 Affecting a Conservation Area  
 Certificate of Lawfulness (rear single storey extension)  
**25 Hazeldene Close Eynsham Witney**  
 Mr Richard Wright
18. **19/03013/RES** Bampton and Clanfield APP  
 Reserved matters application for details of the landscaping pursuant to outline planning permission 19/00430/OUT.  
**Windmill Farm Conference Centre Main Street Clanfield**  
 Mr Jon Cox
19. **19/03014/CND** Bampton and Clanfield APP  
 Discharge of condition 4 (materials) (19/00430/OUT).  
**Windmill Farm Conference Centre Main Street Clanfield**  
 Mr Jon Cox
20. **19/03025/HHD** Alvescot and Filkins APP  
 Proposed landscaping works to include, replacement and relocation of greenhouse, reinstatement of walling and gate piers together with new walling  
**Old Rectory Westwell Burford**  
 Mr And Mrs Garvin And Steffanie Brown
21. **19/03026/LBC** Alvescot and Filkins APP  
 Proposed landscaping works to include, alteration and erection of walling reinstatement of gate piers, demolition of existing green house and outbuilding new outdoor structures and erection of new green house.  
**Old Rectory Westwell Burford**  
 Mr And Mrs Garvin And Steffanie Brown
22. **19/03232/HHD** Alvescot and Filkins APP  
 Affecting a Conservation Area  
 Conversion of existing two cottages to create one single unit including erection of rear covered area and formation of new vehicle access  
**I Lower Farm Cottages Langford Lechlade**  
 Mr Gordon Chambers

23. **19/03034/ADV** Witney Central APP  
Affecting a Conservation Area
- Erection of one fascia and one hanging sign (retrospective).  
**Unit 3 Marriotts Walk Witney**  
Mr John Walsh
24. **19/03035/HHD** Hailey, Minster Lovell & Leafield APP  
Detached wooden outbuilding (retrospective).  
**Wyewood Edge 5 Mount Skippett Ramsden**  
Mr Alan Glasspool
25. **19/03045/S73** Ducklington APP  
Non compliance with condition 2 of planning permission 19/01460/S73 to allow changes to the design and layout.  
**Caswell House Hall And Events Venue Caswell Lane Brize Norton**  
Mr & Mrs Matthews
26. **19/03052/S73** Ducklington APP  
Non compliance with condition 2 and 4 of planning permission 19/01457/S73 to allow changes to the design and layout.  
**Caswell House Hall And Events Venue Caswell Lane Brize Norton**  
Mr & Mrs Matthews
27. **19/03088/HHD** Hailey, Minster Lovell & Leafield APP  
Affecting a Conservation Area
- Conversion of loft to create extra living space with insertion of rear dormers and front velux rooflights (amended).  
**38 Middletown Hailey Witney**  
Mr And Mrs Ford
28. **19/03357/CLP** Witney West APP  
Certificate of Lawfulness (to reinstate the unit back to two individual units).  
**Units 7 And 8 Nimrod De Havilland Way**  
Mr David Jenkins
29. **19/03205/FUL** Witney West APP  
Change of use from Light Industrial (Class B1 (C) use) to Leisure for use as a private I-I personal training Unit (Class D2 use).
- Unit 11 Vanbrugh Quarter Northwood Road**  
Mr Nathan Haggis

