

Friday, 3 September 2021

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DEVELOPMENT CONTROL COMMITTEE

You are summoned to a meeting of the Development Control Committee which will be held in the Council Chamber, Woodgreen, Witney OX28 1NB on **Monday, 13 September 2021 at 10.00 am.**



Giles Hughes
Chief Executive

To: Members of the Development Control Committee

Councillors: Councillor Jeff Haine (Chairman), Councillor Ted Fenton (Vice-Chair), Councillor Joy Aitman, Councillor Andrew Beaney, Councillor Rosa Bolger, Councillor Nathalie Chapple, Councillor Julian Cooper, Councillor Maxine Crossland, Councillor Meryllyn Davies, Councillor Harry Eaglestone, Councillor Duncan Enright, Councillor Steve Good, Councillor David Jackson, Councillor Richard Langridge, Councillor Nick Leverton, Councillor Dan Levy, Councillor Lysette Nicholls, Councillor Alex Postan, Councillor Carl Rylett, Councillor Geoff Saul, Councillor Harry St John, Councillor Dean Temple, Councillor Alex Wilson and Councillor Ben Woodruff

Recording of Proceedings – The law allows the public proceedings of Council, Cabinet, and Committee Meetings to be recorded, which includes filming as well as audio-recording. Photography is also permitted. By participating in this meeting, you are consenting to be filmed.

As a matter of courtesy, if you intend to record any part of the proceedings please let the Democratic Services officers know prior to the start of the meeting.

AGENDA

1. **Minutes of Previous Meeting (Pages 3 - 6)**
To approve the minutes of the meeting held on 8 February 2021.
2. **Apologies for Absence**
To receive any apologies for absence.
3. **Declarations of Interest**
To receive any declarations from Members of the Committee on any items to be considered at the meeting.
4. **Consideration of Planning application to redevelop the Old Mill, Kingham as a 33 bedroomed Hotel and ancillary facilities (Pages 7 - 38)**

Purpose

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

Recommendation

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

WEST OXFORDSHIRE DISTRICT COUNCIL

Minutes of the meeting of the **Development Control Committee**
held via video conferencing at 12 noon on
Monday 8 February 2021

PRESENT

Councillors: Jeff Haine (Chairman); Ted Fenton (Vice Chairman); Richard Bishop, Owen Collins, Julian Cooper, Maxine Crossland, Marilyn Davies, Harry Eaglestone, Duncan Enright, Hilary Fenton, Steve Good, David Jackson, Nick Leverton, Neil Owen, Alex Postan, Carl Rylett, Geoff Saul and Harry St John.

Also in attendance: Councillors Andy Graham and Dan Levy.

Officers: Phil Shaw (Business Manager Development Management), Joan Desmond (Principal Planner), Andrea Clenton (Salt Cross (Garden Village) Programme Manager), Will Barton (Business Development Officer) and Amy Bridgewater-Carnall (Senior Strategic Support Officer).

8. MINUTES

RESOLVED: That the minutes of the meeting of the Committee held on 21 September 2020 be approved as a correct record and signed by the Chairman.

9. APOLOGIES FOR ABSENCE AND TEMPORARY APPOINTMENTS

Apologies for absence were received from Councillor Langridge and there were no temporary appointments.

10. DECLARATIONS OF INTEREST

There were no declarations of interest from Members or Officers relating to items to be considered at the meeting.

11. UPDATE ON THE OUTLINE PLANNING APPLICATION FOR SALT CROSS (20/01734/OUT)

The Committee received and considered the report from the Principal Planner, Mrs Desmond which provided an update on the progress of the application with regard to technical and public representations received so far and main issues identified when considered against the pre-submission draft Area Action Plan.

The report explained that an outline planning application (OPA) for the new Garden Village (Salt Cross) was submitted in July 2020. The outline application included the means of access and was for a mixed-use Garden Village, comprising; residential (Class C2 and C3), retail, food and drink (Use Classes A1-A5), health and community facilities(Use Classes D1-D2) , hotel (C1), employment use (Use Classes B1, B2 and B8), education provision (Use Class D1), burial ground, public open space with sports pitches together with ancillary facilities, landscaping and associated infrastructure and works including pedestrian and cycle routes.

Members were reminded that this was not a full report but its purpose was to bring them up to speed by setting out the key elements of the application as tabled, the comments received and the areas where it departed from the AAP as currently framed.

It was noted that it would be necessary to await the outcome of the AAP process before any clear recommendations and decisions could be made as it would only be when the Council was aware of the Inspectors findings that officers would be able to test the submission against the “actual/adopted AAP”, as opposed to “tabled” AAP policies as currently framed.

Following two previous rounds of public consultation in 2018 and 2019, the pre-submission draft AAP was formally published for a final period of consultation from 28 August – 23 October 2020. Representations were received from 60 individuals and organisations and at the time of writing, it was anticipated that the AAP would be submitted around the end of January.

In terms of representations, 87 objection letters, six letters of support and 20 representations providing general comments had been received. Representations had been received from various organisations including Eynsham Planning Improvement Campaign (EPIC), Members of GreenTea, Woodland Trust, Wildlife Trust and Eynsham Road Runners.

A summary of the consultation responses received to the outline planning application was attached as Annex I to the report and highlighted gaps in the information submitted which the applicant was seeking to address and identified areas of concern relating to the application.

Table I in the report detailed a number of differences between the OPA proposals and the draft AAP proposals and these were also summarised at paragraph 2.10 of the report.

Mrs Desmond presented the report and answered questions from Members. Queries from those present included;

- The exclusion of land from the outline planning application;
- The number of roundabouts on the A40, access points and crossings provided and how these matched up with other nearby developments;
- The implications if only one roundabout was provided at the western end
- The ridge and eaves height of buildings; and
- How much funding could be provided via S106 monies to improve A40 works

Mrs Desmond reiterated that discussions on the details were ongoing and the examination of the AAP needed to run its course. She noted that the County Council Highways team had raised concerns and that in accordance with the AAP active modes of travel were being encouraged. She reminded the meeting that the site needed to be looked at holistically and discussions regarding the S106 contributions were ongoing.

Members noted the opportunity the report gave them to raise concerns and thanked officers for their work so far. Other areas of discussions included:

- An analysis on the impact of the development on other areas, such as Bladon, with traffic congestion concerns raised about pinch points in the village, in particular Lower Road;
- How the area of land outside the AAP could be protected from future development;
- Heights of buildings and number of storeys and how these could be managed by policy;
- S106 provisions – if feedback could be provided to Parish Councils who may be best placed to appreciate what is covered and what may need amending;
- A desire to see truly affordable homes built using modern methods of construction as they may not be achievable using current methods;

- Potential for Park and Ride provision and use of public transport;
- Land Value Capture;
- The potential for any remaining land to be turned into a nature reserve and wildlife protection;
- The importance of a Community Building to be included at an early stage, as per the Milton Keynes example;
- Thames Water comments and drainage details, which officers advised were available on the website; and
- An update on news of progress with the CCG.

Mrs Desmond addressed the points raised and repeated that all parties needed to wait until the AAP had been judged by the Inspector. She noted that some of the details being discussed were outside the scope of the outline planning application but all options including mix of houses, modes of transport and construction methods were being considered. Members noted that a response from the Environment Agency on additional information submitted was awaited and the provision of healthcare was being looked into.


The Cabinet Member for Strategic Development, Councillor Haine thanked officers for the report and for the opportunity for Members to note progress to date.

RESOLVED: That the content of the report be noted.

The meeting closed at 12.53 p.m.

CHAIRMAN

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 <p>WEST OXFORDSHIRE DISTRICT COUNCIL</p>	<p>WEST OXFORDSHIRE DISTRICT COUNCIL</p>
<p>Name and date of Committee</p>	<p>Development Control Committee: Monday 13 September 2021</p>
<p>Report Number</p>	<p>Agenda Item No. 4</p>
<p>Subject</p>	<p>Consideration of Planning application to redevelop the Old Mill, Kingham as a 33 bedroomed Hotel and ancillary facilities</p>
<p>Wards affected</p>	<p>Kingham, Rollright and Enstone (but with implications for all wards within the Area of Outstanding Natural Beauty)</p>
<p>Accountable member</p>	<p>Councillor Jeff Haine Cabinet Member for Strategic Planning; Email: Jeff.haine@westoxon.gov.uk</p>
<p>Accountable officer</p>	<p>Phil Shaw, Business Manager Development Management Tel: 01993 861687; Email: phil.shaw@publicagroup.uk</p>
<p>Summary/Purpose</p>	<p>To enable the Committee to re-consider the resolution of Uplands Area Planning Sub-Committee to approve the application.</p>
<p>Annex</p>	<p>Annex 1: Updated report in respect of application 20/01165/FUL</p>
<p>Recommendation</p>	<p>That the application be refused, in line with the recommendation in the annexed report.</p>
<p>Corporate priorities</p>	<ol style="list-style-type: none"> 1. Climate Action: Leading the way in protecting and enhancing the environment by taking action locally on climate change and biodiversity 2. Healthy Towns and Villages: Facilitating healthy lifestyles and better wellbeing for everyone 3. A Vibrant District Economy: Securing future economic success through supporting existing local businesses and attracting new businesses to deliver the economic ambitions of the Local Industrial Strategy 4. Strong Local Communities: Supporting and building prosperous and inclusive local communities
<p>Key Decision</p>	<p>No</p>
<p>Exempt</p>	<p>No</p>
<p>Consultees/ Consultation</p>	<p>Consultation was undertaken on the planning application in accordance with usual guidelines and requirements</p>

I. BACKGROUND

- I.1. Members will be aware that under the scheme of delegation there is a provision that allows officers to refer a resolution of one of the sub committees to development control committee for final determination.
- I.2. The relevant provision sets out: Where recommendations on a planning application or proposal are not accepted by the Area Planning Sub-Committee, the right to withdraw the application or proposal for final determination by the Development Control Committee.
- I.3. Officers are mindful of the general principle that it is for Officers to 'recommend' and for Members to 'decide' and as such this right of referral is only exercised very rarely indeed. It has only been used twice previously by the current post holder in the period 1996 to date. However, in this instance, the intended decision to approve was already of concern in that it raised significant policy issues. These concerns were compounded when, on the day following the Uplands meeting, correspondence was received from a third party indicating that procedural and policy flaws were such that if the putative decision were followed through it could be challengeable by way of JR.

In light of the seriousness of the issues raised, and the potential impacts upon the reputation and finances of the Council, officers therefore sought separate advice as to both the planning merits of the case and a legal view on the intended decision. Both of these reports confirmed that the decision as intended and how it was arrived at were potentially seriously flawed/challengeable.

Thus, if the decision were allowed to be issued without the oversight of the full committee it could potentially set a precedent for an interpretation of policy that would not accord with the way the policy is intended to operate, which if allowed to stand would apply District wide (thereby potentially undermining the strategy that sits behind the policy) and which critically would be likely to be unable to withstand legal challenge - thereby involving the Council in considerable abortive legal costs and time and consequent reputational damage.

