

# WEST OXFORDSHIRE DISTRICT COUNCIL

## LOWLANDS AREA PLANNING SUB-COMMITTEE

**Date: 20th May 2019**

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



**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 Strategic Director. 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***

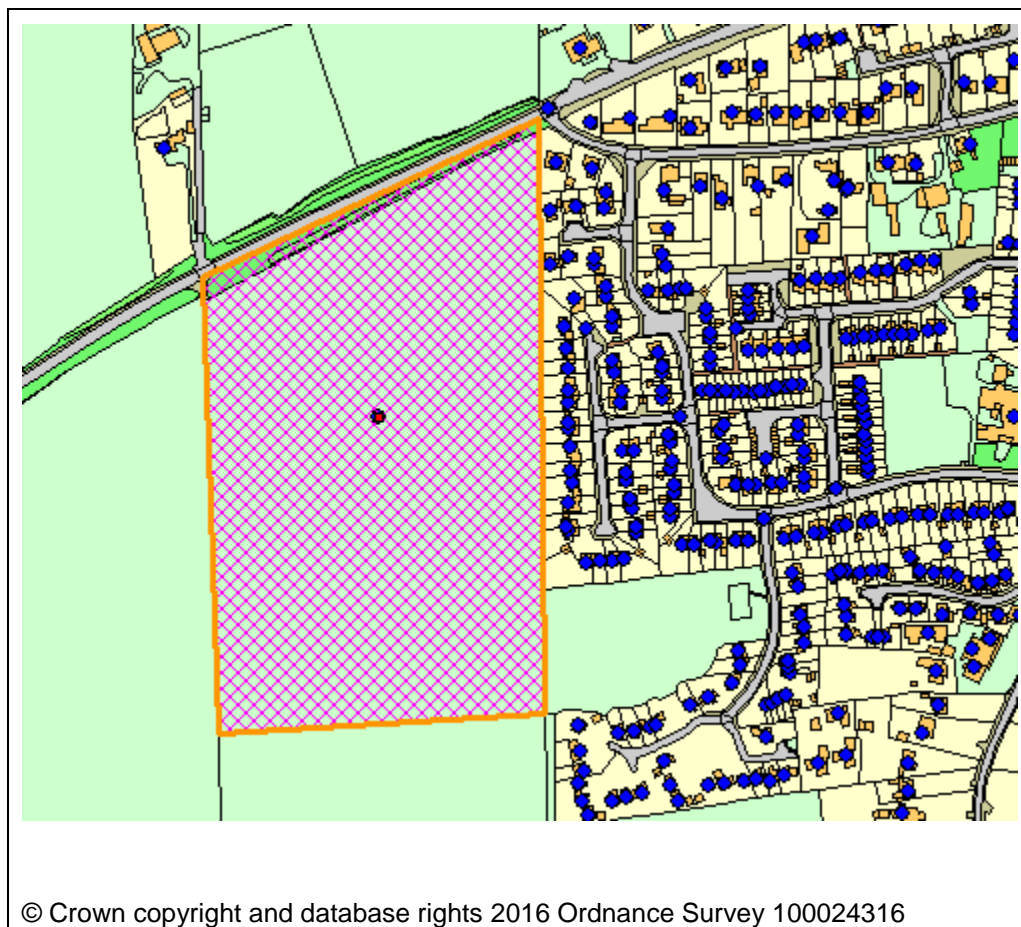
All documents, including forms, plans, consultations and representations on each application, but excluding any document, which in the opinion of the 'proper officer' discloses exempt information as defined in Section 1001 of the Local Government Act 1972.

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)

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Application Number	I8/03473/RES
Site Address	Land west of Minster Lovell south of Burford Road Minster Lovell Oxfordshire
Date	8th May 2019
Officer	Phil Shaw
Officer Recommendations	Provisional Approval
Parish	Minster Lovell Parish Council
Grid Reference	430851 E 210716 N
Committee Date	20th May 2019

### Location Map



### Application Details:

Residential development of 126 dwellings together with a new vehicular access onto Burford Road (B4047), footpath links, areas of public open space and landscaping (Matters seeking approval are appearance, landscaping, layout and scale pursuant to 17/01859/OUT)

### Applicant Details:

Bovis Homes Ltd, C/O Agent.

## I CONSULTATIONS

- I.1 Major Planning Applications Team Original Plans  
The drainage strategy has not demonstrated that all surface water that could fall onto the site has been managed appropriately to ensure flood risk is not increased elsewhere.  
The lack of visitor parking spaces within the site will lead to ad hoc on-street parking. As demonstrated by the swept path analysis, vehicles parked in the few on-street parking bays indicated would cause obstructions to larger vehicles passing through the site. With greater on-street parking anticipated, the instances at which parked cars cause obstructions to larger vehicles will increase.  
The swept path analysis for the large refuse vehicle shows the wheels of the vehicle encroaching onto the footway as the vehicle passes through the bend in the road outside of plot 4. It is not clear whether such vehicles could safely pass through this area without such significant wheel and body encroachment onto the footway.
- I.2 Conservation Officer No Comment Received.
- I.3 Biodiversity Officer No Comment Received.
- I.4 WODC Landscape And Forestry Officer Seeks clarification as to a number of aspects of the original plans regarding species to be used and suggesting alternative species.
- I.5 Thames Water  
Thames Water request that the following condition be added to any planning permission. No properties shall be occupied until confirmation has been provided that either:- all wastewater network upgrades required to accommodate the additional flows from the development have been completed; or- a housing and infrastructure phasing plan has been agreed with Thames Water to allow additional properties to be occupied. Where a housing and infrastructure phasing plan is agreed no occupation shall take place other than in accordance with the agreed housing and infrastructure phasing plan.  
Reason - The development may lead to sewage flooding and network reinforcement works are anticipated to be necessary to ensure that sufficient capacity is made available to accommodate additional flows anticipated from the new development. Any necessary reinforcement works will be necessary in order to avoid sewer flooding and/or potential pollution incidents."
- The application indicates that surface waters will NOT be discharged to the public network and as such Thames Water has no objection, however approval should be sought from the Lead Local Flood Authority.  
Should the applicant subsequently seek a connection to discharge surface water into the public network in the future then we would consider this to be a material change to the proposal, which would require an amendment to the application at which point we would need to review our position.

- I.6 WODC Env Services - Waste Officer No Comment Received.
- I.7 Major Planning Applications Team No Comment Received.
- I.8 Parish Council Original Plans

The Design and Access Statement provided by Strutt and Parker in relation to this planning application contains a number of errors about the Village, namely the following:

- Details about the history of the Village within the Introduction state that:

'the idea [to allow large plots with Chartist bungalows to enable residents to grow crops and live sustainably] wasn't successful and most of those residents moved out and sublet their land to local farmers'.

In fact, most of the plots were not sublet but are owned by subsequent family members and used by them for agriculture or small business activity.

Given the seriousness and significance of the implications of this planning application for the Parish of Minster Lovell, Minster Lovell Parish Council has undertaken consultation and organised an Extra Parish Council meeting to consider the plans.

Following receipt of the planning application, the Parish Council held an exhibition of the plans in the Village on Saturday 5th January to allow residents to see the details of the plans, meet together to discuss the issues raised and provide feedback via a questionnaire.

Over 35 parishioners attended this event and residents were very keen to give their views and opinions on the plans. The Parish Council then held an Extraordinary meeting on Monday 7th January which 26 residents attended, to discuss the feedback received from residents at the open morning and to finalise the response that the Parish Council would make in relation to the plans. Following these events and subsequent discussion, the Parish Council lodge a strong objection to the planning application for the following reasons:

- The current plans show 5-bedroom and 3-bedroom two-storey properties along the eastern edge of the scheme, bordering the bungalows in Whitehall Close. The Council and local residents were previously assured that the eastern boundary would be allocated to bungalows to minimise the impact upon existing residents in the area. Residents of Whitehall Close feel that the development of houses rather than bungalows at this edge of the site would have an immeasurably negative impact upon their quality of life, being directly overlooked and affecting their privacy and access to natural light in particular. The West Oxfordshire Local Plan 2031 and the Planning Statement provided by Strutt and Parker on behalf of Bovis contains the following assurances:

'Policy OS4 states that new development should respect the historic, architectural and landscape character of the locality, contribute to

local distinctiveness and, where possible, enhance the character and quality of the surroundings by:..... not harming the use or enjoyment of land and buildings nearby including living conditions in residential properties' (5.9, Design and External Materials)

'In allocating the site, Policy WIT4 lists a number of key issues to be addressed as part of any development proposal.... [including] development layout that respects the existing built form to the east of the site' (Reserved Matters and Scheme Justification 5.8 (f))

Given these details, the Parish Council believes that this selection of houses in this location is highly inappropriate and not delivering the details of the Planning Statement or policies stated by the applicant themselves. The Council propose that the developer re-site these properties or reduce the overall number of 4 and 5-bedroom properties on the site. Suggestions have been made that these properties could be exchanged with the bungalows currently sited along the Burford Road boundary on the northern side of the site and this would certainly be preferable to existing residents of the Village.