30. **19/03206/HHD** Standlake, Aston & Stanton Harcourt APP  
 Erection of single and two storey rear extension with first floor balcony.  
**15 Abingdon Road Standlake Witney**  
 Mr And Mrs Coates
31. **19/03207/S73** Brize Norton and Shilton APP  
 Variation of condition 2 of planning permission 18/03571/FUL to allow additional render and changes to windows in front elevation and the addition of part render and a kitchen window in side elevation (whilst still incorporating all other changes as approved under 19/02202/S73).  
**Land West Of 93A Shilton Road Carterton**  
 Mr Steve Smith
32. **19/03209/HHD** North Leigh APP  
 Single storey side extension, insertion of dormer to loft conversion  
**53 Perrott Close North Leigh Witney**  
 Mr And Ms Ryan And Heidi Britnell And Turner
33. **19/03369/HHD** North Leigh APP  
 Erection of single storey rear extension.  
**Walnut Tree House 22 Ladywell Close North Leigh**  
 Mr Jeremy Brien
34. **19/03224/FUL** Carterton North East APP  
 Construction of two semi-detached dwellings together with associated works.  
**Former 24 Sellwood Drive Carterton**  
 Mr O'Brian
35. **19/03226/HHD** Ducklington APP  
 Alterations and erection of single storey side extension. Addition of front porch.  
**51 Feilden Close Ducklington Witney**  
 Mr Lazenby
36. **19/03373/HHD** Alvescot and Filkins APP  
 Affecting a Conservation Area  
 Erection of outbuilding.  
**5 Thames View Kelmscott Lechlade**  
 Mr Matthew Whelan
37. **19/03234/S73** Eynsham and Cassington APP  
 Non compliance with condition 10 of 16/02557/FUL to allow changes to boundary and access.  
**Bantam Lodge Church End South Leigh**  
 Mrs Eileen Mawle



38. **19/03328/FUL** Eynsham and Cassington APP

Cricket Lane Cover  
**Worton Park Worton Witney**  
Mr Gary Palmer

39. **19/03334/FUL** Witney South APP

Change of use of existing 6-bed house of multiple occupation (HMO)(class use C4) to a 7-bed house of multiple occupation (class use sui generis).  
**206 Colwell Drive Witney Oxfordshire**  
Mr A Thompson

### **APPEAL DECISIONS**

#### **APPLICATION NO: 19/00684/FUL**

Demolish existing bungalow and build four dwellings.  
- Manor Bungalow, 41B High Street, **STANDLAKE**.

#### **APPEAL DISMISSED**

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#### **APPLICATION NO: 18/01724/OUT**

Erection of up to 85 dwellings (C3 use) including 40% affordable and 3x self-build plots with associated landscaping, public open space and enhancements to the children's play area, 2x footpaths and 1x footbridge and the provision of land for DI use, vehicular access from Bampton Road, pedestrian and cycle access from Well Lane and car parking and limited residential vehicular access from Main Road (outline application with all matters reserved other than access)  
- Land north of Bampton Road, **CURBRIDGE**.

#### **APPEAL DISMISSED**

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#### **APPLICATION NO: 19/00493/S73**

Internal and external alterations to allow repair to buildings. Erection of new learning building and construction of car park without complying with a condition attached to planning permission ref 18/01509/FUL, dated 6 November 2018  
- Kelmscott Manor, **KELMSCOTT**.

#### **APPEAL ALLOWED**

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#### **ENFORCEMENT NOTICE NUMBER EN 2019/1**

Without planning permission the removal of part of a drystone wall involving the formation of a means of access onto a classified road  
- Ramblers Cottage, The Walk, Main Road, **ALVESCOT**.

**SUBJECT TO A SMALL CORRECTION, THE APPEAL IS DISMISSED AND THE ENFORCEMENT NOTICE IS UPHELD**

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APPEAL A - ENFORCEMENT NOTICE NUMBER EN 2018/5

Cease the use of the mobile home and remove it from the land  
- Mount Pleasant Farm, Chapel Lane, **NORTHMOOR.**

**SUBJECT TO MINOR VARIATIONS, THE APPEAL IS DISMISSED AND THE  
ENFORCEMENT NOTICE IS UPHELD**

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APPEAL B - ENFORCEMENT NOTICE NUMBER EN 2018/6

Remove the unauthorised non-agricultural items stored on the land and items not ancillary to the  
agricultural use  
- Mount Pleasant Farm, Chapel Lane, **NORTHMOOR.**

**THE ENFORCEMENT NOTICE IS QUASHED**

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**WEST OXFORDSHIRE DISTRICT COUNCIL**  
**LOWLANDS AREA PLANNING SUB-COMMITTEE**  
**MONDAY 10 FEBRUARY 2020**  
**4 CHIMNEY FARM COTTAGES, CHIMNEY, BAMPTON**  
**19/00070/PENF**  
**UNAUTHORISED OPERATIONAL DEVELOPMENT**  
**REPORT OF THE HEAD OF PLANNING AND STRATEGIC HOUSING**  
**(Contact: Kelly Murray Tel: (01993) 861674)**

(The Sub-Committee's decision on this matter will be a resolution.)