As such the consideration of the application has been referred to this Development Control Committee such that the parent committee can decide whether the scheme is policy compliant and/or whether there are sufficient material considerations to warrant setting policy aside in a way that will not lead to wider policy and legal implications; or whether the proposal should be refused as recommended

- I.4. Before making their decision Uplands undertook a site visit and the Chair of the committee has requested that Members who have not visited the site similarly undertake their own site assessment before this meeting. In that regard the site is visible from the adjoining roadway and from the public footpath that runs through the site. Any Member undertaking such a visit would need to ensure that all the usual rules in terms of probity and conduct when on site were observed if they are to avoid the risk of being seen to be prejudicially impacted and as such incapable of taking part in the meeting/decision.

2. MAIN POINTS

Relevant Planning Balance

- 2.1. Members will be aware that there is a key general principle set out in law and practice as to how any development proposal should be considered. The relevant advice from the NPPF sets out that the statutory status of the development plan is the starting point for decision making and that where a planning application conflicts with an up to date development plan permission should not normally be granted and decisions that depart

from an up to date plan should only be considered if material considerations in a particular case indicate that the plan should not be followed

- 2.2. In this instance we have a recently adopted Development Plan and a 5 year housing land supply. This in turn means that the policies of the plan have full/maximum weight and the expectation is therefore that where there is conflict with policy the scheme will be refused unless there are material considerations that could justify setting aside the weight of that policy objection
- 2.3. In turn material considerations are defined fairly widely but must be related to the purpose of planning legislation (i.e. to regulate the use and development of land in the public interest). They must also fairly and reasonably relate to the application concerned.
- 2.4. However, what is critical to a proper assessment of this particular proposal is that before these more general balancing exercises are undertaken there is an additional series of tests that must be demonstrated to be passed arising from the location of the site in the AONB and the scale of the development and that, if failed, mean that the assessment identified above does not come into play as the scheme will essentially be 'in principle' unacceptable unless exceptional circumstances apply. The correct balancing exercises are set out in the Officer report appended hereto.
- 2.5. The key wording that gives effect to this balance as set out in the NPPF states:
“ When considering applications for development within National Parks, the Broads and Areas of Outstanding Natural Beauty, permission should be refused for major development other than in exceptional circumstances, and where it can be demonstrated that the development is in the public interest. Consideration of such applications should include an assessment of:
(a) the need for the development, including in terms of any national considerations, and the impact of permitting it, or refusing it, upon the local economy;
(b) the cost of, and scope for, developing outside the designated area, or meeting the need for it in some other way; and
(c) any detrimental effect on the environment, the landscape and recreational opportunities, and the extent to which that could be moderated.”
- 2.6. Whether an application is “major” is a matter for the decision maker, taking into account its nature, scale and setting, and whether it could have a significant adverse impact on the purposes for which the area has been designated or defined. In that regard the NPPF sets out that great weight should be given to conserving and enhancing landscape and scenic beauty in Areas of Outstanding Natural Beauty which have the highest status of protection in relation to these issues. The conservation and enhancement of wildlife and cultural heritage are also important considerations in these areas. The scale and extent of development within these designated areas should be limited, while development within their setting should be sensitively located and designed to avoid or minimise adverse impacts on the designated areas.
- 2.7. It is the combination of this advice that was not considered to be correctly followed as more clearly set out in the report below.

Summary of the Concerns/Issues raised post meeting

- 2.8. Following consideration of the application by Uplands an e-mail was received raising the following issues (in summary)
 - Applicants had not disclosed full land ownership
 - The viability study had not been updated to reflect the current proposals

- The applicants statement that there had been full consultation in the village was not correct
- There is a presumption in the AONB against approving such applications and no economic case had been demonstrated making the decision ultra vires
- The staff transport arrangements were undeliverable
- Service traffic from Daylesford will all come through Kingham
- Is the use sustainable if severed from Daylesford?
- Whilst the chronic car parking problems in the village were mentioned there was no informed discussion and options were variously dangerous, unsustainable, contrary to the duty to ensure adequate parking is available, would impact on the landscape, would adversely affect existing residents unable to park, would need further planning permissions, would affect the CA/AONB, would be illegal
- How will the transport arrangements be sustained?
- The suggestion that if not developed the site would be turned into a housing estate was misleading. There is a presumption against change of use to housing, there is no evidence that the existing use was not viable, if you pay too much for the site that is not a reason to build a larger development, the committee should not be held to ransom and would set an adverse precedent
- The Committee concluded that the size and massing were acceptable in spite of contrary officers' advice and contrary to the AONB requirement for a major development to enhance the landscape. It was misled by a photo-montage that showed the massing in relation to a tree that has already died and been removed (on the NW corner). The officers spelt out the inadequacy of existing landscaping and the lack of space in a crowded development to provide appropriate landscaping. A country footpath is now to go through a car-park overlooked by terraces of cottages/rooms and the hotel facilities. That can only be described as damaging the AONB.
- The Committee ducked the question of sewage disposal and left it to officers. However, the Parish Council has made it quite clear that existing facilities are already inadequate for the village (we have had two separate incidents of tankers blocking the road and pumping out in the past few weeks. Thames Water may consider this acceptable but it is not acceptable to local residents to have sewage in the streets (in Cozens Lane and near the Mill) and thence in to the river system through the brooks. Are the applicants going to pay for new pumping stations at the Mill and in Cozens Lane? Without a suitable agreement the application should not be approved.
- The Officers rightly relied on the presumption against development in the AONB as sufficient justification to refuse the application. To justify allowing a major development the Council has to show it is the interests of the area. There is no reason to assume that more jobs equals the interests of the area. This part of the AONB (Kingham and Daylesford) is already swamped by tourists. The settled residents are becoming yokels on display as tourists look in windows and up driveways; this proposal represents further 'Disneyfication' of the villages. The existing policy clearly needs further refining to show how the proposed economic interests are compatible with a) climate change targets, b) the local community interests so communities are not hollowed out, c) any extra employment is matched by housing and infra-structure contributions. Allowing a major development without any contribution for the local community or schools, or any

extra housing or accommodation for staff, or adequate parking for local staff, seems perverse.

- There is no need for any Daylesford vehicle to be on the path at the Kingham end of it. They appear to be trying to establish a vehicle right-of-way to the detriment of footpath and bridleway users. West End, a quiet cul-de-sac in which children play, with cars parked on both sides of the road has a pinch-point bend where it joins West Street. The idea that this should be turned into a vehicle route from the Mill and Wild Rabbit to Daylesford is totally against the interests of the settled residents of Kingham. To use Section 106 money to benefit the applicant's interests seems illegal.
- Seeking advice as to the Council's powers to ask the Committee to review the matter or whether the options are for locals (perhaps led by the Parish Council) to appeal the decision or seek judicial review. Confirm that a group are prepared to back the Parish Council (or take independent action) in seeking a judicial review should a decision as currently approved by the Uplands Committee be ratified.

3. PLANNING REPORT

- 3.1. In light of the threatened JR separate Planning and Legal advice was sought. This examined the case put by the applicants, the officer report and the minutes and determined that there was no evidence that the committee had found reason that the scheme was not a major development and the only reference to what "exceptional" reason may justify an approval in such circumstances was that there was a pandemic. In that regard no appeals were found that approved development on that basis although one was found that advised the need to promote economic development as a result of the pandemic "*did not justify allowing harmful development.*" The apparent consensus of the committee that if refused it would mean the site would be developed as a housing estate "*lacks the weight attached to the policy position relating to major development in the AONB and the rationale as to why they set aside the policy requirements.*" No public Interest justification had been raised and "*the Upland Planning Committee in setting aside the advice of the Officers then failed to make it clear what their planning reasons and material consideration were in reaching a contrary decision and over-turning the officer recommendation, nor did they set out how they had applied weight to particular considerations in the context of a presumption against major development in the AONB.*"
- 3.2. The report concluded that the courts will make an assessment on the soundness of this decision on the basis of what a reasonable decision maker, properly directed, knowing the relevant facts would have done in reaching a decision. On the basis of the lack of a clearly justified sound planning reasons for their decision it is questionable that the decision is properly made and as such puts the Council at risk of a legal challenge.

4. LEGAL REPORT

- 4.1. In light of this finding legal advice was sought. This supported the conclusions above advising that "*that the Council is at risk of an application for a Judicial Review of the Committee's decision made on the 26th of July..... The grounds upon which an application could be made are that the Committee:*
1. *Misdirected itself in law – I believe that this is a potential ground as both the Officer's Report and the advice from the Business Manager – Development Management was extremely clear about the legal position in terms of the major development in the AONB and that permission should not be granted unless there were exceptional circumstances which, in this case, there were not;*

2. The Committee's decision was irrational in that it took into account irrelevant matters and failed to consider relevant matters in reaching its decision.

- 4.2. *Additionally the draft Minutes do not incorporate the Committee's reasons for its decisions. As there is no recording of the meeting it will be difficult to assess whether reasons were discussed and just not noted in the Minutes or that there were simply no reasons for the decision at all. In both cases the Council is not assisted and is further exposed to the risk of a legal challenge."*

Planning Assessment and Summary

- 4.3. AONB policy is deliberately and consciously designed to give the highest status of protection and to limit the scale and extent of new development. In that regard it sets a series of hurdles that need to be jumped before any such development can be allowed. Critical amongst these are the "major" test and the "exceptional" test. These are rehearsed in more detail in the appended and updated Officer report appended to this report. However, for clarity, your officers overall assessment is as follows:
- 4.4. Applying the tests of the NPPF your officer's conclusion is that there is no practical doubt that this is a major development. Looking at its nature (busy commercial operation in a relatively small village on a largely greenfield site) scale (buildings and circulation space substantially in excess of what is there presently) and setting (loss of openness, views from road and footpath) and whether it could have a significant adverse impact on the purposes for which the area has been designated or defined (not conserving and enhancing landscape and scenic beauty of Area of Outstanding Natural Beauty nor conserving and enhancing wildlife and cultural heritage) it is clearly in and of itself a major development. To argue otherwise risks setting the bar at a very high level in regards to which other developments may not be considered major (would 40 or 20 or 10 houses thus no longer be major?) and undermining the principle that in the AONB development should be limited and major development refused except in exceptional circumstances. It is noteworthy in this regard that the Planning Policy Manager also specifically identifies in his consultation response that this is a 'major' development.
- 4.5. Once it has been determined that the scheme is major the tests of exceptionality must be assessed and passed. The Covid situation has been looked at elsewhere at appeal and determined not to provide such a justification. The appended report runs through the need for it to be in the public interest, which again as identified earlier in this report includes assessments of the need for it and economic impact, the potential to meet the need outside the protected area and the harms and opportunities arising. As set out above, any assessment of these factors would need to be demonstrated (not merely implied or assumed) to the extent that to be considered sound the decision is one that would be reached on the basis of what a reasonable decision maker, properly directed, knowing the relevant facts would have done. The appended report sets out the reasons why Officers consider the relevant test are not met here.
- 4.6. The final factor relates to the previous planning decisions on the site. The history of the site is clearly material - but is not determinative. Valid planning permissions are a relevant fallback position that can be implemented were the current consent not to be implemented. However they have been determined to be in accordance with the relevant tests as applied when they were approved and so claiming 'betterment' (ie that by allowing application A it will stop application B) is problematic as it pre supposes that B is in some way harmful - when the fact is that it secured planning permission. It also needs to be recognised that the law and policy as regards AONB and other protected areas has evolved considerably over recent years (e.g. causing the need to remove the housing allocations in the AONB as part of the last local plan process) Thus merely because a permission was granted in the past does not mean it would be granted today; as different

circumstances/policies/legal tests may apply. That is particularly the case for expired consents (which the applicants are claiming should be counted in an assessment of whether the scheme is bigger than what has previously been approved) Clearly these expired consents can no longer be implemented and indeed may not secure consent again if re applied for as policy has strengthened and additionally they may not have been acceptable in their own right if all built out together. The presence of expired consents is also not considered exceptional as it will apply to many commercial sites that have been subject to development proposals over the years.

