

# WEST OXFORDSHIRE DISTRICT COUNCIL

## UPLANDS AREA PLANNING SUB-COMMITTEE

**Date: 2nd March 2020**

**REPORT OF THE HEAD OF PLANNING  
AND SUSTAINABLE COMMUNITIES**



**WEST OXFORDSHIRE  
DISTRICT COUNCIL**

**Purpose:**

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

**Recommendations:**

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

***List of Background Papers***

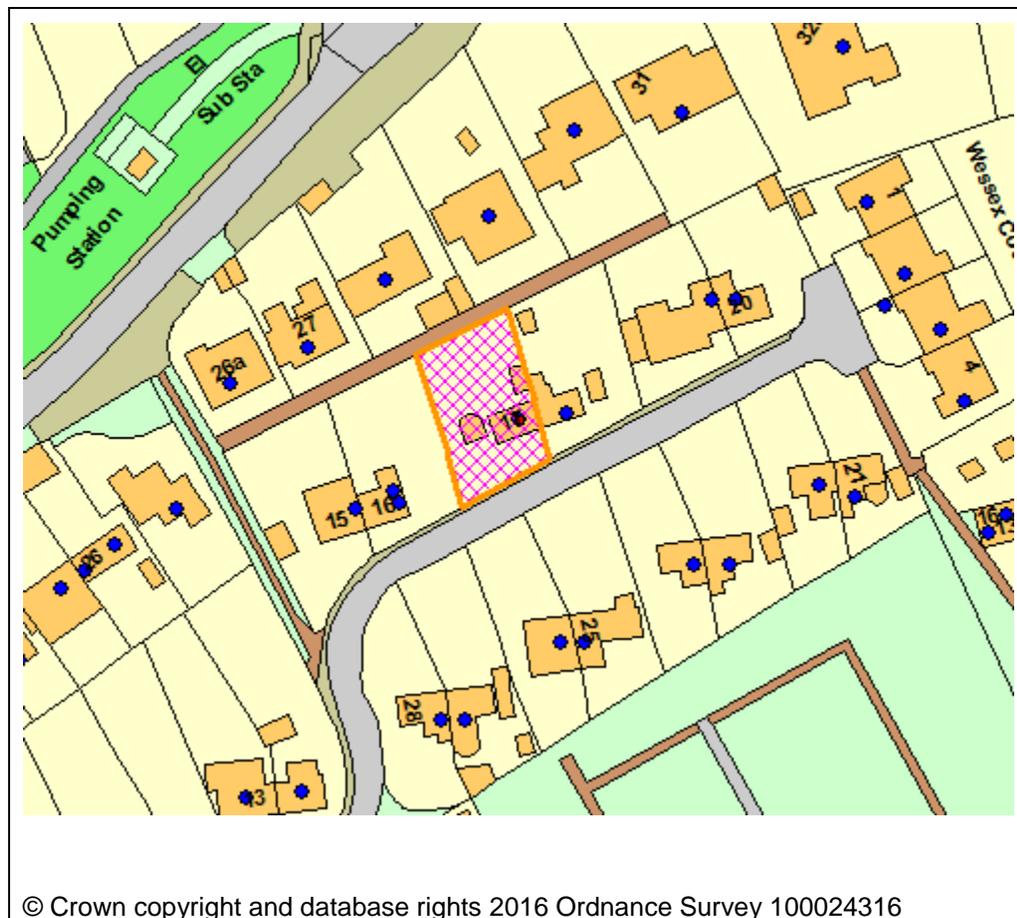
All documents, including forms, plans, consultations and representations on each application, but excluding any document, which in the opinion of the 'proper officer' discloses exempt information as defined in Section 1001 of the Local Government Act 1972.

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

<b>Item</b>	<b>Application Number</b>	<b>Address</b>
	19/03513/ADV	Land East Of Woodstock Oxford Road
	19/03539/FUL	17 Bear Close Woodstock
	20/00181/S73	Land At Church End

Application Number	I9/03539/FUL
Site Address	17 Bear Close Woodstock Oxfordshire OX20 1JT
Date	19th February 2020
Officer	Stephanie Eldridge
Officer Recommendations	Approve
Parish	Woodstock Parish Council
Grid Reference	444814 E 217006 N
Committee Date	2nd March 2020

### Location Map



### Application Details:

Erection of two flats with associated parking and gardens.

### Applicant Details:

Mr ChangLei Sun  
17 Bear Close

Woodstock  
Oxfordshire  
OX20 1JT

#### Representations:

One letter of representation received from Mr Leslie Burnham at 29 Brook Hill, Woodstock

My property is located on the northern side of the boundary fence. The proposed development includes an extension of the existing property laterally (east to west), and a significant further extension to the rear of the property.