**1. PURPOSE**

To enable Members to consider whether it is expedient to authorise the issue of an enforcement notice.

**2. RECOMMENDATIONS**

Issue an enforcement notice to require removal of an incomplete building within the curtilage of 4 Chimney Farm Cottages, to require the reinstatement of an access that has been made onto the adjoining unmade road and removal of associated hardstanding.

**3. BACKGROUND**

3.1 The property is a semi-detached, grade II listed cottage situated in the rural hamlet of Chimney. Retrospective planning permission and listed building consent were granted in June last year for unauthorised deviations from plans approved in 2018 for alterations to the main building, rebuilding of the pre-existing side extension and the construction of a linked, new, two-storey extension.

3.2 In May 2019 the Council received complaints about what appeared to be business use at this property, with neighbours reporting a high level of storage of building materials and movements of commercial vehicles and personnel inconsistent with residential use. Neighbours also reported that a building was being constructed in the garden. It is not in dispute that the owners of the property run a building company. Officers visited the site noting a number of planning breaches as follows:-

- Part of the garden being used as a commercial builders' yard for storage of machinery and materials;
- Creation of hardstanding accessed by a new entrance to the site which did not appear to be provided "for a purpose incidental to the enjoyment of the dwelling house as such" as permitted under the Town and Country Planning (General Permitted Development)(England) Order 2015;
- The erection of a new building/office within the curtilage of the listed building;

- 3.3 Officers informed the owners of the planning breaches in writing and during a site visit. The retrospective planning and listed building applications were conditionally approved on 24 June. Despite further correspondence and Officers advising the owners that the use of the garden as a builders' yard was an unauthorised material change of use, the owners stated the view that the storage of building materials and machinery was incidental to the further works that were being carried out at the property.
- 3.4 Officers monitored activity at the property over the following months. Heavy plant equipment, commercial vehicles and large quantities of building materials continued to be stored on the site over this period and further complaints were received. There were reports of workmen coming and going to pick up and drop off plant equipment and evidence of storage of vans, a truck, digger and flat-bed truck, all parked on and around hardstanding installed to the rear of the property. Large quantities of building materials and waste continued to be stored in front of and behind the property. Whilst some of these – for example roof slates, might have been associated with the works still to be completed, it was clear that many of them were not – for example, waste items that appeared to have been brought to the site for onward disposal (such as pipes, building rubble, miscellaneous pieces of metal). In late May last year, ERS investigated complaints about bonfires at the property and found that controlled waste was being burned on the site. No further works appeared at that time to have been carried out on the roof of the property pursuant to the planning and listed building consents granted in June. Based on the evidence at that time, Officers were confident the activities on the site were not associated with these works.
- 3.5 Officers were and remain, of the view that the type and level of activities carried on at the site over a period of months constitute an unlawful material change of use. The nature of this use is considered to comprise commercial building depot/ builders' yard activities which are extremely harmful to neighbours' amenity in terms of noise and disturbance and also highly visually detrimental to the character and appearance of the rural hamlet and to the setting of the listed building. Accordingly, as permitted under the current scheme of delegation, Officers served an enforcement notice dealing with the material change of use on 29 October 2019. The notice required the following:-

***“Within 2 weeks of the notice coming into effect:-***

- (i) Desist from using the land for commercial purposes, including the parking of commercial vehicles and the storage of any plant or machinery typically used by the building trade.***

***Within 1 month of the notice coming into effect:-***

- (ii) Remove all building materials, rubble, waste soil and other waste matter including wooden pallets, plastic and metal items from the land; and***
- (iii) Desist from storing on the land any materials used in association with, or waste matter of a nature typically produced by, the building trade.”***

The notice would have come into effect on 29 November 2019, however an appeal has been lodged the effect of which is to suspend the compliance period until the appeal has been determined. The stated basis of the appeal is that there is no breach of planning control.