- 4.7. Officers are not arguing that this is a terrible scheme. Indeed they have worked with the applicants over a long period to seek to get the application into its best possible state. This has however always been underwritten by the fact that the scheme was a major development and as such the applicants needed to demonstrate that the exceptional tests were passed or to reduce the scale to that which could reasonably be classed as not being major. They have not, in your officers' assessment, been passed, the scheme is of major scale and impact and as such refusal is recommended.

5. FINANCIAL IMPLICATIONS

- 5.1. Were the decision to be issued and then successfully challenged it would likely give rise to considerable legal and other costs

6. LEGAL IMPLICATIONS

- 6.1. Approval of schemes where it is considered that the correct legal balances have not been correctly applied could be subject to Judicial Review and the advice received in this case is that the putative decision is at risk of such a challenge

7. RISK ASSESSMENT

- 7.1. The key risks are with regard to the legal and other costs and the ongoing ability of the adopted local plan to guide and restrict development in accordance with the strategy that underpins it if a level of development not demonstrably proven to meet the relevant legal and policy tests is approved

8. CLIMATE CHANGE IMPLICATIONS

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

9. ALTERNATIVE OPTIONS

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

10. BACKGROUND PAPERS

- 10.1. The following documents have been identified by the author of the report in accordance with section 100D.5(a) of the Local Government Act 1972 and are listed in accordance with section 100 D.1(a) for inspection by members of the public: **Application reference 20/01165/FUL and associated papers.**
- 10.2. These documents will be available for inspection at the Council Offices at Elmfield during normal office hours for a period of up to four years from the date of the meeting. Please contact the author of the report.

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Application Number	20/01165/FUL
Site Address	Mill House Hotel Station Road Kingham Chipping Norton Oxfordshire OX7 6UH
Date	1st September 2021
Officer	Joan Desmond
Officer Recommendations	Refuse
Parish	Kingham Parish Council
Grid Reference	425911 E 223437 N
Committee Date	26th July 2021

Application Details:

Redevelopment of site to provide a new 33 bedroom hotel and ancillary facilities including restaurant, spa, gym, swimming pool, alehouse, bakehouse, and servicing together with associated parking and landscaping and reinstatement of former mill leat. (Amended plans and description).

Applicant Details:

The Mill
c/o agent

I CONSULTATIONS

- I.1 Major Planning Applications Team Archaeology - Objection for the following reason - The results of an archaeological evaluation will need to be submitted prior to the determination of this application in line with the National Planning Policy Framework (2019), paragraph 189.
- I.2 WODC Landscape And Forestry Officer
1. Much reliance is placed within the assessment work on the function of the hedgerow growing along the north-eastern boundary as a visual barrier to mitigate the impact of the proposed development in views from within the Conservation Area and expansive views across the wider AONB landscape to the south. However, the detailed layout and mitigation proposals illustrate that due to its close proximity to proposed buildings, and the components of the hedgerow itself, it would be considerably affected by those works. This would lead to it being much less effective at its intended purpose in the short and longer term.
 2. The close proximity of development to this vegetation leaves little room for construction activity and would lead to poor relationships between the new buildings and uses and this important vegetation. Notably, in relation to the prominent Oak tree (T52) which would be put at considerable risk. Whilst the Landscape Strategy drawing indicates 'Enhanced boundary screening to mitigate impact of proposed development' in practice there would be little room available in which new tree and hedgerow planting could mature into and reach sufficient scale to contain the development within a strong landscape structure.
 3. The prominent row of mature ash trees growing along the western boundary are a characteristic feature of the surrounding landscape. However, the proposed layout sites car parking, an access road and housing immediately adjacent to them and well within the minimum recommended root

protection zone. Despite the fact that special 'no-dig' techniques are said to overcome this it is highly questionable that this would result in a satisfactory relationship, even if the trees were to survive the pressures of construction activity. It should be noted that due to their current physical condition and the continued spread of Ash Dieback disease their future is far from certain and their potential absence in the landscape should be taken into account as part of the overall visual assessment of the proposals.

4. In addition to the complications along the north-eastern boundary the landscape framework is quite weak at the point where the proposed development abuts the Conservation Area boundary along Station Road. Whilst a continuation of the existing roadside hedgerow is proposed there is little space for additional tree planting to soften the visual impact of this area and to help set the complex as a whole within a strong structure. Some tree planting is identified but conflicts with proposed car parking which would also be prominent in itself in this sensitive location for some time, until new planting had time to mature. It would appear feasible to relief pressure here, and along the main access road adjacent to the Ash trees, if all parking which is currently squeezed against the hedgerow were re-located to a landscaped courtyard within the open centre of the site.
5. In order to improve the appearance of the street scene around the existing access points there is an opportunity to consolidate the two entrances to one with good vision splays and turning arrangements. This would allow existing native species hedgerows to be linked up across the site frontage resulting in a smarter and less cluttered appearance.
6. I think there has to be some doubt about the feasibility of retaining many of the existing trees shown to be retained along the access drive (G30,G31 and G32). These look to be sited within a new footpath. Whilst clearly not all these trees should be seen individually as a major constraint the loss of many of them would remove a large amount of Day 1 greenery which may have a bearing on the overall assessment of the visual impact of the scheme. Note also the proposed location of a new foul sewer running about 1m parallel to the trees shown to be retained as shown on the proposed Drainage Strategy drawing.
7. If the scheme is to be approved I suggest conditions are required to bring together the various landscape and environmental components into one plan which can be detailed alongside ecological and drainage measures etc.

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|-----|-----------------------------|--|
| I.3 | ERS Env. Consultation Sites | I have looked at it in relation to contaminated land and potential risk to human health. The information submitted with the application suggests that no fuels or potentially contaminating substances have been stored at the site and while I have no major concerns in relation to the land and the proposed development, I see that there is a charcoal yard present and a number of storage containers within the yard. Given the size and nature of the development please consider conditions relating to potential contamination to any grant of permission. |
| I.4 | WODC Business Development | No response received to date. |
| I.5 | Parish Council | Overall, the Council welcomes the proposal to develop this site, and has no wish to see the site decay. Its redevelopment as a hotel is |

appropriate and there are many features to commend it. Other developments locally by Daylesford have been tasteful and ecologically sound, and their approach to this one is similar. We do, however, have significant concerns which should be addressed before any permission is granted.

1. **Scale** This is a major development and the number of units is roughly double that of the previous hotel. Most of the development is on the field adjacent to Station Road, which has an existing planning permission for five houses, so 46 units is substantially denser than that. The NPPF (2019), paragraph 172, states that, for developments within an AONB, "Planning permission should be refused for major development other than in exceptional circumstances, and where it can be demonstrated that the development is in the public interest. Consideration of such applications should include an assessment of:
 - a) the need for the development, including in terms of any national considerations, and the impact of permitting it, or refusing it, upon the local economy;
 - b) the cost of, and scope for, developing outside the designated area, or meeting the need for it in some other way; and
 - c) any detrimental effect on the environment, the landscape and recreational opportunities, and the extent to which that could be moderated."The scale is large in relation to a small village (Kingham has only about 350 houses) and hence is a "major development" as defined by NPPF. It will generate significant problems in relation to traffic, parking, sewerage etc. (see below). A reduction in size would make it a more acceptable development (as well as making it a more "boutique" hotel).
2. **Parking** This appears to be inadequate with 53 spaces for 52 bedrooms (there are 46 units, but six have two bedrooms). There is thus little or no space for staff parking and effectively none for visitors either to the guests, or coming to use the hotel facilities (see paragraph 5 below). In addition, there will be service staff for maintenance of the hotel facilities (plumbers, electricians, etc). The Design and Access Statement (p23) mentions "reducing as much as possible the car parking spaces on site by implementing a minimum care use access strategy with (i) an electric shuttle bus linking the Railway Station, the centre of Kingham and the Daylesford Farm; (ii) off site car parking and valeting service; (iii) ample provisions of bicycles." There is little real discussion as to how this would work and how staff would travel and the Transport Statement (p8) is no clearer. Despite the laudable attempts to encourage visitors to come by train, many will want to visit local sites (Blenheim, Stratford, other villages etc.) so will want a car accessible. Whilst we welcome the opportunity for more local employment, inevitably many staff will come from other villages, Chipping Norton etc, and locally, public transport is poor. There needs to be a clear statement as to how staff will get on site (eg park on the main Daylesford site and be bussed down). The parking issue illustrates all too clearly the problems of a development on this scale on a relatively small site. It is noteworthy that in the "Hotel Viability Assessment", the comparator hotels are all on much larger sites.
3. **Traffic** We are concerned about the impact on traffic through the village. The Transport Statement (paragraph 4.5)

proposes a shuttle bus between Daylesford, the Mill House and the station, which would also be available to local residents. This is obviously welcome and would tend to reduce traffic but would need to be backed up with a timetable and a commitment that it would run indefinitely with any timetable changes being agreed with the Parish Council. Despite this, we have concerns about the total impact on traffic. For example:

- a. table 5.2 in the Transport Statement predicts for the hotel an additional 236 vehicle movements per day which, given that most would be between 8am and 8pm, amounts to one movement every three minutes, although one of their comparator sites (appendix 5) is a B&B in Arbroath, which to our certain knowledge is a very different environment to a village in the Cotswolds, so their figures are probably an underestimate.

In addition, the Parish Council has recently undertaken a traffic survey (along Station Road, next to the playing field) in which it was clear that the peaks are approximately 7.30am to 9.00 am, and 2.30pm to 5.30pm. The 85 per centile speed was 32mph and there were approximately 775 trips each way every weekday, thus there would be a significant increase in traffic.

- b. on deliveries, the Transport Statement (p8) says: "All deliveries (and refuse) for The Mill will be delivered and stored at Daylesford Organic Farm, located approximately 3.2km (2 miles) to the northwest of The Mill, which is also within the applicant's ownership. Stock will be transported from the nearby Daylesford Organic Farm site to The Mill in smaller delivery vehicles as and when required. CEC Plan 6855/SPA/202(B): [Swept Path Analysis - Delivery Vehicle] included within Appendix 1, shows the swept path for a 4.6t light transit van delivery vehicle, which is the maximum size of delivery vehicle anticipated to service the proposed development. The aforementioned plan demonstrates the manoeuvre for delivery vehicles accessing the site from Station Road, routing to and turning adjacent to the proposed loading/unloading delivery area at the back of house building and egressing the site." This arrangement is confirmed in the Design and Access Statement (p20, section 7). Whilst this is welcome in terms of avoiding a large number of delivery vehicles driving through the village, there is not attempt to quantify how much traffic would be generated by this light transit delivery vehicle - would it be travelling more or less continuously during the working day?