- There is a large strip of grass along the western edge of the development which according to the Planning Statement provided, appears to have been intentionally allocated as a green space. The Parish Council cannot see the benefit of this area and recommends that this space should be moved to the eastern edge of the site, to allow for further distance between the new scheme and existing properties in Whitehall Close. This would further minimise the impact upon existing residents of the Village and help to establish better relations between neighbouring properties in this area. The distance of 30m between the existing properties in Whitehall Close and the proposed eastern boundary properties is not sufficient and must be extended.

- The current plans do not clearly show any definitive border between the new development and Whitehall Close/Wenrisc Drive. Current residents of the Village have requested a permanent structure, such as a 6ft (minimum) wooden fence, to ensure clear delineation of both estates and enhance privacy for home owners on both sites.

- Many residents have raised concerns about the increased traffic in the Village resulting from the new estate and parking within the development itself. The Planning Statement claims that:

'In allocating the site, Policy WIT4 lists a number of key issues to be addressed as part of any development proposal... including mitigating the impact of traffic associated with the development...[and] provision of appropriate public transport (services and infrastructure) serving the site'. (Reserved Matters and Scheme Justification, 5.8 (g))

The allocation of parking on the site is considered by Oxfordshire County Council (OCC) to be lacking and wholly inappropriate for the needs of the scheme. The Parish Council echoes the concerns raised by OCC regarding access around the scheme and on-street parking which will obstruct the highways and cause potential access problems, particularly for emergency vehicles. The Parish Council is clear that there are insufficient parking spaces for the number of houses and the

highway infrastructure is poorly configured.

- In addition there is no safe place for public and school buses to pull in at the main entrance to the estate off of the Burford Road. This will result in a dangerous situation where children travelling to school and those using public transport will be mounting and alighting from buses on the side of the main road and without a safe space to wait away from the hazards of the busy B4047. Buses stopping here will also cause an obstruction to the road resulting in more potential for accidents and congestion. As a result the Parish Council recommends that a pull-in bus layby be added to the front of the site to ensure the safety of those using school buses and public transport in this area and to keep the B4047 safe and free from congestion. This was indicated on earlier versions of the plans for the development but no longer appears.

- In its previous objection to the original planning application (17/1859/OUT) the Parish Council stated that it would not be willing or able to take on maintenance of any green spaces, trees or shrubs. Indeed, several of the plants chosen for the estate as per the planting plan have been identified as those which will require higher levels of maintenance. The Parish Council considers the outside space on the new development to be the responsibility of OCC.

- The location of trees and streetlights needs to be carefully considered with regard to impact upon existing properties. Some residents are very concerned that those indicated on the plans will impact significantly on them and a review should take place for each existing property to minimise the impact.

- The Parish Council considers the design and location of the affordable housing on the site to be inappropriate; in particular the Council feels that allocating this housing into one area rather than mixing it in with the other homes on the estate will prevent these residents from integrating into the estate as a whole and lead to them feeling stigmatised and separated. On this basis the Council requests that these homes are relocated throughout the site.

- Several of the houses on the site, particularly the affordable homes, do not currently have side access to the back of their properties, which means that residents will be forced to leave their refuse and recycling bins outside of the front of their properties where there is insufficient space left for them. The Council is also concerned that this will result in rubbish and detritus being left in the street and will create an untidy and unkempt appearance on the development. The Council considers rear access a vital component for all homes on the development to allow bins to be stored away from frontages.

- The whole layout of the site needs rethinking and redesigning to maximise the use of the whole of the site (including the designated green space) to properties with more space between them and not being squashed in, more parking and areas that are not built on throughout the site.

- The Parish Council do not see the area of separate green space to the southern boundary necessary and it would be better incorporated into the whole scheme. In this way the Parish Council believes that

this planning application does not reflect how the best to utilise the space available.

- The Parish Council is very concerned about the issues raised by Thames Water regarding the risk of flooding and the inability of the current sewage network to cope with the increased levels of waste water. The proposed site of the foul water pumping building is unnecessarily close to properties in Whitehall Close and residents close to the area have expressed concerns about the possibility of sewage flooding in their homes should this pump fail. Could it instead be placed further towards the south east corner or approximately half way along the southern border, away from existing and proposed properties? Further, it should be assured that the pumping facility will be totally silent in operation. West Oxfordshire Local Plan 2031 states that:

'Key issues to be addressed as part of any development proposal will include:...the use of sustainable drainage methods to ensure that post-development surface water runoff rates are attenuated to achieve a reduction in greenfield run-off rates. (West Oxfordshire Local Plan 2031, PolicyWIT4, (j))

The land is known to be rocky and prone to surface water run-off with historic flooding at periods of heavy rainfall. On this basis the Parish Council seek confirmation that the issues raised by Thames Water and concerns over potential flooding risk will be carefully and adequately considered and that appropriate measures will be taken to rectify these issues before the planning application has been passed. The Parish Council note that the objections raised by OCC refer to an expected alternative plan which will be forthcoming following comments and objections made during the consultation period. We look forward to receiving this for analysis and comment in due course. Please contact me in the meantime with any queries. The Parish Council are seeking a meeting with Mr Shaw and District Council representatives to review this application in light of the comments above and strong objection from the Village.

Subsequent to the above request a meeting was held between officers and the Parish Council and the developer held a further meeting as part of the process of submitting revised plans aimed at overcoming the PC objections.

## 1.9 Major Planning Applications Team

### Amended Plans

Further clarification on the proposed drainage layout is required to correspond with the Reserved Matters Site Layout Plan.

The lack of any visitor parking spaces within the site will lead to on-street parking. This could cause obstructions to larger vehicles or pedestrians, should vehicles park on the footway, which would be detrimental to highway safety. Further details are required to demonstrate that vehicles could park on-street without causing obstructions to larger vehicles.



## Update Amended plans address the highway concerns

### I.10 Parish Council

#### Amended Plans

The Parish Council do not feel that the amendments go far enough, in particular regarding the homes currently planned along the Eastern boundary with Whitehall Close. The Council reiterates the position that it would want to see these exchanged for bungalows to protect the privacy and quality of life for those residents already living in Whitehall Close.

#### Further comments

Minster Lovell Parish Council has considered the recent changes to the layout of this planning application and re-states its strong objection to the application.

The Parish Council feels that a satisfactory answer has still not been received to confirm why the houses currently planned along the Eastern boundary with Whitehall Close cannot be exchanged for bungalows elsewhere in the Scheme to protect the privacy of existing properties and avoid the over-bearing impact of the houses on the residents of Whitehall Close. These changes do not go far enough in this respect.

At a recent Parish Council meeting, a representative from Strutt and Parker suggested that they would be prepared for bungalows to be erected on the eastern boundary but that West Oxfordshire District Council are not in agreement to this and prefer houses not bungalows. This leaves the Council and residents somewhat confused and reinforces the strong objection, particularly where there are better options of compromise.

The Council has set out in a meeting with Mr. Shaw how it believes the same number of houses could be achieved on the site without them needing to be on the eastern boundary, but this proposal has not been accepted. The Council strongly urges West Oxfordshire District Council to re-consider the lay-out of the site so that bungalows rather than large houses are erected on the eastern boundary 30m from existing bungalows.

The Council also has concerns about the houses at the end of the Eastern boundary, in the south east corner of the development towards Ripley Avenue Amenity Area. These houses have not been moved at all and the boundaries of these properties are very close to existing properties in this corner of Whitehall Close. The Council believed that these properties would also be moved to create more distance with existing properties.

Having reviewed the detailed plans, the Council is very concerned about the elevation of the plots. The cross-sectional drawings indicate that the land inside the scheme on the eastern boundary will be risen and built up before building takes place. This would further encroach upon existing residents in Whitehall Close with the impact of houses looking directly down into bungalows, negatively affecting privacy and quality of life.

The Council has put forward an alternative proposal for the configuration of the site to enable the bungalows on the eastern boundary without a reduction in the number of 2 storey houses overall and to achieve a better distribution of green space. The Council reiterates that these proposals be adopted.

## 2 REPRESENTATIONS

2.1 Over 40 letters of objection have been received (including a number originating from the same address) which may be viewed in full on line. It is considered that the main points raised may be summarised as follows:

- Grass paths will become muddy
- Who will be undertaking maintenance and how will it be paid for?
- A school pick up layby is required
- Site is too cramped
- Should be bungalows backing onto existing houses
- Swap the bungalows along the site frontage with houses near neighbours
- Loss of light and privacy
- Planting scheme involves too many exotic species
- Layout is too cramped
- Bungalows should be re located
- Pumping station is too close to existing houses
- Danger of sewage and surface water surcharging
- Pedestrian access is too close
- Where are details of street lighting?
- Will spoil village
- AH is clustered
- Parking will be inadequate
- Whole site should be relocated to west
- House types lack imagination
- Precedents for further developments
- Inadequate parking is to be provided
- 126 units is too many
- No two storey units should be built
- More on site amenities are required
- AH should go to younger people and over 60's
- Traffic speeds are high
- Where will bins for terraced units be stored?
- Regular ponding of water on site
- Roads are already very busy
- Loss of wildlife value
- Lack of visitor parking
- No safety barrier around pond
- Village roads will become rat runs
- Loss of privacy
- Pressure on services and utilities
- Site visit is needed

- Out of character
- Huge influx of new residents
- Works have started on site
- Despite residents requesting that all new homes on the eastern border of this development be bungalows, this new design still shows 2 storey dwellings.
- Previously when both developers and planning officers were asked why, the replies given did not agree.
- The planning officer said that there was no legal reason for the planning office to insist on bungalows, the decision to submit the design to include houses was down to the developers - however the developers said that the planning office had indicated a preference for houses.
- It has been said repeatedly that the previous owners of the land and developers of this site wish to integrate it into the village and develop the site in accordance with residents' wishes. This clearly is not the case. To change these 10 two storey houses for bungalows would be a much appreciated gesture of goodwill.