## 4. UNLAWFUL OPERATIONAL DEVELOPMENT

- 4.1 Officers carried out a further site visit in early January. It was noted on this visit that the property was still being used as a builders' yard although it had been tidied, there being less evidence of waste and building materials. Officers took the opportunity to re-assess planning breaches which had not been included in the previous notice (which related to the unauthorised change of use only). These breaches consist first, of the construction of a wooden building that has been erected on the former garden area which Officers consider is now being used as a builders' yard (this area is now partitioned off from the dwelling and its immediate curtilage by means of a picket fence) and secondly, a new means of access which has been formed leading onto the unmade track running between 4 Chimney Farm Cottages and Chimney Farmhouse. The access works have entailed removal of a hedge forming the western boundary of the property and hard landscaping including the laying of a membrane and hard core materials; this hard-surfaced area continues into the site and would appear to have facilitated the use of this part of the wider curtilage of the property as an area for storage of materials and machinery and loading/unloading activities.
- 4.2 In the course of previous communication with the owners, Officers informed them that any outbuildings constructed in the garden are likely to be considered as located within the curtilage of the listed building and therefore will require express planning permission. Since the complaints were made about the use of the site and the construction of the outbuilding, a roof has been added to the structure although it is still incomplete. It has, however, been filled with equipment from a large shipping/storage container in the garden (now removed). The items stored are building materials and equipment associated with the commercial operations; these are not items that would ordinarily be stored incidentally to domestic use of the property.

### Planning assessment

- 4.3 The site (and the surrounding area) lies in the open countryside within the Thames Vale Architectural Character Area as described in the *West Oxfordshire Design Guide* (although Chimney is too small a hamlet to be classified as a settlement). The *West Oxfordshire Landscape Assessment* defines its landscape character as floodplain pasture in the *Western Thames Fringes* landscape area.
- 4.4 The main issues in deciding whether the unauthorised development is acceptable in planning terms are; first, the impact of the building and of the hard core surface/new access on the setting of the listed building and second, the impact of the development in visual amenity terms. In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority is required, by section 66 of the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990 to 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".
- 4.5 The property is a semi-detached late 17<sup>th</sup> century stone cottage forming one of a pair. As outlined above, planning permission and listed building consent were granted in 2018 and 2019 to rebuild an existing side extension and for a new-linked extension the effect of which permissions was to increase the footprint of the dwelling, nevertheless it remains of fairly modest size and benefits from a large, open rear garden which has historically been enclosed by hedgerow on its eastern and western boundaries. This long, rectangular parcel of land appears from aerial photographs to have been cultivated over many years and has historically contained one or two outbuildings which in size and form appear to be consistent with ancillary garden/kitchen garden use. The incomplete outbuilding is sited within the "building yard" partitioned area of the site and is adjacent to the newly formed access and close to the

hard standing area; it would therefore appear to be suitably sited to form the “hub” of the unlawful commercial activity. Although incomplete, it is in any case functional in form, is clad with lengths of what may be pine and has apertures for PVCU windows. Its proximity to the listed building along with its size and utilitarian form is, in Officers’ view, harmful to the historic context and special character of the listed building and is visually detrimental to the hamlet, failing to conserve the rural and open character of the local landscape. The removal of the hedgerow in the course of operations to form a new access and the introduction of an area of hard standing has aggravated this harm, as the formerly enclosed land, hard standing and building are now on display from the adjacent roadway. The overall effect is urbanising and incongruous within the rural surroundings. The unauthorised development is considered to be contrary to policies OS2, OS4, EH2, EH9 and EH11.