4. Effluent and Sewerage This is mostly covered in the "Flood Risk and Drainage Strategy" (FRDS).

- a. Surface water We have concerns about this. The FRDS states that the buildings will be within flood risk 1 area which we accept, but the lower parts of the site (including the car park) are within flood risk 2 (annual risk of flooding between 0.1% and 1%) - we suspect that this underestimates the risk since they mention the 2008 flood without mention of subsequent flooding which has occurred since. They do, however state (paragraph 3.19) that in the event of a surface water flood the parking areas might be

involved. The car owners deserve more reassurance than they seem to provide.

- b. Foul water Paragraph 4.18 of the FRDS states that foul water would be discharged into the existing public sewer and that there will be discussions with Thames Water. Thames Water indicated that the recent building of Bury Road houses could be accommodated within the existing system, but residents of both Field Road and Station Road (living in the house opposite the Mill House) say that they smell of sewerage and the risk of back flow have increased and despite complaints over many years, Thames Water has not resolved the issues.

We recommend that discussions with Thames Water occur prior to permission being given and that a joint robust plan to deal with the sewerage issues is developed before the development is permitted.

5. Access There needs to be clarity on whether the hotel would be entirely restricted to guests or whether and which parts would be open to non-residents. The Transport Statement (paragraph 5.6) states, "The development proposals also include a restaurant (80 covers), ale and bake house, spa, gym and swimming pool. All of these proposed uses will primarily be ancillary to the proposed hotel for the primary use of guests staying in the hotel. As such, these proposed uses are unlikely to generate a significant volume of vehicle trips in their own right." The Planning Statement (paragraph 9.40) says, "The bake and ale house will be open to local residents, providing alternative and expanded retail and public house facilities to those existing in the village." The Hotel Appraisal (p32) implies that the spa would be for hotel guests only but "in a similar vein the restaurant should compliment (sic) the holistic nature of the resort and can serve not only as the dining point of convenience for hotel guests but also a dining option for day visitors and the local community." The hotel could make a very real contribution to the local community and we would suggest that there be a clear commitment that the bake and ale house as well as the restaurant are open to local residents and that consideration be given to opening the spa and pool to local residents, perhaps on a membership basis.
6. Staff As previously stated, we welcome the employment opportunities that this hotel will offer. From the documentation, we are uncertain how many staff will be required - the Planning Statement (paragraph 9.59) says 33, the Hotel Viability Assessment (p48) says 80. We have little expertise in this area, but suspect it will be closer to the latter figure. Clearly most will not be existing Kingham residents (albeit hopefully some will), but they will have to live in the area. Daylesford already owns a considerable number of properties in the village, either as supplementary accommodation for the Wild Rabbit or staff accommodation. Given that there are also many second homes in Kingham, the lived-in character of the village that is the attraction for visitors (including those coming to the Daylesford properties), is endangered. We therefore hope that the Daylesford Estate could enter into a dialogue with the village (through the Parish Council) to address the very real problems of finding affordable accommodation for their staff.

		7. Construction This will be a major construction site and will need a detailed construction plan. We are pleased to see a commitment in the Transport Statement that all construction traffic should be directed to enter the village from the south and so avoid the centre of the village. From experience with previous construction sites within the village, we would wish that there was a clear plan as to how this will be policed as well as a clear commitment that all construction traffic will park on-site (Station Road is entirely unsuitable for parking on). Even with this traffic plan there would be significantly increased traffic through other villages (eg Churchill and Bledington) and this would need to be managed.
1.6	Cotswolds Conservation Board	<p>Unfortunately, the Board does not have capacity to comment on this planning application at this time.</p> <p>This should not be taken as an indication that the Board does not consider that the proposed development would have any adverse impacts on the Cotswolds AONB.</p> <p>In making your decision on this planning application, please have regard to:</p> <ul style="list-style-type: none"> • The statutory duty of regard (S.85 of the Countryside and Rights of Way Act 2000) • The policies of the Cotswolds AONB Management Plan 2018-2023 • Relevant guidance and position statements published by the Cotswolds Conservation Board.
1.7	WODC Env Health - Uplands	There is no noise assessment of mechanical plant (HVAC) or kitchen extract noise and and no assessment of the filtration methods to abate commercial kitchen cooking odours. Some commentary on both would be very useful to inform a consultation response. Could this be requested?
1.8	Biodiversity Officer	Further information is required.
1.9	Thames Water	No objection subject to conditions.
1.10	Environment Agency	<p>Object - In the absence of an acceptable flood risk assessment (FRA) we object to this application and recommend that planning permission is refused.</p> <p>We object to the proposed development as submitted because it involves the use of a non-mains foul drainage system but no assessment of the risks of pollution to the water environment has been provided by the applicant. We recommend that planning permission should be refused on this basis.</p>
1.11	Newt Officer	Further information is required to assess the potential impacts of the proposed development on great crested newts (GCN).
1.12	Major Planning Applications Team	LLFA - Drainage aspect will be reviewed thoroughly during Discharge of Condition stage.

They are trying hard to get what is a considerable amount of development on this somewhat constrained site, and from our point of view each iteration has been an improvement - although this remains a very significant intervention. Anyway, with respect to the latest proposal:

- The reception building is now lower-lying, and has a cleaner form, with a simple slated roof. It is now better related to the historic mill, and appears much more secondary. It is certainly an improvement on their previous thatched structure - and an improvement on the existing building on this part of the site, in my view.
- The ale house/bake house/restaurant is also now lower - not greatly, but giving a better relationship with the eaves of the historic mill. And the glazing to the prominent south elevation has been reduced by around a half. Again, this is an improvement on their previous proposal - and in my view it is now arguably an improvement on the existing buildings on the east side of the historic mill - which are sizeable and very prominent.
- The car parking has now been split between the area near the reception building, and the core of the development. In my view it would have been preferable to locate all of the parking to the north of the reception area - but this is certainly an improvement on the previous proposal. And it is also an improvement on the current car parking arrangement, which occupies a much larger area to the south of the historic mill, very prominent to the road.
- With respect to the development in the north part of the site, I note that the buildings to the west of the spine road have been omitted to make way for the relocated car parking - but the accommodation has been added to the north and south returns of the western range. The extended north return will impact on views from the southern boundary of the conservation area - although there will now be less new development beyond. The extended south return is folded back into the site, and will perhaps be largely concealed by the western range in views from the road to the west.

Anyway, in summary, with respect to the impact on the historic mill and the south part of the site, I think that with the replacement of the existing accretions to the east and west sides of the mill, and with the reduction in the parking area here, there is arguably a net gain - both for the historic mill and its immediate setting. With respect to the impact on the north part of the site, and in particular on views from the southern boundary of the conservation area, it is difficult to be sure - it would be very helpful (if not essential) for us to have accurate perspective views of the proposal from the southern boundary of the conservation area.

We wish to further comment on the above proposal which has been modified.

1. We regret that the developers of this major proposal have not made any significant attempt to engage with the village or Parish Council. We accept that the pandemic regulations have made this more difficult, but in the 15 months since they were introduced, most organisations have found ways to engage within the regulations. Since the first plans were submitted, they have been substantially modified but nowhere is there a convenient summary of the main changes.
2. Overall, the Parish Council remains supportive of a proposal to develop an hotel on this site since we do not wish to see it remain derelict and welcome the employment

- opportunities it might provide. It must, however, be of an appropriate scale in relation to the site (and the village).
3. We welcome the reduction in the number of rooms but do not understand why the reduction has been made within the site rather than on the Station Road side. Reducing the buildings on the Station Road side would have made it less obtrusive for the other residents of Station Road and reduced traffic noise for the hotel residents. The "gardens" for the rooms would also face west which is probably a more desirable aspect. In addition, it would probably provide more space for parking (see later). It is still a substantial development and a further reduction in scale would be welcomed.
 4. Parking remains a major unanswered concern. OCC in its comments confirms that most visitors will arrive by car. With 33 bedrooms and 41 parking spaces, even assuming only one car per bedroom that allows only 7 spaces for staff, tradesmen, other visitors etc. There is no capacity for off-street parking so more spaces are needed (or, as suggested above, a reduction in the number of bedrooms). Daylesford do not have a good record on parking for their other establishment (the Wild Rabbit) in the village, with an apparently unauthorised reduction in the number of spaces on site and an increasing number of cars being parked in the centre of the village.
 5. Staffing. The hotel will need a substantial number of staff. There is no discussion within the submission as to how they will get to work and where they will live. Daylesford did own properties in Kingham which housed staff from the Wild Rabbit. We understand that many of these have now been converted into cottages to let in association with the Wild Rabbit (they currently advertise 9 cottages sleeping up to 34 guests). There has not been any formal planning application for this change of use, especially as it means there are more visitors' cars and the staff have to travel further to work.
 6. S106 monies. The preference of the Parish Council was for a pedestrian route across the railway bridge to the station. This is not supported by OCC. We would be supportive of some improvement of the bridleway from the Kingham to Daylesford (it is very subject to flooding) but it should remain only for pedestrians (and horses), except for access to the fields by farmers. We would oppose its upgrading for cycles or any other vehicles since this would make it hazardous for pedestrians. In addition, S106 are supposed to provide benefit to the village - upgrading the bridleway would benefit the applicants (Daylesford) but be of no direct benefit to the village and indeed would be deleterious by increasing traffic along West End.
 7. We still have concerns regarding sewerage etc. and do not share the confidence of Thames Water that the present facilities are adequate. We would suggest that any permission to build should include a condition that the sewerage arrangements are reviewed within a year of the hotel opening and Thames Water are held responsible for correcting any shortfall in capacity.

I.15 Biodiversity Officer

Following on from my previous comments on the above planning application (application no. 20/01165/FUL), I have reviewed the BNG Assessment (prepared by ADAS and dated March 2021), alongside the metric calculations, as well as the amended Preliminary Ecological Appraisal (prepared by ADAS and dated July 2019) and Ecological

I.16 Environment Agency

The amended details satisfactorily address our earlier concerns. Subject to recommended conditions, we therefore withdraw our previous objections. Our previous objections related to increases in flood risk and lack of detailed information on foul sewer network capacity.

The updated Flood Risk Assessment (FRA) is supported by detailed fluvial modelling. Due to characteristics of the development site and the development being proposed, we have taken a decision in this individual case that it is not necessary for us to undertake a detailed review of the hydraulic modelling.

We are satisfied that the FRA has considered the likely impact of increased flood levels as a result of climate change and that the built development being proposed lies outside of the 1% annual probability flood extent with a 35% allowance for climate change and therefore no loss of floodplain storage is expected. The bridges that were previously proposed to cross the Cornwell Brook have been removed from the submitted plans which further reduces the risk of flooding both to and from the development site.

The FRA also includes details of Thames Waters' confirmation that there is sufficient capacity in the foul network to receive foul drainage from this development.