### **3 APPLICANT'S CASE**

Writing in support of the original and revised proposals the agent has tabled a comprehensive suite of supporting information which may be viewed in full on line. The summary of the planning statement is reported below:

The application for the submission of reserved matters closely follows the principles set out by the illustrative masterplan that accompanied the outline planning application. It is considered that the proposal is of an appropriate scale which is well-designed and will integrate well with this part of Minster Lovell. A high quality landscaping scheme has been devised that will allow the development to integrate into the existing village, minimise its landscape and visual impact including views from the Cotswold AONB to the north and enhance the western edge of the settlement on the approach to Minster Lovell along the B4047 Burford Road. Bovis Homes are keen to progress the scheme at the earliest opportunity and deliver high quality homes as part of an attractive development which will make a positive contribution to Minster Lovell and the surrounding area. On the basis of the above, it is submitted that reserved matters approval should be granted for the proposed development and that conditions 10, 13, 15 and 19 should also be discharged.

### **4 PLANNING POLICIES**

OS2NEW Locating development in the right places

OS4NEW High quality design

H4NEW Type and mix of new homes

T1NEW Sustainable transport

T3NEW Public transport, walking and cycling

EH1 Cotswolds AONB

WIT4NE Land west of Minster Lovell

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

## 5 PLANNING ASSESSMENT

### Background Information

- 5.1 Members will recall that this site was the subject of application ref 17/01859/OUT which established the principle of development and the design parameters that this Reserved Matters application should follow. In respect of details required for the reserved matters these included:

Compliance with the parameter plans  
No units over 2 storey height  
Planting belts to the open countryside  
Connection to the Parish playing fields  
Streetlighting details  
30 m back to back distances to existing properties

- 5.2 This application has followed those principles and the applicant has sought to make further revisions over and above those requirements to seek to accommodate some of the concerns expressed by neighbours. Members will also be aware that the site is subject to policy WIT4 in the adopted plan and this similarly sets a framework for the key issues that this reserved matter application needs to deliver to be policy compliant.

### Update

- 5.3 Following deferral of the application at the last meeting the developer has been exploring with Officers what it is legally possible and reasonable to do to seek to address the matters that led to deferral. This is still under active negotiation at the point that this report is being prepared. However there are legal impediments to them implementing some of the measures suggested by Members that would render any consent issued and that incorporated those measures ultra vires. In this regard placing bungalows along the boundary with neighbours would, as a result of their greater footprint, bring them within the back to back distance that the outline consent specified should not be breached. Reserved Matters HAVE to follow the conditions on an Outline and as such this is not possible without a complete redesign of the layout. This in turn is not possible as it would mean departing from the parameter plans that similarly were conditioned as being required to be followed. The developer is thus looking at alternative means to seek to address the issues that are legally possible.
- 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

- 5.5 The principle of this development was established by way of the outline consent and in that this reserved matters scheme follows the requirements set by the outline it is acceptable in principle. Additionally it follows the requirements of a policy in a recently adopted local plan and this similarly sets the context that the principle, provided that it follows the Outline and policy context is acceptable.

### Siting, Design and Form

- 5.6 This is a key issue and in your officers view has been well handled by the applicants. The scheme follows the requirement to incorporate boundary planting and a maximum height of 2 storey units. It follows the parameter plans in terms of the general layout of the site and the need to ensure a minimum of a 30 m offset to the rear of existing properties (members will recall that the usual minimum required to ensure privacy is 21 m so this substantially exceeds that standard), the connection to the adjoining land is provided and street lighting details have been provided. The development thus meets the requirements of the outline consent in all material respects.
- 5.7 However the applicants have engaged in a further round of amendments seeking to address some of the concerns raised. Houses have been moved even further away than the 30 m distance where possible, higher boundary enclosures to adjoining properties have been agreed, the internal road layout has been redesigned, the tree and shrub species have been changed, pumping station details have been provided and the house types revised to more closely reflect the Chartist origins of the settlement. The applicant has also offered additional resources to assist the PC in constructing a footpath connecting the site through to the playing fields. In that regard your officers consider the developer should be commended for seeking to go over and above what was required.
- 5.8 In terms of the house types there are a series of bungalows sited along the frontage of the site that have been modelled on the original chartist buildings in Minster Lovell. These will act as a gateway into the village when approaching from the west but critically, given the setback from the road, intervening landscaping, topography and the single storey form, will help to conserve the AONB and views into the site from the north. 4 of these units also back onto existing dwellings at the point they are closest to the boundary. The remainder of the units are a variety of familiar neo vernacular forms and then a more Arts and Crafts inspired terraced units fronting the main area of open space in the form of a large Square at the rear of the site. Materials are a mix of brick, artificial stone and render.
- 5.9 Your officers are satisfied that the variety of forms, the cross reference to the history of the settlement, the careful placement of the bungalows to reduce skyline development and the use of different types of open space in the form of buffer planting, a formal square and an informal open space along the frontage and leading into the development will result in an attractive scheme that will complement the existing village character.

### Update

- 5.10 Notwithstanding that the scheme as tabled was policy compliant, had followed the terms of the outline consent and that the developer had engaged in a further round of improvements over and above what was required they are now looking at whether they can improve the scheme further as a means to avoid the need to appeal against non determination of the application. However the details as to what may be proposed are still under negotiation and as such a verbal update will need to be given regarding this aspect of the scheme.

### Highways

- 5.11 As part of the ongoing negotiations the road layout has been revised to enable use by larger vehicles and to provide additional visitor parking capacity. OCC has raised no objections and the scheme is considered acceptable in highway terms.

### Residential Amenities

- 5.12 Much is made in the representations that residents were promised bungalows along the shared boundary with existing properties. That was not the case. What was promised was a stand off of 30m rather than the usual 21m and this has been secured or exceeded. The boundary fences have been increased in height and control over existing planting within the boundary has been ceded to the neighbours such that they retain control over it. As such there is no planning justification for requiring that the units along this boundary be reduced to bungalows.
- 5.13 As for the remainder of the scheme the houses generally have either on plot parking or frontage parking with no rear parking courts. Each property has access to its rear garden to enable removal of bins etc and the usual privacy etc norms are respected. In order to reduce the incidence of back garden paraphernalia impacting on the approach to the village (as happens at present) the units at the countryside periphery of the scheme all aspect outwards which will ensure that they all have a good outlook whilst ensuring the visual impacts are minimised. The pedestrian connection through the adjoining playing fields will ensure amenable access to the centre of the village and the school, shops etc without the need to walk alongside the Burford Road. It is considered that the development will be an attractive place to live.

### Other matters

- 5.14 The developer is contributing to village facilities by way of the agreed I06 agreement attached to the outline application. The pumping station is to be located largely underground within a fenced enclosure and the balancing ponds will be dry other than when required to attenuate run off from extreme storm events. The planting mix has been revised to make maintenance easier and the County Council were resistant to the provision of a bus stop on the Burford Road preferring the footpath connection to existing bus stops within the village.