Neighbouring houses to the rear of the property would be subject to being overlooked with an associated loss of privacy. The potential impact is amplified by the nature of the steep slope leading down to Brook Hill, causing the proposed development to be overly dominant and unpleasantly encroaching upon the properties 'below'.

#### **Density of building / overdevelopment**

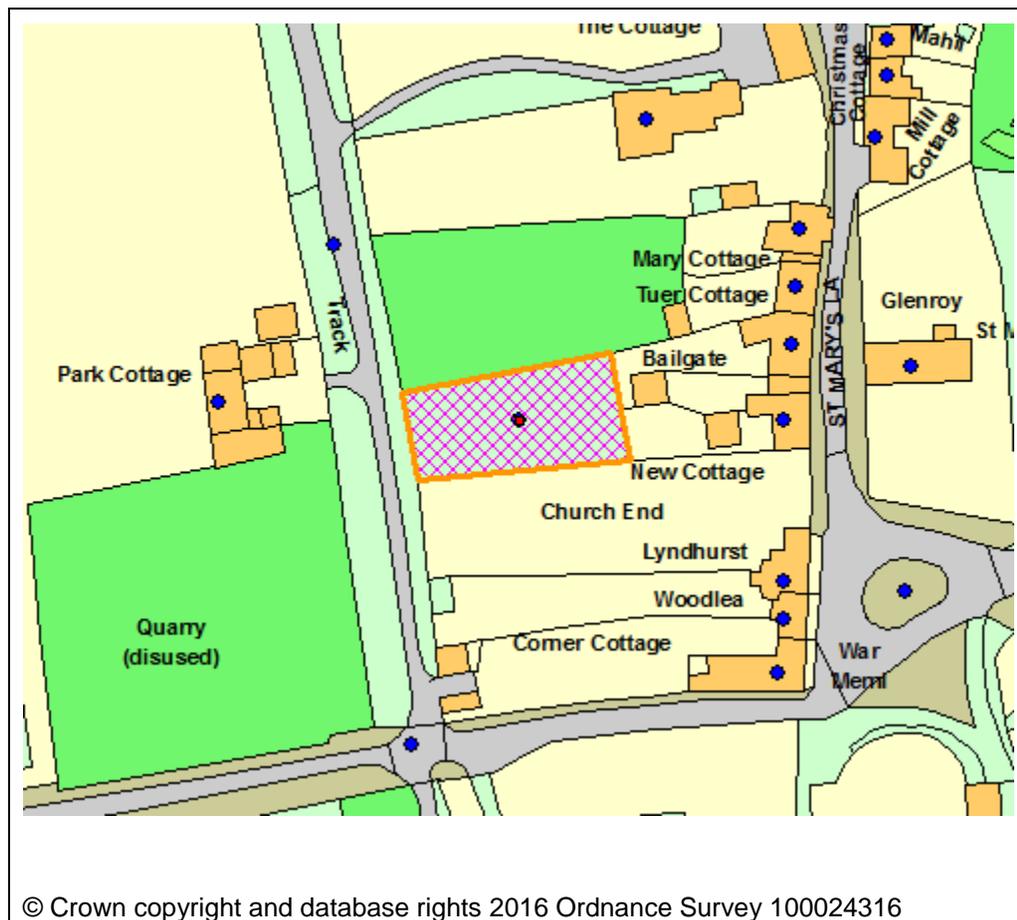
The proposed extension represents an approximate doubling in size of the property, and as two additional independent flats, is totally out of keeping with the current residential use of neighbouring properties, with a potential negative impact upon the local community.

#### **Traffic**

As a regular walker through Bear Close, it is self-evident that the roadway is already struggling to support the current car usage. Adding potentially another four cars, with associated parking, safety and accessibility issues for emergency services, would cause additional problems.

Application Number	20/00181/S73
Site Address	Land At Church End Swerford Chipping Norton Oxfordshire
Date	19th February 2020
Officer	Claire Green
Officer Recommendations	Approve
Parish	Swerford Parish Council
Grid Reference	437123 E 231120 N
Committee Date	2nd March 2020

**Location Map**



**Application Details:**

Variation of condition 2 of planning permission 18/00249/FUL to allow the insertion of doors, window and rooflights.