I.17 Major Planning
Applications Team

OCC Highways - No objection subject to legal obligations and planning conditions as detailed in the county council's original response.

LLFA - No objection subject to conditions

I.18 Conservation Officer

This latest amended scheme is certainly the most promising yet, with a somewhat reduced amount of new building - although it remains a very significant development in a somewhat sensitive location. Dealing first with the impact on the historic mill, I think that stripping away of the various accretions is very much to be welcomed, as is reinstatement of the mill leat. I also think that the proposed new additions are along the right lines, with main addition being set to the north. However, in my view the thatched reception building is too tall - the ridge being higher than that of the mill - and it needs lowering considerably. I also think that the ale/bake house is too tall - and in addition its tall and long glazed south-east elevation will be prominent day and night in views from the south. Also in fairly close proximity is the sizeable spa building, although now somewhat lower, and making less of an impact than previous iterations.

Turning to the wider site, I note that the built development has been kept away from the lower riverside land, which is to be welcomed - although the car park remains to the south-west of the mill and prominent - and I still think that this should be set within the built development to the north, reducing the urbanising effect. The proposed development along the west boundary to Station Road is of two storey, with neo-cottage forms, and it arguably equates to the approved dwellings here. However, it returns parallel to the recreation ground at the north end, and returns into the site at the south end, where there is a further sizeable 'V' plan range - again of two-storey neo-cottage form. Arguably, it is this development in the

core of the site that is most problematic, tending to urbanise what is currently a largely open area.

So, I would tend to diverge from the HS conclusions below. With respect to the historic mill, I think that as currently proposed the scheme replaces one set of compromising additions with a new set – although if the proposed buildings were significantly lowered, and the south-east facing glazing mitigated, as above, I think that the change might be supportable, subject to details. With respect to the impact on the CA and the wider area, accepting that buildings have been approved along the west boundary of the site, it nonetheless seems likely that the proposed buildings within the site would be transformative of the largely rural views from the south boundary of the CA to the south, and of views towards the CA from the southern approaches, and across the river valley.

- I.19 Cotswolds Conservation Board I have still not had capacity to provide a full response to this consultation. As the next few weeks are looking very busy, I now doubt if I will be able to provide a full response.
- I.20 Cotswolds Conservation Board In reaching its planning decision, the local planning authority (LPA) has a statutory duty to have regard to the purpose of conserving and enhancing the natural beauty of the National Landscape.² The Board recommends that, in fulfilling this 'duty of regard', the LPA should: (i) ensure that planning decisions are consistent with relevant national and local planning policy and guidance; and (ii) take into account Board publications.
- I.21 WODC Planning Policy Manager Based on the above, the current proposal (which I note is a scaled down version from the original 46 bed hotel) constitutes major development in my opinion and the resulting impacts remain significant.
- I.22 Biodiversity Officer Recommend conditions and informatives.
- I.23 Major Planning Applications Team
OCC Highways - Objection for the following reasons:
• Evidence is required to demonstrate that large emergency vehicles can safely enter and turn within the site, reaching within 45m of the entrance of every building. Without this information it has not been demonstrated that the development provides safe and suitable access, as required under the NPPF, and the county council must object to the application.

LLFA - Objection. Key issues:
None of the comments addressed in the previous submission have been taken into account in the new submission.

County Archaeological Officer - Objection for the following reason:
The results of an archaeological evaluation will need to be submitted prior to the determination of this application in line with the National Planning Policy Framework (2019), paragraph 189.
- I.24 WODC - Arts Should this proposal be granted planning permission then the Council would favour the following approach:
An S106 contribution of a minimum of £41,530 towards artist-made signage and interpretation tools to aid public access to the public rights of way on site, and public footpaths connecting the site to the wider village and transport infrastructure.

2 REPRESENTATIONS

2.1 Full details of all representations received can be found on the Council's website.

2.2 Fifty three letters have been received objecting to the application, a summary of the objections raised are provided below:

- Inappropriate size and scale
- Shuttle bus service would be of limited use
- Increasing demands on infrastructure such as waste and sewage disposal and flooding risk
- Community will become more transient
- The village is not big enough to have a hotel of this size and all of traffic which would be using it.
- Increase in traffic will affect Kingham and other villages
- lack of on-site parking
- Noise concerns
- Ecological and historical negative impacts
- Over intensification of the use of the site
- Very dense and intense development of an area of land which is not big enough to accommodate so many units without there being a significant impact upon the surrounding area and the village. The previous development that allowed for detached dwelling houses represented a much more acceptable proposal in keeping with the village identity of Kingham.
- There will be an inordinate influx of people directly to the proposed development based upon the facilities offered, but there will also be a movement within the village between those units of accommodation and establishments as well as those outside the village which will have an impact upon the infrastructure serving the village and affect the amenity and enjoyment of the permanent residents of Kingham.
- Loss of amenity due to noise and traffic
- Contrary to NPPF as major development in the AONB
- Not established a need or benefit to the local community
- Design Concerns as unacceptably high density and over-development of the site
- Road safety concerns
- Harmful to character of the village
- The new hotel is likely to add to the amount of housing stock used to house staff, thus reducing the local resident numbers even further. The overall impact of the housing used for hotel guests plus the housing used for hotel staff plus the second homes, means the number of houses lived in by permanent residents is small and decreasing. The proposed development is likely to increase this problem, damaging further what was once a lively and thriving village community.
- Concern relating to access to the public footpath while construction work is in place
- Will not protect and enhance this important part of the village
- Purchase of cottages by Daylesford interests for holiday accommodation leading to congestion and parking problems. More cottages that were previously used for staff are now being emptied. We are told these staff cottages are also to be converted to holiday cottages. The overall effect of all this on Kingham village is sadly negative.
- several major instances with sewage problems in the village. Until Thames Water get a grip on pumping capacity so they can guarantee there will no longer be overflows into the brooks from West End/Cozens Lane, and from the Mill Hotel pumping stations, no further development should be allowed.
- One of our major concerns about the plans last summer related to lack of onsite parking and staff accommodation. We cannot see that the revised plans have addressed those concerns at all.
- The current application is clearly only a small part of the scheme envisaged in the feasibility study. The plans do not detail all the land owned by the applicants.
- There can be doubt that the development being proposed of a 33 bed hotel still constitutes a major development on the edge of Kingham and in the AONB. It should therefore be rejected. The only grounds for accepting it would be if the development met a local need. It clearly does not do that. Kingham and area are already suffering from the effects of too many hotel and self-catering beds; the area does not need more. There is already a shortage of staff, made worse by the loss of European staff, and the proposals will compound that

problem. This is bad for other local businesses in hospitality (all facing staff problems) and for care homes and social services, all also struggling to recruit. The proposals do nothing to alleviate the problems for housing demand by creating lots of new jobs with no provision for staff accommodation or parking.

- We have noted the objections on environmental and archaeological grounds, none of which are addressed in this new application.
- Oppose improvement to bridle path for vehicles from Daylesford to Kingham. Should remain a footpath only.

2.3 Ten letters of support received, summarised below:

- The existing property at The Mill is derelict and falling apart and has been somewhat of an eyesore on the landscape for a long time now. Kingham is indeed lucky to continually enjoy the interest of the Bamford Family who bring valuable and sensitive development to this part of the world and generate much-needed sustainable employment and high-value tourism with its significant economic multiplier impact which will bring employment and new spending benefits the area.
- The design and layout of the proposed development will blend in with the village
- Adequate parking appears to have been provided and the site is easily accessed and located outside the centre of the village of Kingham (and close to the station) and should thus have a low level of impact on the traffic in this area.
- Landscaping proposals thoughtfully conceived and will enhance the built form of the development and upgrade the site substantially from the current state of neglect and disrepair.
- For this proposition to be viable, one needs to develop the number of rooms that have been applied for, along with the other attractions that will make The Mill development a destination that will attract the support and customers looking for a high-quality experience that does not currently exist on a viable scale in Kingham and surrounds.
- In this terrible post COVID-19 environment that we are entering now, it is my firm belief that we desperately need the job creation and economic stimulus that such a development will contribute to this region.
- The free electric bus service to the station from Daylesford via the Mill House is welcome
- Creation of a greenway would maintain and enhance the success of NCN 442, securing its benefits for the local economy
- In order to be viable, the hotel would need to open the once fine dining and wedding facilities to non residents, thus bringing in finance to the community.
- Employment opportunities

2.4 Three letters have been received making general comments including a number of queries relating to additional land ownership and potential further expansion proposals and other matters such as provision for staff accommodation and parking and the wish for the track between Daylesford and Kingham to be kept free of any vehicles.

3 APPLICANT'S CASE

3.1 The submitted Planning Statement concludes:

3.2 The principle of redeveloping the site for hotel and associated hospitality uses is acceptable in policy terms and given the site's existing hospitality use and previous planning permissions for the expansion of the hotel.

3.3 It is not considered that the proposal constitutes major development in the Cotswolds AONB, given the existing and consented uses and built form of the site, the scale of additional development proposed and the site context. However, the exceptional circumstances and public benefits of the proposals have been set out and the three criteria set out in paragraph 172 of the NPPF are met. The principle of the redevelopment of the site is therefore acceptable.

3.4 The design of the proposals has been carefully considered, taking into account the site's characteristics and surrounding context. The scale, form and layout are appropriate to these characteristics and will create a high-quality development in design and sustainability terms.

- 3.5 The proposed development has appropriately considered the significance of heritage assets and will not cause any harm to the identified significance of designated or non-designated heritage assets.
- 3.6 The proposed development responds to its local landscape context and the characteristics of the AONB and incorporates landscaping to mitigate any potential landscape impact. It will not cause harm to the special landscape qualities or scenic beauty of the Cotswolds AONB.
- 3.7 Transport, flood risk and drainage matters have been appropriately assessed by technical consultants and there are no issues which would preclude development. The development will not have an unacceptable impact on highway safety and will not increase flood risk on the site or surrounding area.
- 3.8 The ecological potential of the site has been identified through habitats and species surveys, and appropriate mitigation and enhancement measures will ensure there is no harm to protected species and that an overall biodiversity enhancement can be achieved on the site.
- 3.9 A tree survey and Arboricultural Impact Assessment has been carried out to identify the potential impacts on trees. Minimal tree removals are proposed, and tree protection measures will ensure the protection of retained trees on the site which may be impacted by the proposals.
- 3.10 The public footpath will remain in situ and will not be affected by the proposals.
- 3.11 The planning application includes all the technical and environmental reports required to appropriately assess the proposed development, and the Planning Statement provides the assessment of the proposal against the Development Plan. Overall, the proposed development is in accordance with the Development Plan and the NPPF.