### Conclusion

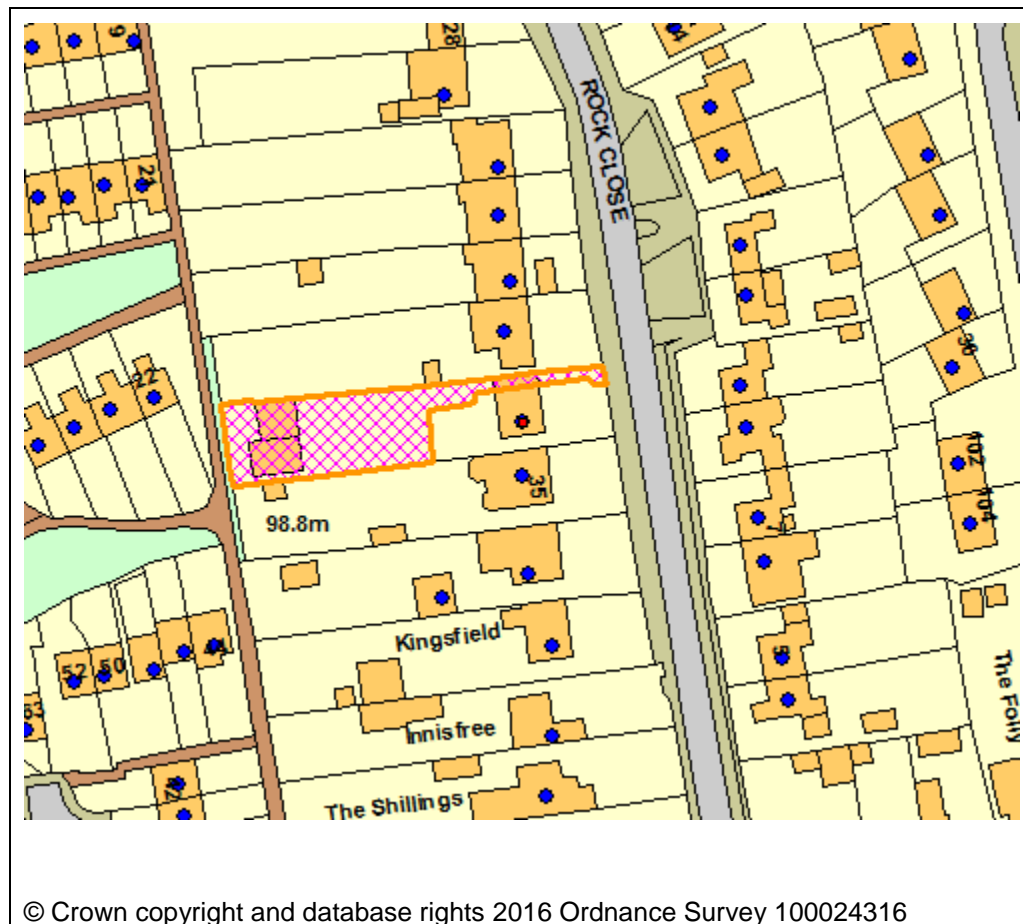
- 5.15 The application has been the subject of much comment. However many concerns raised relate to matters of principle that were established at Outline stage and others relate to 'promises' not being kept as regards the units near to neighbours. However the promises have not only been kept but in many cases exceeded and your officers are satisfied that the development will be an attractive area to live and respects both neighbour and visual amenity. Subject to any further improvements that the developer may offer it is anticipated that the application will be brought forward for approval at the meeting.

## **6 RECOMMENDATION**

Officers to advise once amended plans have been received.

Application Number	19/00416/FUL
Site Address	Grawins Rock Close Carterton Oxfordshire OX18 3BP
Date	8th May 2019
Officer	Jane Fray
Officer Recommendations	Refuse
Parish	Carterton Town Council
Grid Reference	427679 E 207028 N
Committee Date	20th May 2019

### Location Map



### Application Details:

Erection of detached dwelling with associated access and parking.

### Applicant Details:

Chris And Becky Blakely And Tilton, The Old Dairy, 116B Station Road, Brize Norton, Oxon, OX18 3QA.

## **I CONSULTATIONS**

- 1.1 Town Council Support
- 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, subject to the following conditions:
- o G28 parking as plan
  - o G11 access specification
- The applicant is advised not to commence work in the public highway until formal approval has been granted by Oxfordshire County Council by way of a section 184 Notice under the Highways Act 1980 <https://www.oxfordshire.gov.uk/business/licences-and-permits/dropped-kerbs>.
- 1.3 WODC Drainage Engineers No Comment Received.
- 1.4 WODC Env Health - Lowlands No Objection in principle.
- 1.5 ERS Env. Consultation Sites The proposal is not situated on or near land that has been identified as being of potential concern with respect to land contamination. Therefore I have no objection in relation to land contamination human health risks from this proposed development and will not be requesting planning conditions.

## **2 REPRESENTATIONS**

No neighbour objections received.

## **3 APPLICANT'S CASE**

- 3.1 A Design and Access Statement has been submitted by the applicant, in support of the application and is summarised as follows:
- We have suggested a small scale, yet conventional form of dwelling that will blend with the character of surrounding housing.
  - This dwelling is easily accommodated on the plot. In fact it appears within the centre of it, and would be surrounded by green amenity space. In our view this proposal makes best use of available developed land.



- Our view is that the proposal complies in principle with all relevant planning policies. We feel it will enhance and strengthen the existing visual character and so is potentially a positive addition to the street scene.
- Furthermore, a smaller dwelling is an addition to the mix, this is good for social cohesion according to the NPPF.
- In terms of its appearance and design, we have sought to work with relevant planning guidance also, though it is unremarkable in design, it is consistent with the general appearance of most other dwellings nearby.
- In submitting this application, we were aware that permission had been granted sometime in the past for an annexe of broadly similar scale, also set back from the street. This has not detracted from the street character either.
- It is also true that under current permitted development rules, all the gardens along this street could accommodate a much greater amount of single storey buildings without ever needing to get permission.
- It may be noticed that the garden north of our site is the only other one locally that appears to be able to repeat what we propose. Even if that were proposed (And it would require the owners a) to want to, and b) to get permission from the current applicants for access) should it be the same scale of dwelling. Thus a low density setting enhanced with added bio-diversity would also be achievable. Thus the overall low density character of the area would be safeguarded, whilst resulting in another small scale home to add to the "mix" in this area.

#### **4 PLANNING POLICIES**

OS2NEW Locating development in the right places

OS4NEW High quality design

H2NEW Delivery of new homes

T4NEW Parking provision

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

#### **5 PLANNING ASSESSMENT**

##### Background Information

- 5.1 The application seeks planning permission for erection of a detached dwelling with associated access and parking at Grawins, Rock Close, Carterton.
- 5.2 The site previously contained a single dwelling, in a run of similar properties along Rock Close. Permission was granted in August 2018 for a replacement dwelling in the same position, under Reference 18/01856/FUL. The original dwelling has now been demolished and the replacement two storey dwelling was nearing completion at the time of writing this report.
- 5.3 Subsequently, planning permission was granted in January 2019 under Reference 18/03027/FUL for sub-division of the original plot and the erection of a detached bungalow to the rear of the replacement dwelling. Conditions were attached to the approval to remove Permitted Development Rights for additional windows, alterations, extensions and outbuildings, due to the restricted size of the plot and its 'backland' tandem relationship with other nearby dwellings.
- 5.4 The current application seeks permission for a dwelling in the same position and of a similar footprint and height as the bungalow approved under Reference 18/01856/FUL, but with a

change of roof design, including a larger gable to the north elevation, proposed new gable to the east elevation, increase in eaves height of approximately 0.5 metres, the incorporation of new first floor windows to front (east), rear (west) and side (north) elevation, to serve two bedrooms and en-suite bathrooms in the roof space. The bedroom windows are shown as clear-glazed and the bathroom obscure-glazed. Revisions to the scheme are anticipated at the time of writing, to reduce the size of the first floor windows.

- 5.5 Carterton is classified in the current Local Plan as a main service centres, whereby new residential development is supported in principle, being primarily focused within and on the edge of these settlements. The site is not within the AONB, Conservation Area or Green Belt and there are no listed buildings on, or near the site.
- 5.6 This application is to be considered by Committee, as the Parish Council has not objected to the scheme.
- 5.7 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  
Siting, Design and Form  
Impact on the street scene  
Residential Amenity  
Highways Safety

Principle

- 5.8 The current planning application will be considered under Local Plan 2031 policies in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004. This requires that such applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. Following recent adoption in September 2018, the Local Plan 2031 forms part of the Council's development plan in place of the West Oxfordshire Local Plan (2011).
- 5.9 Policy OS4 of the adopted Local Plan states that proposals should demonstrate high quality, inclusive and sustainable design with the provision of a safe, pleasant, convenient and interesting environment where the quality of the public realm is enhanced and the likelihood of crime and fear of crime is reduced; and not harm the use or enjoyment of land and buildings nearby including living conditions in residential properties.
- 5.10 Policy H2 of the adopted Local Plan 2031 states that new dwellings will be permitted at the main service centres on undeveloped land within the built up area, provided that the proposal is in accordance with the other policies in the plan and in particular the general principles in Policy OS2.
- 5.11 Policy OS2 states that all development should be of a proportionate and appropriate scale to its context, form a logical complement to the existing scale and pattern of development and/or character of the area, and should be compatible with adjoining uses, but not have a harmful impact on the amenity of existing occupants.

- 5.12 In light of the above, the principle of a new residential unit in this location is considered to be acceptable and has been established by the previous approval for a bungalow.

#### Siting, Design and Form

- 5.13 Section 11 of the Council's 2016 Design Guide sets out that proposals for new development should take on board the surrounding context in its design and that whatever the scale or nature of a proposed development is, local character should be respected or strengthened. Schemes should take into account the prevailing local settlement pattern in terms of development density and the arrangement and interrelationships of buildings, building lines, roads, footpaths, public and private space. It should also consider potential impacts in respect of neighbouring amenity.
- 5.14 In relation to local character of the area, officers consider the proposed scale and design of the dwelling is acceptable. The proposal has been designed with specific reference to approved application 18/01856/FUL for the new dwelling fronting onto Rock Close. The general design and massing of the proposed dwelling is considered to be appropriate in response to the variety of dwelling styles in the area and responds to the need to ensure that any development is as de minimis as possible and does not compete with the primacy of frontage dwellings along Rock Close.
- 5.15 Overall, the massing, scale and design of the proposed dwelling is not significantly different from the previously-approved bungalow and is therefore considered to be in keeping with its surrounding context and is not considered to represent over-development of the plot.