## **5. ENFORCEMENT ACTION AND HUMAN RIGHTS**

- 5.1 The Council has the power to issue an enforcement notice where it appears: first, that there has been a breach of planning control and secondly, that it is expedient to issue the notice, having regard to the provisions of the development plan and to any other material considerations. The Council must also have regard to relevant guidance, including the NPPF which sets out at paragraph 58:-

***“Effective enforcement is important to maintain public confidence in the planning system. Enforcement action is discretionary, and local planning authorities should act proportionately in responding to suspected breaches of planning control.”***

- 5.2. The recommended enforcement action would require the owners to remove the outbuilding, re-plant the boundary to the garden and remove the hard core area, reinstating it to lawn or to garden beds for planting in accordance with normal domestic use. It is arguable that such action would interfere with the human rights of the owners.
- 5.3 Article 1 of the First Protocol to the European Convention on Human Rights provides for the peaceful enjoyment of possessions. This right applies also to legal persons, including companies. It is, however, a qualified right and the Courts recognise that it has to be balanced against the need to enforce laws controlling the use of property in accordance with the general public interest. In this case, taking into account the harm to the setting of the designated heritage asset, the impact on the character of the rural context and to visual amenity, without provision of compensatory measures, Officers consider the balance of interest lies in the need to remove the unauthorised structure and to require reinstatement of the garden and hedgerow. It is considered, having regard to the principle of proportionality that enforcement action is required and is an expedient and a proportionate response to the harm identified in this report.

**Accordingly, the options for next steps are as follows:-  
Take no further action**

- 5.4 Taking no further action would mean that the identified harm to the setting of the listed building and to the character of the hamlet and the local landscape will continue.

**Issue an enforcement notice**

- 5.5 Your Officers consider for the reasons given above that it is expedient to issue an enforcement notice to remedy the harm.

**6. ALTERNATIVES/OPTIONS**

In view of the level of identified harm, it is considered that to take no action at this stage would be unreasonable and therefore not a viable option.

**7. RISK**

None at this stage.

**8. FINANCIAL IMPLICATIONS**

None at this stage.

**9. REASONS**

See paragraphs 4.5 and 5.4 above.

**WEST OXFORDSHIRE DISTRICT COUNCIL**  
**LOWLANDS AREA PLANNING SUB-COMMITTEE**  
**MONDAY 10 FEBRUARY 2020**  
**UNAUTHORISED OPERATIONAL DEVELOPMENT**  
**106 RALEGH CRESCENT WITNEY OX28 5FY**  
**18/00089/PENF**

**REPORT OF THE HEAD OF PLANNING AND STRATEGIC HOUSING**

**(Contact: Kelly Murray Tel: (01993) 861674)**

(The Sub-Committee's decision on this matter will be a resolution.)

**1. PURPOSE**

To enable Members to consider whether it is expedient to authorise the issue of an enforcement notice.

**2. RECOMMENDATIONS**

Issue an enforcement notice to require:-

- (i) the removal of a fence; and
- (ii) the reinstatement of land within the contravener's ownership appropriated as garden but designated under the enabling consent as landscaped amenity area.

**3. BACKGROUND**

- 3.1 In May 2018 the Council received complaints about the erection of a boundary fence at this property, which is situated within an estate forming part of the wider Deerpark development off the Curbridge Road to the West of Witney town centre.
- 3.2 The original enabling permission under which the estate was built removed permitted development rights for the erection of fences. It also designated as amenity land the land that has been fenced off as part of the owner's garden (this land does fall within her ownership).
- 3.3 Enforcement officers contacted the owner and informed her that there had been a breach of planning control. The owner was, and continues to be, reluctant to remove the fence. On 7 December the owner submitted a retrospective application for the retention of the fence and for a change of use of the amenity land to domestic garden.
- 3.4 The planning application (18/03550/FUL) was refused on 13 March 2019. The reasons given were that the broad expanse of close-boarded fencing in an open estate location is considered to have an extremely harmful effect on the visual amenity of the surrounding area and is a stark and urbanising contrast to the designated landscaped area of mature trees and bushes that were removed before its



erection. The fence is not considered to be in keeping with other boundary treatments on the estate which comprise low walls and hedges. To allow the fence to remain in place would set a precedent for further such harmful development to the detriment of the amenity enjoyed by other occupiers of the estate. Officers consider the development to be contrary to policies OS2, OS4 and EH4 of the adopted Local Plan 2031 and relevant paragraphs of the NPPF.