4 PLANNING POLICIES

OS1NEW Presumption in favour of sustainable development

OS2NEW Locating development in the right places

OS3NEW Prudent use of natural resources

OS4NEW High quality design

E4NEW Sustainable tourism

T1NEW Sustainable transport

T3NEW Public transport, walking and cycling

T4NEW Parking provision

EH1 Cotswolds AONB

EH3 Biodiversity and Geodiversity

EH7 Flood risk

EH9 Historic environment

EH10 Conservation Areas

EH8 Environmental protection

EH3 Biodiversity and Geodiversity

EH13 Historic landscape character

NATDES National Design Guide

DESGUI West Oxfordshire Design Guide

EH7 Flood risk

EH8 Environmental protection

EH9 Historic environment

EH10 Conservation Areas

EH12 Traditional Buildings

EH13 Historic landscape character

EH16 Non designated heritage assets

DESGUI West Oxfordshire Design Guide

NATDES National Design Guide

EH11 Listed Buildings

E5NEW Local services and community facilities

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

5 PLANNING ASSESSMENT

- 5.1 The application seeks planning permission for the redevelopment of the site to provide a new 33 bedroom hotel (Class C1) and ancillary facilities including restaurant, spa, gym, swimming pool, alehouse, bakehouse, and servicing together with associated parking and landscaping and reinstatement of the former mill leat. The application has been amended to reduce the amount and size of guest accommodation; changes to the spa, restaurant, reception and accommodation buildings; reduction and reconfiguration of the parking provision; provision of one vehicular access and omitting the new bridges and leat connection to the Brook. The leat will be reinstated but it will be ornamental. A revised travel plan statement, arboricultural report and financial feasibility report (business plan) has also been submitted.
- 5.2 The site is located on the south western side of the village of Kingham and is approximately 3.1Ha in area. It comprises the former Mill House Hotel, the Mill Lodge which is in residential use and surrounding land including a field to the east. The site is located within the Cotswolds AONB and adjoins the Kingham Conservation Area. Parts of the site lie within Flood Zones 2 and 3. The Cornwell Brook, a tributary of the Evenlode River crosses the site. A public footpath (267/1) runs through the site from south east to north west round the front of the existing hotel and Mill Lodge.

Planning background

- 5.3 There is a detailed planning history for the site which principally relates to works/extensions to the hotel premises and conversion of The Mill Lodge to be used as conference rooms, expanding the hotel facilities on the site.
- 5.4 An application for demolition and redevelopment to provide a care community within Use Class C2, comprising 85 care apartments, together with communal facilities, landscaping, parking and other associated works (17/04022/FUL) was withdrawn in 2018.
- 5.5 The north western part of the site has an extant planning permission for five dwellings (16/01522/FUL).
- 5.6 This application has been submitted following pre application advice for the redevelopment of the Mill House Hotel site to provide a new hotel and associated facilities (Ref: 19/02229/PREAPP).
- 5.7 An extension of time for the determination of the application has been agreed to allow amended plans and additional information to be submitted and considered to try and resolve issues raised. The application was initially brought before the sub committee on 1st June 2021 where a site visit was proposed to allow Members to consider the issues on the ground. This took place on 24th June 2021.
- 5.8 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
 - Layout, design and scale
 - Impact on the Cotswolds AONB
 - Impact on Heritage Assets
 - Accessibility/Highway Issues
 - Flood Risk/Drainage
 - Neighbouring amenity
 - Biodiversity

Principle

- 5.9 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 West Oxfordshire Local Plan 2031 adopted in September 2018.

- 5.10 In terms of the principle of this development, the main relevant policies are OS2 (Locating development in the right places) and E4 (Sustainable Tourism). Policy OS2 states that villages, such as Kingham, are suitable for limited development which respects the character and local distinctiveness and would help to maintain the vitality of these communities. The particular general principles of Policy OS2 relevant to this case include the requirement that development:
- i) Be of a proportionate and appropriate scale to its context having regard to the potential cumulative impact of development in the locality;
 - ii) Form a logical complement to the existing scale and pattern of development and/or the character of the area; and be compatible with adjoining uses and not have a harmful impact on the amenity of existing occupants.
 - iii) Be compatible with adjoining uses and not have a harmful impact on the amenity of existing occupants;
 - iv) As far as is reasonably possible protect or enhance the local landscape and the setting of the settlement/s;
 - v) Not involve the loss of an area of open space or any other feature that makes an important contribution to the character or appearance of the area;
 - vi) Not be at risk of flooding or likely to increase the risk of flooding elsewhere;
 - vii) Conserve and enhance the natural, historic and built environment;
 - viii) In the AONB, give great weight to conserving landscape and scenic beauty and comply with national policy concerning major development
- 5.11 Policy E4 seeks to support tourism and leisure development which utilises and enriches the natural and built environment. Proposals in the Cotswolds AONB should conserve and enhance the landscape quality and biodiversity of the area and support the objectives of the Cotswolds AONB Management Plan and Sustainable Tourism Strategy. The design approach to the redevelopment scheme is influenced by the historic importance of the original mill building which it is intended to retain.
- 5.12 On the basis of the policies outlined above and given the existing use of the site as a hotel (albeit presently unoccupied), the principle of the re-development of the site to provide new hotel facilities is considered to be acceptable. The main issue relates to the scale of the proposed development, given its location within the Cotswolds AONB, which is addressed in more detail below. The detail of the proposal is also assessed against the general principles of Policy OS2 of the Local Plan below.

Layout, Design and Scale

- 5.13 Paragraph 130 of the NPPF is clear that development proposals should function well and add to the overall quality of the area; are visually attractive as a result of good architecture, layout and appropriate and effective landscaping; are sympathetic to local character and history and create places that are safe, inclusive and accessible and have a high standard of amenity for existing and future users. Policy OS2, as detailed above, sets out general principles for all development including that it should be proportionate and appropriate in scale to its context having regard to the potential cumulative impact of development in the locality. Policy OS4 of the Local Plan encourages development of a high quality design that responds positively to and respects the character of the site and its surroundings. The importance of achieving high quality design is reinforced in the recently published National Design Guide.
- 5.14 The Design and Access Statement (DAS) advises that the layout has been developed by retaining the Mill building and enhancing it by removing all recent extensions; siting the front of house facilities to the south as a series of interlinked buildings located around the Mill building and siting the accommodation and the back of house facilities building to the north west of the site. The Planning Statement advises that the layout of the development has taken into account the characteristics and topography of the site and existing and extant built form with sensitive areas of the site with high landscape and ecological character being avoided, such as the area south of the Mill House buildings and the eastern field. Previously developed areas of the site including around

the Mill House building and Mill Lodge and along the north western part of the site where the extant planning permission are the focus for the built form of the development.

- 5.15 The number of guest bedrooms has been reduced from 46 to 33 with additional facilities provided including a spa, pool, restaurant, alehouse and bakehouse. The main changes to the plans include:
- Removal of guest accommodation block E.1B
 - Reduction in size of guest accommodation blocks E.1A and E.1C
 - Splitting guest accommodation block E.1D into two
 - Changes to spa, reception, restaurant and accommodation buildings - including reduction in height and footprint
 - Reduction and reconfiguration of parking
 - Provision of one vehicular access
 - Slight changes to layout to move buildings further away from planted NE boundary
- 5.16 The DAS advises that the main site axis will run north-south along the route of the public footpath with a secondary axis running west east complimenting the existing site access. A route will also run around the edge of the accommodation blocks to allow access and servicing of these buildings. The existing car parking area is to be reconfigured with car parking provision off the access road along the western edge of the site. The historic elements of the Mill House Building are at the centre of the proposed development and the proposal seeks to enhance the site's links to its past uses by retaining the Mill House building and public footpath link to the village and the reinstatement of the leat. It is also stated that the proposed development is reflective of the local context in terms of materials and form.
- 5.17 Notwithstanding, the amendments to the scheme including a reduction in the amount of guest accommodation, the scale of the development is not considered to be proportionate and appropriate to its context. The proposal would introduce a significant amount of built form onto land that is largely devoid of structures. The presence of the buildings and access roads, associated lighting, activity and vehicles would dramatically change and diminish the open character of the northern part of the land. Whilst it is acknowledged that there is an extant planning permission for 5 detached dwellings on the north western part of the site, this development is more centrally spread out on the land. In contrast the new development is more continuous (terracing) and runs along the whole of the western edge of the land (along the roadside) and turns the corners extending along the southern and northern boundaries. Similarly, the present low key bungalow (Mill Lodge) located on the north eastern part of the site will be replaced with a terrace of buildings of greater height (Two storey) close to the boundary with limited open space remaining.
- 5.18 The resultant scale of development on this sensitive outer edge of the village which adjoins open countryside to the south and east and the recreation grounds to the north would be harmfully and inappropriately disproportionate to the existing built form and character of this part of the village.

Impact on the Cotswolds AONB

- 5.19 The site lies within the Cotswolds AONB, a nationally important designation, where great weight should be given to conserving and enhancing landscape and scenic beauty. This duty is reflected in policy EHI of the local plan and the NPPF which require great weight to be given to conserving and enhancing landscape beauty in Areas of Outstanding Natural Beauty. This duty is also embodied in the Countryside and Rights of Way Act 2000. The Cotswolds Conservation Board's Management Plan and guidance documents are also material considerations in decision making relevant to the AONB. The Cotswolds Conservation Board has been consulted but has advised that it does not have capacity to comment on this planning application at this time.
- 5.20 Paragraph 177 of the NPPF advises that ' When considering applications for development within Areas of Outstanding Natural Beauty, permission should be refused for major development other than in exceptional circumstances, and where it can be demonstrated that the development is in the public interest. Consideration of such applications should include an assessment of:
- a) the need for the development, including in terms of any national considerations, and the impact of permitting it, or refusing it, upon the local economy;
 - b) the cost of, and scope for, developing outside the designated area, or meeting the need for it in some other way;

and

- c) any detrimental effect on the environment, the landscape and recreational opportunities, and the extent to which that could be moderated.