#### Impact on the Street Scene

- 5.16 It is noted that the scale of development when assessed externally is similar to the previously-approved bungalow in the same position. Again, there would be some impact on the street scene, in that the proposed development would be partially viewable from the front in the gap between existing dwellings. This has been carefully evaluated by officers. The surrounding area exhibits a mixed character, including detached, semi-detached and terraced development of both single storey and two storey height in the vicinity of the site. There is no strong building line in this part of the street scene and it is considered that given the design, scale and set-back of the proposed dwelling, that it would be acceptable in its setting.

#### Residential Amenities

- 5.17 Officers have carefully assessed potential impact on neighbouring amenity. The Council's Design Guide states that bulky development which would block the outlook from, or daylight reaching principal rooms and garden or patio areas of adjacent properties should be avoided. It also advises that the position and nature of windows in relation to potential overlooking should be carefully considered.
- 5.18 In respect of potential overbearing or overshadowing impact, this has been assessed to all four sides. There would be approximately 1.2 metres to the shared garden boundary with No. 35, 4 metres to the boundary with No. 33, 11.4 metres to the rear garden boundary with the new dwelling at No. 33A and a window to window distance of 20.5 metres between the existing and proposed dwelling and approximately 13 metres to the side boundary of the rear garden of No. 22 Faulder Avenue, the nearest property to the rear of the plot. The building would be

positioned a sufficient-enough distance away from boundaries, adjacent dwellings and private garden areas such that it would not be considered to result in a significant additional adverse impact in relation to overbearing or overshadowing impact over and above the scale and position of the bungalow previously approved in 2018.

- 5.19 In relation to potential overlooking, this has also been carefully assessed on site by officers. It is noted that much of the previous vegetation on site has been grubbed out and that the ground has been cleared. Two mature trees at the western end of the site have also been severely pruned and excavated at the roots, such that they do not appear to have any current growth and look to be dying. These open out considerably views from the site towards properties in Faulder Avenue.
- 5.20 During the application process, the scheme has been amended to reduce the size of proposed first floor windows, in order to mitigate against potential overlooking impact towards nearby properties and private amenity areas. It is also noted that there would be a variety of proposed boundary treatments around the periphery of the plot, including fencing of varying heights and shrub and tree planting, in order to provide screening.
- 5.21 However, notwithstanding the above, the scheme proposes windows at first floor level, two of which serve bedrooms, with one being to the front east elevation facing 33A Rock Close and the other with its main outlook being to the rear, towards the private rear amenity space of 22 Faulder Avenue, which is beyond a public footpath adjoining the eastern boundary of the site. Officers consider that there would be direct overlooking to both of these sides and also additional views towards Nos. 33 and 35 Rock Close, resulting in perceived overlooking into garden areas and dwellings adjoining all sides of the site.
- 5.22 It is noted that the distance between the proposed dwelling and the existing new dwelling on Rock Close would amount to 20.5 metres, with 11.5 metres to the rear garden boundary, and the distance to the garden and patio area of 22 Faulder Avenue being approximately 15 metres, with potential views into rear ground floor windows of that property at approximately 19 metres away, that there would be significant direct overlooking, coupled with perceived overlooking towards the rear amenity spaces and windows of adjoining properties 33 and 35.
- 5.23 Whilst the Council does not have adopted standards for overlooking the rule of thumb of a minimum of 21 metres would be breached, given the open aspect of the site and its close-knit relationship with surrounding properties, which have previously enjoyed a degree of privacy, it is considered that there would be a significant amount of overlooking as a result of the introduction of proposed first floor windows.
- 5.24 This opinion is consistent with officer's assessment in relation to previous application 18/03027/FUL, whereby condition 7 of the approval removes Permitted Development Rights for additional windows, dormers and rooflights (amongst other things), such that the introduction of any additional openings would require planning permission.
- 5.25 It is noted that no neighbour or Parish Council objections have been received, however, in the light of the above observations, the proposed development is considered to have a materially adverse impact on neighbouring amenity, by way of significant overlooking.

### Highways

- 5.26 Officers note that there would be a net gain of one bedroom as a result of the current scheme. However, the proposed development would be served by a new access and two new parking spaces are proposed. Given the scale of the development officers do not consider that this would significantly impact upon highway safety. Oxfordshire County Council Highways officers have raised no objection and the scheme is considered to be acceptable on highway safety grounds.

### Conclusion

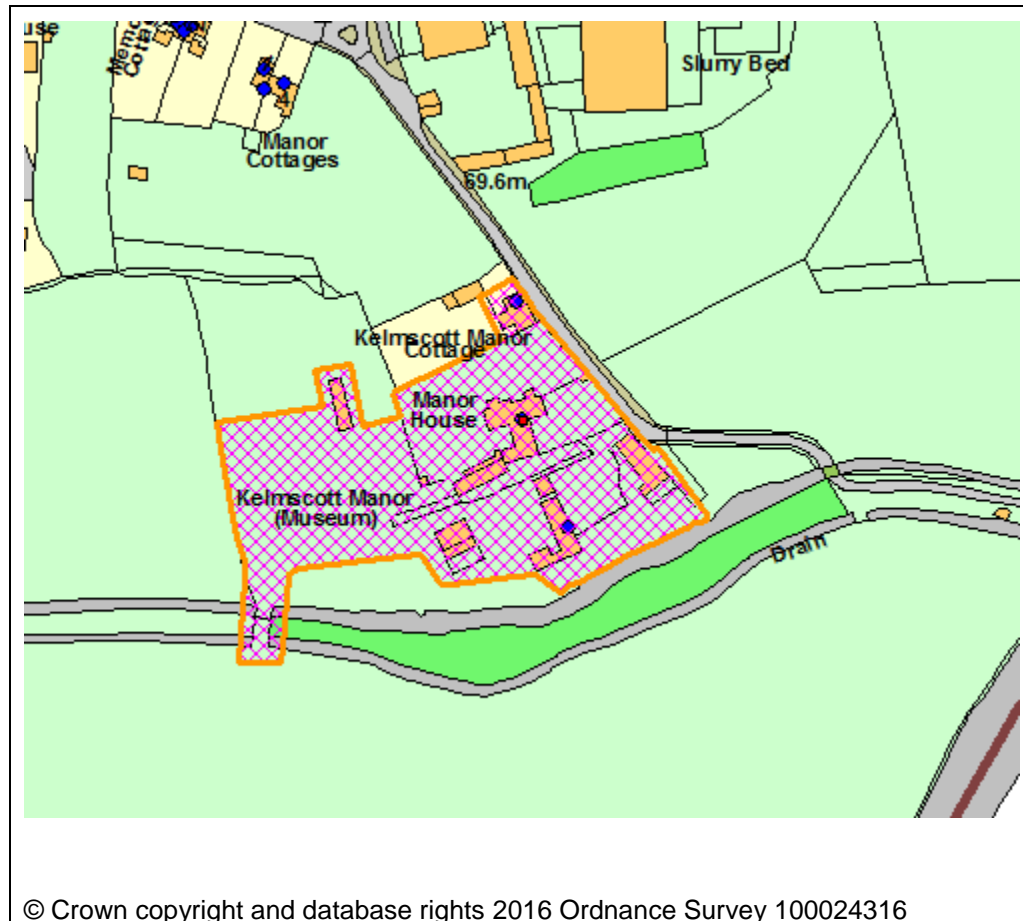
- 5.27 The proposed development is for the provision of a two storey dwelling which is considered to have a significant impact on residential amenity of nearby occupants as a result of overlooking.
- 5.28 In light of these observations, having considered the relevant planning policies and all other material considerations, your officers consider that the proposed development is not acceptable on its planning merits, and would not be in compliance with Policies OS2, OS4 and H2 of the Local Plan 2031, Section 11 of the Council's approved Design Guide 2016 and the NPPF 2019.

## **6 REASON FOR REFUSAL**

- 1 The proposed first floor bedroom windows would result in an unacceptable degree of overlooking and loss of privacy to adjoining residents, due to the design failing to respond to the context of the site and its surroundings. The development would therefore be significantly harmful to residential amenity and as such, the proposal would be contrary to Policy OS2, OS4 and H2 of the adopted West Oxfordshire Local Plan 2031, the Council's approved Design Guide 2016 and relevant Paragraphs of the NPPF 2019.

Application Number	19/00493/S73
Site Address	Kelmscott Manor Kelmscott Lechlade Oxfordshire GL7 3HJ
Date	8th May 2019
Officer	Miranda Clark
Officer Recommendations	Refuse
Parish	Kelmscott Parish Council
Grid Reference	425096 E 198886 N
Committee Date	20th May 2019

### Location Map



### Application Details:

Variation of condition 6 of planning permission 18/01509/FUL to allow unrestricted use of car park.

### Applicant Details:

Mr John Lewis, C/o Agent.