- 3.5 An appeal was lodged on 29 May 2019 which was dismissed on 10 October 2019 (appeal decision attached). Part of the Inspector's findings was as follows:-

***"With the interface between public and private land predominantly having a verdant appearance, the appeal fence has an abrupt presence abutting the pavement. In doing so, it appears as an unacceptably blunt and incongruous feature in the street that is out of kilter with the prevailing pattern of landscaping and boundary treatment in the area.***

***7. The appellant considers that the new fence has improved the visual amenity of the area, whilst further planting of climbing species and painting or staining it in a colour to match surrounding materials, would soften its appearance and ensure it blends into the area. However, the visual appearance of the fence and modest improvements proposed would not overcome the loss of a larger area of landscaping at a prominent location that made a valuable contribution to the public realm. The fact that the trees had become overgrown is not a reasonable justification to remove them, as general maintenance would control overgrowing.***

***8. It is also stated that the amenity land now enclosed by the fence, served no useful purpose. However, its contribution had allowed for the assemblage of trees and shrubs that formed an important part of the estate's inherent design and layout, and I consider that the appeal fence and enclosed land has a harmful effect on the character and appearance of the area."***

#### **4. NEXT STEPS**

- 4.1 Following the decision Officers have met with the owner with the purpose of trying to agree a way forward in terms of removing the fence and replanting the amenity land. The owner has not to date accepted that she must remedy the harm confirmed by the Planning Inspector and has not adhered to a timetable for addressing the breach. In light of the harm, Officers consider there is little choice but to serve an enforcement notice.

#### **5. ENFORCEMENT ACTION AND HUMAN RIGHTS**

- 5.1 The Council has the power to issue an enforcement notice where it appears: first, that there has been a breach of planning control and secondly, that it is expedient to issue the notice, having regard to the provisions of the development plan and to any other material considerations. The Council must also have regard to relevant guidance, including the NPPF which sets out at paragraph 58:-

***“Effective enforcement is important to maintain public confidence in the planning system. Enforcement action is discretionary, and local planning authorities should act proportionately in responding to suspected breaches of planning control.”***

- 5.2. The recommended enforcement action would require the owner to remove the fence and to reinstate planting to the amenity area. This potentially engages provisions of the European Convention on Human Rights.
- 5.3 Article 1 of the First Protocol to the European Convention on Human Rights provides for the peaceful enjoyment of possessions. This right applies also to legal persons, including companies. It is, however, a qualified right and the Courts recognise that it has to be balanced against the need to enforce laws controlling the use of property in accordance with the general public interest. In this case Officers consider – and the appeal inspector agreed – that there is harm to the character and appearance of the area. In view of this, the balance of interest lies in the need to ensure removal of the fence and the reinstatement of the amenity area. Having regard to government guidance and the principle of proportionality, enforcement action is required and is an expedient and a proportionate response to the harm identified in this report.

Accordingly, the options for next steps are as follows:-

**Take no further action**

- 5.4 In light of the points noted above, Officers consider the development to be harmful. In view of this, taking no further action is not a recommended option.

**Issue an enforcement notice to secure the removal of the fence and the re-planting of the previously landscaped area**

- 5.5 The owner has shown reluctance to remove the fence, stating that she considers it to be an improvement on what was there before and also due to the cost of purchasing the fence and having it erected. She does not appear to accept the outcome of her appeal. Since the fence has now been in place for some time it is considered that enforcement action is necessary to secure its removal and the reinstatement of the amenity land.

**6. ALTERNATIVES / OPTIONS**

Take no further action- see above.

**7 RISK**

None at this stage.

**8. FINANCIAL IMPLICATIONS**

None at this stage.

**9. REASONS**

See paragraph 3.4. 5.4 and 5.5 above.