Exceptional circumstances case

- 5.21 In this case, the agent has sought to argue that the proposed development is not 'major', given the existing and consented uses and built form of the site, the scale of additional development proposed and the site context. The NPPF sets out that whether a proposal is 'major development' is a matter for the decision maker, taking into account its nature, scale and setting, and whether it could have a significant adverse impact on the purposes for which the area has been designated or defined. The applicant has submitted Counsel's opinion which advises that 'net scale' should be considered in the light of existing development on the site including elements to be removed/replaced. However, in the officers opinion, this would not include extant or previously consented schemes that have now expired as the applicant is seeking to argue. Given the nature, scale and sensitive rural setting of this site, it is Officer opinion that this development is 'major' and as such exceptional circumstances would need to be demonstrated.
- 5.22 Notwithstanding the applicant's view that the development is not 'major', the case put forward in support of the application is summarised below:
- a) Tourism is a key contributor to the Oxfordshire economy and the Cotswold AONB Management Plan identifies that it is of major importance to the economy of the Cotswolds AONB. Sustainable tourism is also supported by Local Plan policy and the proposed development will conserve and enhance the qualities of the Cotswolds AONB. The existing hotel is not viable and the need for further development to secure the long-term viability of the hotel has been evidenced. Will deliver significant economic benefits and will assist in meeting strategic tourism objectives. If development is not permitted to secure the viability of a hotel business in this location, then the site will likely be repurposed for alternative uses and the economic benefits that the overnight accommodation brings to Kingham and the wider local economy will be lost.
 - b) There is sustained and continued demand for tourist accommodation in West Oxfordshire and the Cotswolds AONB which is only likely to increase. Identifying suitable sites to provide such accommodation within these areas is extremely difficult. The site is a rare brownfield site with significant potential to be redeveloped to meet this demand for overnight accommodation. Local Plan policy seeks to resist the loss of employment sites. There is no opportunity to develop outside of the AONB.
 - c) Various measures will reduce the environmental impact of the development. This includes the use of Daylesford Farm as a hub for the servicing of the site, reducing the number and size of vehicles needing to access the site for delivery, laundry, and refuse purposes. Guests will be encouraged to take advantage of discounted rates for not travelling by the private car, and significant bicycle parking provision will facilitate this as a mean of transport. The proposed redevelopment is unlikely to significantly affect the wider landscape setting or indeed Kingham itself. The scale of the change is not perceived as being of a level to create a significant effect on the special landscape qualities of the Cotswolds AONB. It is also argued that wider recreational opportunities will be increased by the development by use of the free shuttle bus.
- 5.23 The evidence on viability depends on a report prepared in 2017 relating to a scheme to redevelop the site for a Care Home. No updated viability evidence to support this application has been provided. Documents submitted include a feasibility study for a hotel concept such as a health/lifestyle retreat. Even this study does not accurately reflect the development being proposed and is based on a different scheme and site of 40 acres (16 ha) whereas the application site measures only 3.1ha. The Design and Access Statement (DAS) also appears to provide conflicting evidence in that it states that an independent study to assess what would be required to transform the existing Mill Hotel into a commercially viable rural hotel identified a minimum amount of accommodation that would need to be provided would be 46 rooms/suites. Despite this study the application has been amended to reduce the number of rooms/suites from 46 to 33 which raises queries over the viability issues raised. Following viability issues being queried with the agent, a 5 year financial feasibility document has been received. In terms of point b) the arguments focus on the benefits of the existing site and no consideration has been given to why the scale of this development is necessary in this AONB location nor whether there are

alternative sites that could accommodate this form of development. The agent has submitted Counsel's opinion which argues that factors such as the need to undertake the overall balancing exercise weighing both positive and negative features; the 'previously developed' nature of the site and the support for tourism development in principle in the AONB, may mean that little weight should be given to any alternative site search outside the AONB and that such a failure to look outside the AONB is not a matter which should weigh strongly against the proposal in the overall 'exceptional circumstances' balance. Whilst this may be the case in terms of the consideration of alternative sites, there has been no response on why the scale of this development is necessary in this AONB location. In terms of point c), various measures are suggested to reduce the environmental impact of the development and increase recreational opportunities but no mechanism for the delivery of these measures has been suggested or agreed. For instance, it is argued that Daylesford Farm would act as a hub for the servicing of the site but it is unclear how such a servicing arrangement would be controlled and managed should permission be granted. Similarly, OCC as detailed below in the highway section, has raised queries over the proposed shuttle bus service. The argument that the proposed development is unlikely to significantly affect the wider landscape setting or indeed Kingham itself is also disputed as set out in more detail below.

- 5.24 As well as demonstrating exceptional circumstances, the NPPF also requires that it must be demonstrated that the development is in the public interest. It is argued that the number of benefits that will be secured by the proposals demonstrate that it is in the public interest. These benefits included:
- Retention of this long-standing hospitality use on the site which provides significant employment and economic benefits adjacent to the village. If a commercially viable use cannot be found then the hospitality use will be lost and the existing buildings and site will fall into poorer condition.
 - the provision of a free shuttle bus to serve the site, railway station and Daylesford Organic Farm.
 - Expanded retail and public house facilities
 - Employment opportunities
 - Heritage benefits including reinstatement of the mill leat and retention of the historic core of the Mill building. Social and community benefits by better revealing the history of the site.
- In conclusion, whilst it is not disputed that the existing hotel facilities will need investment including modernisation works and that the proposal would bring benefits, it has not been demonstrated that an alternative smaller scale hotel development is unviable (e.g. Boutique hotel concept) or that there is a need for this scale of development. Also no other sites (outside the designated area) have been considered. This is major development within the AONB and no convincing evidence has been submitted to demonstrate that exceptional circumstances apply in this case to justify the development.

Landscape Impact

- 5.25 This is a large site on the edge of Kingham, with a low proportion of built development to green space. It provides a soft edge to the village, surrounded by countryside/open space on all sides other than to the west.
- 5.26 The Landscape and Visual Impact Assessment submitted with the application concludes that the chosen building materials and method of which they will be implemented, and the composition that the buildings will adopt will go a long way to reducing the visual impact of the development over time. No physical works are required beyond the application site boundary as part of the proposed development. The fabric of the landscape surrounding the application site would remain physically unaffected with the proposals in place. The existing access points will be retained. Whilst receptors north of the site have a higher sensitivity to visual change resulting from the proposals, these views will be mitigated to an acceptable level by Year 10 by extending the existing hedge, and additional tree planting. The visual assessment demonstrates that views of the proposed development from within the wider landscape would be restricted by intervening landscape features and the proposals would not give rise to any important levels of effect. Where evident, the proposed development would be viewed only at close proximity, as discrete elements rather than in full entirety. Typically, where visible, the proposals would be viewed in the context of existing residential development thus limiting effects. Existing vegetation and built form beyond the Application Site would act to filter or partially filter many views of the proposed development.

Mitigation measures in the form of new tree and shrub planting would reduce the level of visual effects of the scheme and will further mitigate any effects on site character. Once established, planting will mature and become more effective over time, diminishing the level of effect further by Year 10. At Year 1, effects on site character are assessed as being moderate, reducing to minor by Year 10. Effects on the wider landscape are assessed as minor adverse at Year 1, becoming beneficial by Year 10. In conclusion, whilst the proposed development will result in some levels of effect on the site landscape character and a small number of visual receptors north of the site, these effects are very localised and will be mitigated to an acceptable level, strengthening the landscape resource in the long-term, and providing greater community benefit.

5.27 The comments of the Council's Landscape Officer (LO) are detailed below:

'Much reliance is placed within the assessment work on the function of the hedgerow growing along the north-eastern boundary as a visual barrier to mitigate the impact of the proposed development in views from within the Conservation Area and expansive views across the wider AONB landscape to the south. However, the detailed layout and mitigation proposals illustrate that due to its close proximity to proposed buildings, and the components of the hedgerow itself, it would be considerably affected by those works. This would lead to it being much less effective at its intended purpose in the short and longer term. The close proximity of development to this vegetation leaves little room for construction activity and would lead to poor relationships between the new buildings and uses and this important vegetation. Notably, a prominent Oak tree (T52) would be put at considerable risk. Whilst the Landscape Strategy drawing indicates 'Enhanced boundary screening to mitigate impact of proposed development' in practice there would be little room available in which new tree and hedgerow planting could mature into and reach sufficient scale to contain the development within a strong landscape structure.

The prominent row of mature ash trees growing along the western boundary are a characteristic feature of the surrounding landscape. However, the proposed layout sites car parking, an access road and housing immediately adjacent to them and well within the minimum recommended root protection zone. Despite the fact that special 'no-dig' techniques are said to overcome this it is highly questionable that this would result in a satisfactory relationship, even if the trees were to survive the pressures of construction activity. It should be noted that due to their current physical condition and the continued spread of Ash Dieback disease their future is far from certain and their potential absence in the landscape should be taken into account as part of the overall visual assessment of the proposals.

In addition to the complications along the north-eastern boundary the landscape framework is quite weak at the point where the proposed development abuts the Conservation Area boundary along Station Road. Whilst a continuation of the existing roadside hedgerow is proposed there is little space for additional tree planting to soften the visual impact of this area and to help set the complex as a whole within a strong structure. Some tree planting is identified but conflicts with proposed car parking which would also be prominent in itself in this sensitive location for some time, until new planting had time to mature. It would appear feasible to relief pressure here, and along the main access road adjacent to the Ash trees, if all parking which is currently squeezed against the hedgerow were re-located to a landscaped courtyard within the open centre of the site.'

5.28 Following these concerns, changes were made to the layout as detailed above. The LO has commented that the main improvements to the scheme appear to be the simplification of the main entrance and the relocation of the car parking. Some minor adjustments have been made to the NE boundary but these are not particularly significant and are optimistic in places. As predicted, the proposal now specifically refers to the removal of the cypress hedge along the NE boundary. Whilst in many cases, this would not be problematic, it will mean more immediate exposure of the development from the NE, coupled with loss of vegetation with limited scope for significant new planting in the area around the Spa building. It is unfortunate that the amended drawings fail to show consistent information, for example, the Landscape Strategy drawing shows some of the trees along the access road being retained and some removed, whilst a detailed layout shows them all retained. It is suspected all these would be lost in practice.

5.29 The Cotswold Conservation Board has also recently adopted a new Landscape-led Development Position Statement which reiterates the advice in the NPPF regarding the need for exceptional circumstances to justify major development and advises that taking a landscape-led approach is

particularly important for such development, as this scale of development has the greatest potential to adversely affect the purpose of AONB designation. Policy CE11 of the Cotswolds AONB Management Plan 2018-2023 specifies that:

Any major development proposed in the Cotswolds AONB, including major infrastructure projects, should be 'landscape-led', whereby it demonstrably contributes to conserving and enhancing the natural beauty of the Cotswolds AONB and, where appropriate, to the understanding and enjoyment of its special qualities. This should include fully respecting and integrating the special qualities of the AONB into the planning, design, implementation and management of the development, from the very beginning of the development's inception.

- 5.30 It is Officer opinion that the proposed development would have a harmful impact on the scenic beauty of the area and would fail to conserve and enhance the landscape. The development would be visually intrusive with clear views from various public vantage points including the public right of way that passes through the site and beyond and from the adjoining roadside. The amended plans do little to reduce this impact. As identified by the LO, the scheme is likely to result in the loss of existing trees and hedgerow and would leave little space for adequate mitigation measures. It is not considered that a Landscape-led Development approach has been adopted in this instance as advised by the Cotswold Conservation Board.