## I CONSULTATIONS

- I.1 OCC Highways No objection
- I.2 WODC Legal And Estates No Comment Received.
- I.3 Parish Council No Comment Received.
- I.4 CPRE  
In summary, whilst CPRE supports the restoration of the Manor, it is unable to support the proposed amendment to condition 6 without a properly considered Management Plan to demonstrate that the amendment can be justified. Therefore, CPRE objects to the 2 applications listed above, but could support the amendment proposed if accompanied by a Management Plan that proved that traffic would be kept out of the village. In CPRE's view, essential to that aim is the relocation of the car park entrance as suggested below. Furthermore, CPRE does not believe that the Management Plan as submitted does enough to discharge condition 6 of the original planning application.  
The appendices to the management plan have now been submitted. The signage design is included. Being of standard utilitarian Highways 'brown tourist signage' design, CPRE believes that it is inappropriate in a conservation area, especially in view of the quantum. CPRE understands that this sort of signage is needed on the highways to guide vehicular traffic to avoid confusion. However, CPRE believes that well designed timber signage along the footpaths would be preferable and appropriate for the purposes of informing pedestrian access only. If the intention is to keep traffic out of the village, then pedestrian signage should be all that is needed and providing highways style signage is a contradiction to the stated aims of the Management Plan.  
The sort of timber finger posts used on some public footpaths and signage that is seen at the entrance to National Trust facilities and the like could be considered.  
To reiterate, CPRE believes that an eastern access to the car park before the road narrows, would be the best way to ensure traffic is kept out of the village and would have the added planning benefit of avoiding urbanising the southern end of the car park which is within/ adjacent to the conservation area. At the point of an eastern entrance a large Highway style sign would be appropriate (and it wouldn't matter if that was utilitarian, as it's outside the conservation area), where it could be made clear that Manor visitors should not enter the village by car, but instead park in the car park and walk. Once further into the village, rural, timber signage for pedestrians could then be erected.  
Whilst a further application may be required to move the access point to the car park, CPRE believes that the benefits are significant and that said application would be likely to be approved with no objections (and in fact significant support), whilst an appeal for this

current application, should it be refused, would take much longer. However, CPRE wonders if a change to the car park entrance could be approved by WODC via the discharging of condition 6 ie) via this application, should a new Management Plan be issued with this suggestion at its core. CPRE also wonders if in this case withdrawal and resubmission would actually be needed or if an updated Management Plan could simply be issued to supersede what has been submitted to date. CPRE believes that WODC and OCC should do all it can to help SAL maintain its programme and funding, so long as safety and planning issues are resolved. Pragmatism is required by all. Aside from the safety issues, keeping traffic out of the village is an important planning matter as it would help residents benefit from the quiet enjoyment of their properties and also preserve the rural character and setting of the conservation area. In-keeping signage in a conservation area is also important from a planning point of view, as is avoiding urbanising the southern entrance to the car park which is also within/ adjacent to the conservation area.

Whilst preservation of the Manor is very important to CPRE, it should not be done at all costs to the rural character of the village and in particular, it must not create or exacerbate safety issues. It is expected that businesses operating in residential areas will work with the community to achieve common aims. CPRE believes that there is a compromise solution (in the form of an eastern access to the car park) that can achieve the Manor's aims, but limit the impact on the village. CPRE assumes that the land owner for the car park (as a party with an interest in the village) will be likely to support a proposal to benefit the village and would amend the terms of the lease if needed. It's certainly worth a discussion.

CPRE understands that a Highways objection may rely on a past major accident to support. Nevertheless, extra traffic is bound to worsen the situation and increase the chances of an accident. The current Management Plan expresses an intention to reduce traffic in the village, but does not robustly demonstrate how that will be achieved. Surely, it is not necessary to wait for a major accident before action is taken. The suggested car park access to the east is clearly safer than the currently proposed access to the south, as it will avoid coaches navigating a blind bend. Apart from quantum of traffic, it should be noted that there has been a significant material change from a safety perspective. Whilst coaches currently drive straight to the Manor and avoid turning right at the blind bend, under the Management Plan for the expansion, they will now have to negotiate the blind bend to access the entrance at the south of the car park. This change requires a proper risk assessment, especially as there will be more coaches and consideration regarding whether this is in fact practical.

## 2. Previous Comments Submitted (which are still applicable) Management Plan

- o Appendices A & B are missing
- o There is mention of extending the car park, but not by how much and no analysis is submitted to demonstrate that the car park will be



adequate for the expansion. It needs to be linked back to opening days, plus an assessment of visitor numbers and demographic per day at peak times. It's too simplistic at present. If the car park isn't adequate, visitors will park in the village, so it's vital that it is much more detailed.

- o What about turning of vehicles within the car park?
- o What about managing the car park surfaces when it's wet? Will there be Grasscrete where needed and will it still be effective all year round? If not, what happens?
- o There is no risk assessment regarding the potential for an accident involving vehicles and possibly a pedestrian.
- o There is no consideration given to appropriateness of existing junctions or the possibility of moving the car park access to the east of the car park to alleviate problems, which would seem to be a good idea. There may be a way of funding this.
- o There is no assessment of adequacy of passing points or information about how they will be maintained.
- o There is no signage design and exact siting included.
- o There is no detailed information given regarding management of pedestrians as they walk to the Manor, particularly large groups of children, in view of the limited paths and ditches with open water.
- o There is no detail given regarding what exactly will be written on the web site to guide visitors to avoid public safety issues.
- o It is not clear how advanced notice from coaches will help the situation. Will there be timeslots?
- o It is not clear how the shuttle bus will work or what route it will take. Will it be on call or at regular times?
- o Ticketing will not be in the car park, but on line and also at the Manor. The latter may work fine if it's pedestrians who have not parked in the village only buying tickets.
- o In short, on the plus side the Plan commits in principle to keeping vehicles away from the village and agrees that this is needed, but it's not specific about how that will be achieved.

#### Legal Opinion

- o CPRE has not had the benefit of access to some of the correspondence referenced in the document.
- However, in essence, SAL objects to having to sell tickets at the car park. This could well be a moot point, because if vehicles can effectively be kept away from the village, it doesn't really matter where tickets are purchased. This condition was no doubt imposed to help avoid vehicles entering the village, but there are other ways of achieving that objective and the focus should be on that.
- o Mention is made of OCC not objecting and Councillor Fenton insisting on a condition re a management plan to ensure public safety. Whatever OCC said or did not say, councillors do not have to follow Officers' advice and can legally permit or refuse or request conditions against or to supplement Officers' recommendations.
  - o Councillors' decisions can be appealed of course and must be reasonable, but surely seeking to avoid a public safety issue is reasonable.

o The Opinion is critical of residents, the local District Councillor David MacFarlane and an MP for making a contribution to the debate. The public and interested parties are entitled to do so, particularly when a development will impact upon them. It claims that residents and by association Cllr. Fenton and Officers had no technical evidence/ justification to support their views and suggestions. The only qualification any party needs in a democratic country to share an opinion (so long as it's not offensive) is to be a human being- there is no need for specific expertise or qualification. In any event, for objectors to have to prove technically that the proposal will cause traffic issues seems upside down.

o In CPRE's view the onus should be upon SAL (as instigator of the planning application) to prove that its proposals are safe and that is the spirit in which the consent was granted subject to condition 6. Again in CPRE's view, SAL has not done so via its currently submitted Management Plan. The residents are not experts and should not be expected to provide scientific evidence that there could or will be an unacceptable impact on safety. They are living with the ongoing issues at present, so they know that if changes aren't made, issues will be worsened. They have a right to a voice on that and have an input regarding changes in their locality that will affect them, especially as SAL are seeking to include the wider village in the experience for its visitors.

o In any event, it doesn't need an expert to see that coaches on those small roads with blind bend and parking on those muddy verges near deep ditches will be a problem. CPRE can't therefore see how any Inspector would consider Cllr. Fenton or WODC unreasonable in wishing to impose a condition, which puts the onus on SAL to ensure public safety.

o Mention is made of viability issues associated with the restrictions of condition 6. However, like any other applicant, SAL is not entitled to proceed at whatever cost in terms of safety. No doubt, there are negotiations that could take place with the car park landowners, especially if a change to the terms was in the interests of the village. After all, the owner has an interest in the village. The funding is based on increased visitor numbers, but does it really matter where tickets are sold? Even if there is a stipulation re ticket sales specifically at the Manor, ticketing issues can be resolved if safety can be assured.

o There is a comment that the imposition of the condition is causing delay, but in reality delays are due to the public safety issues not being addressed, so that the project can proceed. No one wants an accident to occur after all.

o In summary, this legal opinion is critical of those involved in determining this application and any third party who had a voice. In CPRE's view, that is not relevant. Whatever the rights and wrongs and timing of what was said and done or not done by those involved, all that remains of relevance is whether there is in fact a public safety issue and if there is, that it is addressed before the expansion takes place. The onus is on SAL to either prove there is no issue or if there is one, address it properly. Any Inspector would consider that

reasonable.

o If SAL submitted a convincing Management Plan, the proposed amendment to condition 6 may be acceptable. However, currently, CPRE cannot support this application, with the Management Plan as submitted.

o Therefore, CPRE believes that SAL should be invited to withdraw and re-submit with a properly considered Management Plan that justifies the proposed changes to condition 6, because as it stands the application should be refused. Any subsequent appeal would take time and cause further delay and would be in no-one's best interests.