**Applicant Details:**

Mr J Smith  
C/O Agent

**Representations:**

4 letters of representation have been received as follows:

Mr Matthew McCloy of Corner Cottage, Church End Swerford Chipping Norton

Has commented as follows:

Condition 2 of 18/00249/FUL requires the applicant to build in accordance with specific plans. In deliberate breach of that condition, he has unilaterally constructed "doors, window and roof lights" (and other features) which do not conform. He has been rumbled and is now trying to absolve himself by an application for retrospective permission. As the offending doors etc are already in place, TCPA 1990 s73A applies and not s73. The distinction is important as vastly different considerations apply to the application's determination. The Act would not have two separate sections otherwise. Under s73, WODC can (and must) only consider the question of condition 2. But under s73A, the application has to be treated as a new, full blown conventional planning application. This means that everything is once more at large, leading to a completely new permission. WODC is required by law to have fresh regard to the development plan and to all other material considerations.

It follows that that although at first sight objections already lodged may seem irrelevant in some respects, they most certainly are not. They may be irrelevant in the context of a s73 application, but they are valid and pertinent under a s73A application (such as this can only be).

I have read the objections raised by the parish council and by Mr M. George, both dated 17.2.20, these being the only objections published so far. I agree with all the points they variously raise and support them.

I have three further points.

First, a "material consideration" may include previous planning determinations. The many refusals for residential (including on appeal) over a number of years show that development on this particular site is undesirable. The applicant only succeeded in establishing B8 use through the back door of a CLEUD, of which WODC failed to seek the views of the parish council and the village before determination (it was not obliged to, but had a discretion it did not exercise). His later successful application 8/00249/FUL built upon this, a clear stepping stone towards forcing WODC to grant him the residential permission he so badly wants. And yet B8 does not require a warehouse anyway! It is the only use class which can be operated in the open air.

Secondly, as a material consideration may include the planning history which (as I have demonstrated) shows reluctance on WODC's part to grant permission, it should be assumed that 8/00249/FUL was considered carefully and in particular condition 2. WODC clearly felt it was forced into granting the permission - nothing else makes sense. No new planning consideration has been advanced to warrant a new permission (which it would have to be) with a modified condition 2.

Thirdly, the applicant has behaved unlawfully in deliberately breaching condition 2, including in

more respects than merely "doors, window and roof lights." He should not be allowed to rely on his own unlawful and opportunistic conduct to justify change, yet this is precisely what he is doing in effect. And WODC should not be incentivising law breaking by granting his application, this clearly being a material consideration given its planning guardianship role.

Mr Nick Davies of Lyndhurst, Swerford has commented as follows:

There are several technical grounds for objection to this application. However this application also must be considered in the historical context of the site - something that this application attempts to gloss over.

In addition the plans and the request submitted by the applicant are not complete. As mentioned below, the submission fails to recognise other structures that have been added which are not recorded here but should be part of the application.

Technical objections:

- 1) Unauthorised addition of openings with no valid reason
- 2) Use of unapproved materials
- 3) Admission by the applicant of knowingly breaking LPA instructions
- 4) Failure to protect tree T7 on plan no. 171079-12 with regards to provision of a scheme as demanded by WestOxon LPA

Dealing with each of these:

1) A secure storage unit has the minimal number of access points. The more you add the more insecure it is. If a smaller access point was required the applicant could add a small access door set within the large double doors. There is no need for 3 access points in total. Windows only allow people to see inside the storage unit and thus can offer temptation based on what is inside. Why have any windows at all if your intention is security? There is no logic in the need for windows. The rooflights provide light, although the usefulness is compromised by the use of roof trusses that they builder has used which are design to add an additional first floor and not to allow maximum storage and provision of light in the storage area. Overlooking is also mentioned. If the sky lights are 4m off the ground, how can anyone overlook - unless there is a plan to add a first floor from which neighbours will be overlooked.

"Minimal openings" is how the addition of 5 new windows and doors is described. Above I have outlined a secure solution of a reinforced door within the existing double doors which requires 0 new openings

2) None of the doors or materials for the windows have been approved. Nor are they in the vernacular of the surrounding area. These should to be reviewed and reconsidered by WestOxon LPA if ANY new openings are genuinely required

3) The applicant has already acknowledged that he has broken LPA restrictions. This is representative of a disregard to planning and attempt to get future approval for a dwelling (see below)

4) There is no evidence that any protection efforts have been made to protect tree T7, and no plan submitted based on the records held by WestOxon.

Beyond the technical challenge to the application and of greater importance is the long history of planning requests on the site and the intention of the owner to develop a dwelling. The applicant is deliberately misinforming the LPA with his statement of "The history of most relevance is planning

approval 18/00249/FUL, which granted consent for the building as now being constructed, save for the works to create openings which at this point in time do not benefit from approval".