Impact on Heritage Assets

- 5.31 The site adjoins the Kingham Conservation Area, and Officers are required to take account of section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, as amended, which requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of conservation areas which includes its setting. Case law has established that such a provision requires the decision maker to give "considerable importance and weight" to the desirability of avoiding harm to heritage assets. Policy EH10 of the Local plan reflects this duty and seeks to ensure that development is not detrimental to views within, into or out of the area.
- 5.32 The Mill House hotel building is also considered to be a non-designated heritage asset and as such is subject of Policy EH16 of the Local Plan which seeks to avoid harm or loss of such an asset and advises that such proposals will be assessed using the principles set out for listed buildings (Policy EH11).
- 5.33 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. For the latter, which applies here, the test is that the harm should be weighed against public benefits.
- 5.34 The submitted Heritage Statement concludes that the proposals will retain and better reveal the historic mill building and provide it with a sustainable ongoing use. The removal of the current 20th century additions to the historic mill and their replacement with newly designed structures of a higher architectural quality will better reveal the historic mill building and provide new buildings more sympathetic to its historic character unlike the current ones which, although broadly traditional, somewhat dilute and reduce the role of the historic building within the site. In terms of the impact on the setting of the Conservation Area, it concludes that the change proposed will preserve elements of heritage value, and the redevelopment is informed by both the site and scale of previously consented schemes which, in being consented, are considered to be achievable without harming heritage values. The continuation of a hotel use with its wider social effects is entirely compatible with the existing character and appearance of the conservation area. No harm to the significance of heritage assets is identified through the proposed changes to the site which forms a part of the setting of the Kingham Conservation Area and St Andrews Church. As no harm to heritage significance is identified the requirements of paragraphs 195 and 196 of the NPPF are not engaged. There is preservation for the purposes of the decision maker's duty under Section 66(1) of the Act.
- 5.35 The Council's Conservation Officer (CO) has welcomed the reduction in the amount of new buildings on the site but notes that it remains a very significant development in a somewhat sensitive location. In terms of the impact on the historic mill, the stripping away of the various accretions is welcomed, as is reinstatement of the mill leat and the new additions are considered

to be designed along the right lines, with the main addition being set to the north. Following further changes to the buildings including lowering the height of the restaurant and reception building and relocating the parking, the CO is still of the view that it is proposed to provide a considerable amount of development on this somewhat constrained site, but acknowledges that each iteration has been an improvement - although this remains a very significant intervention. In terms of the latest amendments the CO considers that the reception building, given its lower-lying and cleaner form, with a simple slated roof, is now better related to the historic mill, and appears much more secondary and would be an improvement on the existing building on this part of the site. The changes to the ale house/bake house/restaurant gives a better relationship with the eaves of the historic mill and is now arguably an improvement on the existing buildings on the east side of the historic mill, which are sizeable and very prominent. Whilst the car parking has now been split between the area near the reception building, and the core of the development, the CO still considers that it would have been preferable to locate all of the parking to the north of the reception area. Nevertheless, the revisions are considered to be an improvement and would improve the current car parking arrangement, which occupies a much larger area to the south of the historic mill, very prominent to the road. In terms of the revised layout, the CO considers that the extended north return will impact on views from the southern boundary of the conservation area, although there will now be less new development beyond.

- 5.36 In summary, the CO considers that in respect to the impact on the historic mill and the south part of the site, given the replacement of the existing accretions to the east and west sides of the mill, and with the reduction in the parking area, there is arguably a net gain - both for the historic mill and its immediate setting. With respect to the impact on the north part of the site, and in particular on views from the southern boundary of the conservation area, the CO has raised concerns relating to the accuracy of the perspectives /photomontages received. The CO is still of the view that the proposed development would have a harmful impact on the setting of the Conservation Area.
- 5.37 It is Officer opinion that the harm to the setting of the Conservation Area, as detailed above, is not outweighed by the public benefits deriving from the development.
- 5.38 The applicant has submitted an archaeological desk-based assessment which sets out a description of the archaeological background for the site and identifies that the site contains archaeological features related to the medieval and post medieval mill and that the site has a high potential to contain further unidentified archaeological remains. The desk-based assessment also concludes that an archaeological evaluation will need to be undertaken on the site in advance of the determination of this application. Such an evaluation has been requested by OCC but has not yet been provided. As such OCC still object to the application on the grounds that the results of an archaeological evaluation has not been submitted in line with the National Planning Policy Framework (2021).

Accessibility/Highway Issues

- 5.39 There is no current public transport service within walking distance of the development that would be suitable for the purpose of travel to work or which would be well used by guests to the site. The submitted Transport Statement refers to the provision of a free electric shuttle bus service which would operate between Kingham Railway Station, The Mill, The Wild Rabbit public house in Kingham and Daylesford Organic Farm. OCC Transport welcomes this proposal but note that limited details have been provided as to how this shuttle bus service will operate and OCC is concerned that these measures could not be secured in perpetuity if, for example, the operator and / or nature of the hotel changes.
- 5.40 While measures are proposed which could enable travel to the site by sustainable modes, the location of the development site could not be considered easily accessible. OCC welcomes the measures being suggested to encourage the use of sustainable transport among staff and visitors, it is nonetheless likely that due to the development's location, the vast majority of visitors and staff will travel to the site by private car. Similarly no mechanism for delivering the proposed measures has been agreed.
- 5.41 OCC accept that the nature of the proposed uses would not generate significant numbers of peak-hour trips. While the proposed development would undoubtedly lead to an increase in

vehicle trips to the site across the day, given the location of the site this increase in trips would not be likely to have a significant impact in terms of highway capacity or safety. The existing access arrangement is to be utilised with some minor alterations proposed and the existing public right of way which provides access to the Station Road to the north of the site is to be retained.

- 5.42 OCC has raised some concerns in relation to the adequacy of the parking which could lead to overspill on-street parking in the village. OCC recommend that the occupancy of the parking spaces provided on site is carefully monitored with additional spaces and / or an overspill parking area being provided if required. Such development would inevitably have an impact on the landscape which would need to be carefully assessed. In the DAS it is stated that the car parking spaces has been reduced to a minimum with off site car parking to be provided. No details of this off site parking area has been submitted with the application and despite a request for such information no details have been provided. The Parish Council has also raised concerns relating to inadequate parking provision and consider that there is no capacity (and no justification) for off-site parking.
- 5.43 OCC's objection based on lack of evidence to demonstrate that large emergency vehicles can safely enter and turn within the site has now been addressed with the submission of a swept path analysis for a fire tender. As such OCC Transport does not object to the proposed application subject to a contribution towards the creation of a traffic free 'greenway' between the site and Dylesford Organic Farm (£150,000) and improvement works to other local public rights of way (£10,000) and appropriate highway conditions. Given the unsustainable location of the site due to lack of public transport availability, a Travel Plan is recommended to help deliver some of the mitigation measures detailed in the Transport Statement but it is unclear how such a travel plan would ensure the delivery of such measures including the provision of an electric shuttle bus and incentives to encourage visitors to travel by train.

Flood Risk/Drainage

- 5.44 Parts of the site are in Flood Zone 2 and 3 and shown to be at risk of surface water flooding. Although the built development is shown outside of the flood risk areas, the original FRA had not considered an allowance for climate change. Following objections raised by the Environment Agency (EA) and the Local lead Flood Authority (LLFA) a revised Flood Risk Assessment and Drainage Strategy has been submitted.
- 5.45 The LLFA no longer raise an objection to the development subject to a surface water drainage condition.
- 5.46 The EA also objected on the grounds that the proposed development involves the use of a non-mains foul drainage system but no assessment of the risks of pollution to the water environment has been provided by the applicant. Following the submission of amended details and additional information, the EA have removed their objection subject to the imposition of appropriate conditions to reduce flood risk and the provision of an ecological buffer zone. It is also noted that the revised FRA includes details of Thames Waters' confirmation that there is sufficient capacity in the foul network to receive foul drainage from this development.

Neighbouring Amenity

- 5.47 Given the location of the site at the outer edge of the village the site is surrounded by open countryside on two sides (South and East). To the west and north the site abuts onto Station Road with houses on the opposite side of the road to the west and the sports field to the north. Given the siting and retention of roadside hedgerow along Station Road there will be no undue adverse impact on the amenity of nearby residential properties.

Biodiversity

- 5.48 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.

- 5.49 Following the submission of additional information, the Biodiversity Officer raises no objection to the development subject to ecology conditions and informative being attached to any permission granted.

Infrastructure/Developer Contributions

- 5.50 Policy OS5 of the Local Plan seeks to ensure that new development delivers or contributes towards the provision of essential supporting infrastructure and Policy T3 states that new development will be expected to contribute towards the provision of new and/or enhanced public transport, walking and cycling infrastructure to help encourage modal shift and promote healthier lifestyles. As detailed above, OCC Transport has recommended that a contribution should be paid towards the creation of a traffic free 'greenway' between the site and Dylesford Organic Farm (£150,000) and improvement works to other local public rights of way (£10,000). It is suggested that other measures such as the shuttle bus and incentives to encourage visitors to travel by train could be addressed via a Travel Plan but it is unclear how such a Plan could ensure the delivery of such measures and in the case of the shuttle bus service, in perpetuity. Requested details for the delivery of the mitigation measures proposed, have not been provided. The Council's Healthy Communities Manager has recommended a S106 contribution of a minimum of £41,530 towards artist-made signage and interpretation tools to aid public access to the public rights of way on site, and public footpaths connecting the site to the wider village and transport infrastructure.
- 5.51 The Parish Council believe that improvements to the dangerous walkway over the railway bridge at Kingham Station would be much more beneficial to the local community and a better use of the contribution money requested by OCC. Government Guidance on Planning Obligations clearly sets out however, that planning obligations must meet the following tests:
- necessary to make the development acceptable in planning terms;
 - directly related to the development; and
 - fairly and reasonably related in scale and kind to the development.
- In respect of this development, OCC recognise that there is no current public transport service within walking distance of the development that would be suitable for the purpose of travel to work or which would be well used by guests to the site and that it is likely that due to the development's location, the vast majority of visitors and staff will travel to the site by private car. As such, a contribution towards improvements over the railway bridge is not considered to be justified in this instance and would fail to meet the necessary tests.
- 5.52 There is not a completed S106 making provision for the required contribution or mitigation measures proposed. As such the proposal conflicts with Policies OS5 and T3 of the Local Plan.

Conclusion

- 5.53 Planning law requires that applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise.
- 5.54 Benefits likely to be generated from the proposal are recognised including economic benefits to the local economy from the construction and operation of the hotel and associated facilities including the provision of jobs and the wider spending of future guests. Nevertheless, the development comprises major development within the Cotswolds AONB and an exceptional circumstances case has not been made to justify this development which would have a significant adverse impact on the area's natural beauty and landscape including its heritage. Whilst the revised scheme addresses the harm to the setting of the non-designated heritage asset (Mill building) there are still concerns that the development would harm the setting of the Conservation Area and no archaeological field evaluation has been carried out. As such the development conflicts with adopted Local Plan policies and the NPPF and is thus recommended for refusal.

6 RECOMMENDATION

- I. The proposed development comprises major development within the Cotswolds AONB and no exceptional circumstances case has been made to justify this development which would have a

significant adverse impact on the area's natural beauty and landscape including its heritage. The development would also be of a disproportionate and inappropriate scale to its context and would not form a logical complement to the existing scale and pattern of development or the character of the area. As such, the proposed development would conflict with Policies OS2, OS4, EH1 and BCI of the adopted West Oxfordshire Local Plan 2031, the West Oxfordshire Design Guide 2016, the National Design Guide 2019, and the relevant paragraphs of the NPPF.

2. The scale, siting and design of the proposed development would have a harmful impact on the setting of the Kingham Conservation Area and the results of an archaeological evaluation have not been submitted in conflict with Policies EH9, EH10, EH11 and EH15 of the adopted West Oxfordshire Local Plan 2031 and the NPPF.
3. The applicant has not entered into a legal agreement to provide the required contribution/mitigation measures to maximise opportunities for walking, cycling and public transport and towards promoting healthy communities. As such the proposal is therefore also contrary to West Oxfordshire Local Plan 2031 Policies OS5 and T3 and the relevant paragraphs of the NPPF.