## 2 REPRESENTATIONS

2.1 Over ten letters of objection have been received. They have been summarised as:

- Single track roads that access the village have blind corners and small passing places. Any increase in traffic from the unrestricted use of the car park may cause further issues on the narrow roads.
- The hope of doubling the amount of visitors to 40,000 will result in increased traffic, parking in the village and potential accidents.
- Residents and businesses are already affected by visitors parking in the village on grass verges as opposed to the car park, blocking off access to their homes and places of work.
- Traffic and parking within the village will disrupt access for emergency vehicles.
- Condition 6 was implemented to alleviate the concerns of the local residents and reduce public safety concerns.
- The proposed Kelmscott Manor Management Plan does not cover the key points regarding public safety and functioning for example, such as the set procedures for when the car park is full and cannot take any further vehicles.
- There are already issues with coaches of visitors being dropped off on the road outside the Manor resulting in road blockages.
- The suggestion of a new access to site from the Eastern access road would be much better suited to the flows of traffic. This new entrance could also prohibit access for visitors into the village thus reducing the impacts on local residents.
- Uncertainty of the volumes of visitors on any given day. Queries over how numbers will be monitored within the car park before visitors get to the Manor.
- Very few visitors arrive by foot, by bicycle or by boat.
- Management Plan does not address the proposed route and frequency of the suggested electric shuttle bus. It also does not cover how it will operate within the busy periods and how it will cover the suggested quantity of visitors.
- Management Plan does not cover the management of impromptu guests and coaches.
- Village has no street lights so excess traffic and parking in the village, especially during the darker winter months, would be dangerous on the roads that have no pavements.
- Lack of car park management will be problematic during typical peak summer months.
- The access to Kelmscott is formed of single track roads, with 2 way traffic and no passing places. It cannot take the capacity of cars that would be predicted based on the amount of visitors they hope to attract to the Manor.
- Residents want a management plan that covers the route for visitors from the moment they exit off the B4449 to when they have parked at the Manor car park. A full plan would ensure that any potential problems are addressed and resolved beforehand.

- The budget would be better spent on a new access route to the car park.
- SAL should take responsibility of the Management Plan to ensure they meet their 'Statutory Duty Of Care'.
- Signs should inform visitors that they must park in the car park before they are able to reach the village and park elsewhere.
- Excess traffic on Manor open days already cause problems for the active local farmers and delivery drivers who struggle to get through the congested single track roads.
- Suggestion that Oxfordshire County Council implement a parking restriction zone or double yellow lines through the village to deter on-street parking.
- A suitable solution would be to provide tokens to those who park in the carpark, and entry can only be permitted if a token is provided by the visitor thus ensuring they have parked in the designated car park.
- Removal of employees would not reduce the problems as they already park within the car park and Manor grounds.
- The 420 metre walk from the carpark to the Manor is not safe especially for pedestrians and those who are disabled. The narrow roads and lack of pavement make it dangerous and an accident is bound to happen.
- The Manor relies mostly on volunteers. Procedures need to be set in place for when there is a lack of staff available so the Manor and car park can be covered and operated with the alleged influx of visitors.
- Access to the Manor for school children during the winter months would create cause for concern. Lack of pavements from the car park, lack of street lighting and no safety measures to make the road safe such as gritting in icy weather make the walk dangerous.
- Proposed shuttle shelter for bad weather could also serve as a ticket booth.
- Litter and dog waste bins should be installed in the car park.
- Signs throughout the village would be a positive idea to avoid visitors parking in front of properties and wandering into residents' gardens and homes.
- I agree with SAL's own Kelmscott Manor & Estate Conservation Management Plan of November 2013, which the Society endorsed at its 2014 AGM and has never repudiated.
- On page 68 of this comprehensive 130 page report, SAL says "The Society found unconvincing the arguments in the former draft HLF application for increasing the numbers of visitors to 40,000, from the present 18,000. The aim will be to move cautiously to increasing visitor numbers to 25,000 over 5 years."
- And for sure, the entire report sets out in detail exactly why The Society, with its 3000 fellows so strongly connected with heritage, history, and the Arts, believed that to bring such numbers to Kelmscott would be to destroy Morris' 'Heaven on Earth.'
- In holding such a belief, SAL quite correctly sums up the dangers to Kelmscott, whose position as a mere smudge on the North bank of the upper Thames means that every visitor must come enter and leave the village from one direction down a winding country lane.
- For reasons which have not been explained, SAL appear now to have accepted the terms of an HLF grant which explicitly ask for the very large increase in visitor numbers that SAL previously rejected.
- Few would argue with SAL's case to restore its historic buildings, but in the curious circumstances in which SAL applied for permission to develop its site so exactly contrary to its own settled conviction, it seems entirely reasonable that WODC would seek to impose such a condition as the present Condition 6. The condition allows SAL to overturn Morris' 'Heaven on earth' within its own site, but aims to protect the village from the same fate. Having a car park, even a well-signed one, will not save the village from being subsumed by

parked cars and attendant nuisance: having the only ticket office in the car park is a sure way of improving the chances.

- There are no forecasts either for days open or visitor numbers expected, and yet for a project of this size a clear business plan setting out such data will have been prepared.
- In a sensitive village that William Morris described as the 'loveliest haunt of ancient peace', a detailed management plan is essential. The management plan needs active management in the car park to manage visitors and address traffic flow in the village to mitigate the impact on the village, residents and local businesses. It would be also be helpful if this management plan looked at the entrance to the current car park to see if there are ways using an access to the east to alleviate the existing and growing traffic build up on blind bends within the village.

### **3 APPLICANT'S CASE**

Various supporting statements have been submitted with the applications. A full statement written by Martin Edwards of Cornerstone Barristers has been submitted in support of the application. The conclusion has been summarised as:

- In my opinion there was, and is, no justification for the imposition of condition 6. It was not required by the local highway authority who did not object to the proposed development. This is a highly relevant consideration. Furthermore, the SPO did not seek the imposition of this condition and in her email of 9 August 2018 (referred to in paragraph 17 above) it was made clear to the ward councillor that she "cannot suggest conditions or a legal agreement which relates to highway matters. This is because OCC Highways have not objected to the proposals." This comment has even greater significance. As matter of law a legal agreement (planning obligation) could not be required in these circumstances because it would fail to satisfy the legal tests of reasonableness set out in Regulation 122(2) of the Community Infrastructure Levy Regulations 2010.
- It is, however, clear from the emails provided in response to the Fol request that this condition came about as a result of representations from local residents even though there was no independent technical support or justification for its imposition.
- It is also clear that the Sub-Committee did not consider a draft of the condition so could not have debated let alone determined the scope of the condition. It was not provided with an opportunity to seek the views of the Society as to the potential effects of the condition on the development nor did it consider the national planning policy advice on planning conditions.
- The position is made worse by virtue of the fact that, following the resolution to grant the planning permission WODC has maintained a dialogue with local residents and members on the central issue of traffic management and in complete absence of any independent technical justification for the approach adopted. This has been exacerbated by virtue of the fact that WODC are meeting with local residents to these matters.
- On appeal, the Secretary of State (or one of his inspectors) is bound by law to follow the relevant law in relation to the determination of applications, the use of planning conditions and the lawfulness of condition 6 and can be expected to apply his published policy as set out in the NPPF and in National Planning Guidance.
- In my opinion, for the reasons set out above, the imposition of condition 6 was fundamentally legally flawed and also is in clear breach of relevant national planning policy. The only means of removing this condition is by way of an application under section 73. In the event that the application is refused, and an appeal is necessary, it is my opinion that the appeal should succeed.

- Furthermore, given the unreasonable imposition of this condition, the Society will have a strong basis for seeking an award of costs against WODC.
- It is clear from the National Planning Guidance that WODC is behaving unreasonably - see Paragraph: 049 Reference ID 16-049-20140306 - for example, "by preventing or delaying development which should clearly be permitted", or relying on "vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis" or imposing a condition that does not meet the policy tests (as set out above).

#### **4 PLANNING POLICIES**

E4NEW Sustainable tourism

T4NEW Parking provision

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

#### **5 PLANNING ASSESSMENT**

##### Background Information

- 5.1 This application, and the identical planning application reference 19/00495/S73, was deferred from last month's meeting to enable discussions with the applicant.
- 5.2 Members will recall that conditional approval was given for planning permission and Listed Building consent for Internal and external alterations to allow repair to buildings, erection of new learning building and construction of car park subject to conditions, at the August Lowlands Area Sub Committee. Condition 6 of the planning consent states:

Prior to the first use of the extended car park, full details (including a management plan) of a procedure which only permits the purchase (or validation in the case of tickets purchased online) of tickets to gain entry to Kelmscott Manor and its grounds within the car park hereby approved shall be submitted to and approved in writing by the Local Planning Authority. The management plan shall include improved signage proposals to help to deter vehicular access through the village by visitors to Kelmscott Manor. Once approved the approved management plan and procedure shall be adhered to at all times that the Manor is open to the public thereafter.

REASON: In the interests of public safety and to ensure that the primary point of contact for visitors to Kelmscott Manor is via the car park.

- 5.3 The applicants have submitted two applications for the non compliance with condition 6 to change the wording as set out below;

"Prior to the first use of the extended car park, a management plan shall be submitted to and approved in writing by the Local Planning Authority. The management plan shall include improved signage proposals to help to deter vehicular access through the village by visitors to Kelmscott Manor. Once approved the approved management plan and procedure shall be adhered to at all times that the Manor is open to the public thereafter."