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## Appeal Decision

Site visit made on 20 August 2019

**by R E Jones BSc (Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 10<sup>TH</sup> October 2019.**

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**Appeal Ref: APP/D3125/W/19/3229888**  
**106 Ralegh Crescent, Witney OX28 5FY**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mrs J Martin against the decision of West Oxfordshire District Council.
  - The application Ref 18/03550/FUL, dated 5 December 2018, was refused by notice dated 13 March 2019.
  - The development proposed is the change of use of land to domestic garden and erection of close boarded fence (retrospective).
- 

### Decision

1. The appeal is dismissed.

### Procedural Matter

2. The close boarded fence enclosing the garden has already been erected. The appellant is therefore seeking the retention of what has been built. As for the change of use of the land now enclosed, I noted from my site visit, that this area consisted of soil with no evidence of planting or garden paraphernalia. Nevertheless, it has now become part of the private space relating to the appeal property and I consider that the change of use has taken effect. I therefore consider that the use of the land is also seeking retention and have determined the appeal on this basis.

### Main Issue

3. The effect of the development upon the character and appearance of the area.

### Reasons

4. The appeal property is a detached dwelling located on a modern residential estate. A striking feature of the estate is the landscaping of intervening space between the dwellings and the public highway, which includes mature trees and shrubs of various species, colour and scale. The cumulative effect of the landscaping gives the estate a strong sense of place and contributes positively to the prevailing character and appearance of the area. Where hard boundary features do exist, these are primarily walls built in local stone or brick set back from the highway and softened by trees and shrubs planted on the intervening land.

5. Occupying a corner plot the appeal dwelling has a prominent appearance in the street with a frontage facing Raleigh Crescent and the whole of its side boundary facing Sherbourne Road. It is the side boundary that is enclosed by the appeal fence, a wooden structure in excess of 25m in length and approximately 1.8m in height which extends right up to the back of the pavement. The fence encloses space that was previously open and landscaped with trees and shrubs. The area now enclosed intends to form part of the appellants private garden area.
6. With the interface between public and private land predominantly having a verdant appearance, the appeal fence has an abrupt presence abutting the pavement. In doing so, it appears as an unacceptably blunt and incongruous feature in the street that is out of kilter with the prevailing pattern of landscaping and boundary treatment in the area.
7. The appellant considers that the new fence has improved the visual amenity of the area, whilst further planting of climbing species and painting or staining it in a colour to match surrounding materials, would soften its appearance and ensure it blends into the area. However, the visual appearance of the fence and modest improvements proposed would not overcome the loss of a larger area of landscaping at a prominent location that made a valuable contribution to the public realm. The fact that the trees had become overgrown is not a reasonable justification to remove them, as general maintenance would control overgrowing.
8. It is also stated that the amenity land now enclosed by the fence, served no useful purpose. However, its contribution had allowed for the assemblage of trees and shrubs that formed an important part of the estate's inherent design and layout, and I consider that the appeal fence and enclosed land has a harmful effect on the character and appearance of the area.
9. The appeal scheme would thereby run contrary to the objectives of Policy OS2, OS4 and EH4 of the West Oxfordshire Local Plan 2031, Adopted September 2018. In particular, the development has involved the loss of features that made an important contribution to the character and appearance of the area, represents the loss of green infrastructure and fails to demonstrate high quality design. The proposal would also be contrary to National Planning Policy Framework (the Framework) which requires development proposals to be sympathetic to local character, including the surrounding built environment.

### **Other Matters**

10. No 6 and 18 Sherbourne Road have been referred to as examples of where new side fences have been erected and where trees and shrubs were removed from the amenity land between the dwelling and the highway. However, unlike the appeal property, I have not had the benefit of what the amenity land looked like before the removal of the landscaping and without full background details, I am therefore unable to attach significant weight to these examples. In any event, each proposal should be considered on its own merits, as I have done in this instance.
11. Furthermore, I am not convinced that the fence and removal of the landscaping would reduce the potential risk of crime, as there may be alternative security measures that would not cause harm to the character and appearance of the area. The desire for increased security is therefore not a justification for

permitting something I have found to be harmful. In respect of the appellant having to remove the trees on the amenity land to improve living conditions, it is considered that the general maintenance of tree growth could have overcome this, rather than their complete removal. Equally, this applies to the appellant's concern that the trees had become onerous and impractical to maintain.

12. These other matters do not, therefore, lead me to a different decision.

**Conclusion**

13. For the reasons given, I conclude that the appeal should be dismissed.

*R. E. Jones*

INSPECTOR