- 5.4 The wording of the condition as imposed is unacceptable to the Society of Antiquaries of London and the enclosed Counsel's Opinion concludes that the imposition of condition 6 without any technical or other supporting justification is unlawful, and is not fairly and reasonably related to the permitted development.

5.5 The reasoning for submitting two applications, is as taken from their Counsel's opinion so that one can be appealed immediately after the statutory period for determination had expired whilst the other may remain the subject of negotiation between those representing the Society and WODC. Both applications are to be heard at this meeting.

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

Principle

5.7 From the meeting minutes it was clear that Members had concerns relating to the visitors to Kelmscott Manor and the traffic generating through the village. OCC Highways did not suggest such a condition on highway grounds but it is legal to include conditions, which are considered necessary. The NPPF states:

Local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition.

Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Agreeing conditions early is beneficial to all parties involved in the process and can speed up decision making.

5.8 Your officers consider that the wording of condition 6 is justified as Members had concerns regarding the environmental impacts of traffic entering through the village, and parking along the village roads, and not within the main car park. Some form of mechanism for preventing the travelling through the village was considered appropriate. This is a reasonable planning reason and your officers consider that the condition has thus been imposed where it has been necessary.

5.9 In terms of the management plan details, your officers consider that the majority of the proposed works are on balance acceptable, namely the signage. However there are no details of how visitors are to be managed. The supporting information states that two electric cars are to be used - there are no details of these. When the Manor is not open, where will the volunteers park? as currently, the car park is closed when the Manor is.

5.10 A copy of a leaflet has been provided. Your officers do not consider that it is explicitly clear that there is no parking available at the Manor. It also states that local law enforcers will be used - no information has been provided to who these will be, or how they will be able to differentiate between those visitors parking for the pub or the Church for example.

5.11 The map has pictures of various interest points, such as The Church, but none of the car park. In your officers' opinion the car park location should be made much clearer. With regards to construction traffic, this is dealt with by a separate condition. The details will be considered once a discharge of condition application is submitted formally.

- 5.12 Following the deferral of the applications, officers suggested a meeting to enable what was being sought by the condition to be discussed to try to deliver what the applicants had advised they would be providing in a manner that was acceptable to them. As part of that Officers accepted that it would be possible to consider re-wording the condition such as to remove ambiguity as to the need to buy tickets at the car park. It was also to suggest ways in which the applicant could conform to the requirements of the condition, which then officers could be in a position to support. This included managing traffic/visitors through the use of pre timed or pre purchased tickets, stamping tickets at the car park site, collecting tokens at the car park site, using electronic media to confirm cars parked at the car park site etc. However the applicant was not in support of any options officers suggested at the meeting.
- 5.13 In your officers assessment it is important that visitors are incentivised not to travel direct to the main site and then retrace their steps to the car park (which would be likely to result in additional fly parking in the village) but rather that they are directed to the car park as a first point of call. This could be achieved by combinations of:
- Purchase on-line tickets only
  - Pre-purchased tickets validated by a token/punched from an operator at the car park
  - Tickets stamped by visitors at the car park site
  - Tokens collected from the car park site
  - Verification that car parking was utilised by a changing key pad number to gain access into the Manor
  - Photo of car park before entry
  - In that in order to operate the electric vehicles that the applicants are stating they will be using it would appear that a person would have to be in attendance at the car park to manage the electric car as such they could additionally validate the tickets in the car park.
- 5.14 However notwithstanding the multiple suggested alternatives the applicants were unwilling to consider any mechanisms that would result in the ability to actually enforce their stated objectives of reducing traffic through the village as set out in their Transport Plans and elsewhere.. Thus, reluctantly in the absence of an agreed alternative and with the need to ensure that enforceability is retained it has not been possible to broker a compromise position

#### Siting, Design and Form

This matter is not relevant to these applications.

#### Highways

This matter is not relevant to these applications.

#### Residential Amenities

This matter is not relevant to these applications.

#### Conclusion

- 5.15 In conclusion, whilst some areas of the submitted management plan are acceptable, your officers do not consider that sufficient information or detail has been submitted, to overcome the concerns raised by Members.



5.16 With regards to the re-wording of the condition to remove the purchase of tickets within the car park, your officers consider that the condition is fair and reasonable and has been set out in accordance with the NPPF 2018.

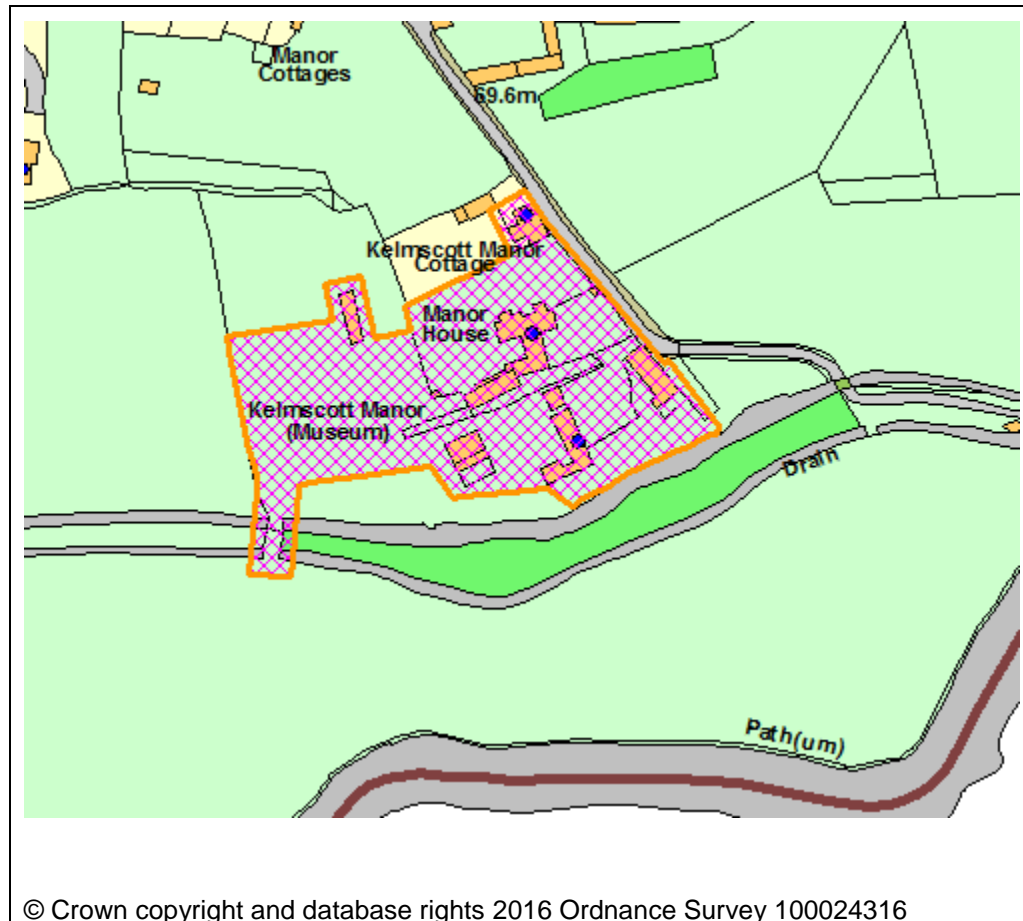
5.17 See planning application reference 19/00495/S73.

## **6 REASON FOR REFUSAL**

I It has not been demonstrated to the satisfaction of the Local Planning Authority that sufficient methods of managing and restricting vehicular traffic to Kelmscott Manor has been submitted, to protect the residential amenities of existing residents and the visual appearance of the Conservation Area. The proposed rewording of condition 6 and the management plan details are contrary to Policies H6 and EH10 of the adopted West Oxfordshire Local Plan and the relevant paragraphs of the NPPF 2018.

Application Number	19/00495/S73
Site Address	Kelmscott Manor Kelmscott Lechlade Oxfordshire GL7 3HJ
Date	8th May 2019
Officer	Miranda Clark
Officer Recommendations	Refuse
Parish	Kelmscott Parish Council
Grid Reference	425096 E 198886 N
Committee Date	20th May 2019

### Location Map



### Application Details:

Variation of condition 6 of planning permission 18/01509/FUL to allow unrestricted use of car park.

### Applicant Details:

Mr John Lewis, C/o Agent.

## **I CONSULTATIONS**

- I.1 Parish Council No Comment Received.
- I.2 OCC Highways No Comment Received.
- I.3 WODC Legal And Estates No Comment Received.
- I.4 Conservation Officer No Comment Received.

## **2 PLANNING POLICIES**

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

## **3 PLANNING ASSESSMENT**

### Background Information

- 3.1 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

Please see the full report under planning application reference 19/00493/S73.

## **4 REASON FOR REFUSAL**

- I It has not been demonstrated to the satisfaction of the Local Planning Authority that sufficient methods of managing and restricting vehicular traffic to Kelmscott Manor has been submitted, to protect the residential amenities of existing residents and the visual appearance of the Conservation Area. The proposed rewording of condition 6 and the management plan details are contrary to Policies H6 and EH10 of the adopted West Oxfordshire Local Plan and the relevant paragraphs of the NPPF 2018.