The most relevant planning applications are the multiple applications previously been lodged on this land to develop the site into a dwelling. These were all rejected by WestOxon LPA: (17/00721/FUL); (08/0257/P/FP (2008); 07/1333/P/FP (2009); W.1564/85U (1986); W.1369/79U (1980)). It has long been the intention of the owner to develop this land into a dwelling - this is in conflict with the consistent decisions of planning over 30+ years and the Swerford Conservation Plan which stipulates no NEW dwellings to be constructed within the boundaries of the conservation area.

In addition to the request the Council should have been made aware by the applicant of the following additions which are not on the submission being reviewed.

- 1) In addition to the 5 openings already identified, there are at least 5 more windows/door lintels that have been constructed within the walls of the building, and space set for new doors and windows. These are placed to be allowed to be knocked out and doors/windows added at any later date. These are at ground level and first floor level. Inside the building the breeze blocks are pre-cut. From the outside the lintels and stonework are already in place - this is all easily observable.
- 2) The trusses for the roof are designed for the addition of a first floor. The use of these trusses means that the available storage space to the applicant is presently much compromised by this design. This building is not being built with the intention of maximising storage capacity/capability
- 3) A Cotswold stone fire surround has been incorporated into the interior of the building. This is only relevant in a dwelling

There are several waste water outlets built into the building. No planning has been requested for this. And if there was a need for a toilet, why have multiple waste water outlets been added? Contrary to what the applicant has stated in their Planning Statement it is fundamental to look at the full Planning history. A decision now based solely on this application completely misrepresents the intentions of owner based on the additional evidence that is so readily evident.

Finally the applicant makes reference to "The whole of the building has a traditional, vernacular appearance which incorporates traditional stone and timber boarding. The new doors and windows are sensitively designed and located and follow the vernacular form and style of the existing building design. In this regard it will visually read no differently than already approved and no different to other outbuildings on the lane". With regards to this opaque statement:

- WestOxon stipulated the design and the use of vernacular materials. The applicant is feigning goodwill in complying with a stipulation
- As stated, the windows and doors have not been reviewed or approved by WestOxon LPA
- There are no other outbuildings on Backside of comparable size or scale as independent building

Mr Graham Hayman of Woodlea Church End Swerford

I object to the Planning Application 20/0081/S73 on the following grounds:

1. The developer has made additional unauthorised openings to the building and alterations to the permitted design.
2. The developer has built in knock out areas of stonework to allow for additional windows and doors to potentially be installed at a later date.
3. The developer has admitted breaking planning restrictions and any reading of the situation should lead to the conclusion that the latest application and possibly others to follow will lead to the developer getting the residential consent that has been sought for many years. WDC should resist all attempts to allow this given the clear planning history associated with this site.
4. I fully support all the other points raised by Mr McCloy and Mr George as lodged on your site and would urge the Council to dismiss the application.

Mr Philip Stanton of New Cottage Church End Swerford

Our property backs on to, and directly overlooks the land in the above planning application.

We have lived at the property for 15 years, and in that time, there have been 2 applications from Charlbury Building Co. for a residential building to be erected and on both occasions, these have been refused on the grounds of Swerford being in a conservation area.

Through a series of applications that allowed Charlbury Building Co to circumvent previous refusals for a residential building, permission was granted by WODC for a "secure" commercial building with a sizeable footprint of 10m x 8m and a height of 5.6m. This is clearly intended for conversion to a residential building at some point in the future.

Please bear in mind that Charlbury Building Co. are not resident in Swerford, are based 9 miles away in Charlbury and have no other current connection with the village.

It was apparent from an early stage that the property was not being built to the plans submitted and the additional windows and doors are for one purpose only - for future residential use.

By their own admission, permission was not requested, they acknowledge that the additions are outside their original application and permission should have been sought first. I believe this to be yet another attempt to force changes past WODC and allow easier conversion to a dwelling in future years.

The plans as submitted are incorrect and misleading on the east elevation as these call for only 1 door. There are however additional openings for an upstairs window (now bricked in) and 2 lower level windows / doors (not yet bricked in). Whilst these may not be left as openings at the point of build, again they are clearly fitted to ease later conversion.

Although reference is made to the style of windows being in keeping with the area, no visual submission has been put forward for consideration.

Reference is made to the additions being to improve security. As other residents have pointed out, the addition of windows and doors will have the effect of reducing security and allow additional entry points for any criminal elements, or even attract them to the area.

As mentioned earlier, at least 1 of the intended openings on the east elevation has been bricked in, leaving clearly defined window aperture lines. This is incredibly unsightly and is significantly disruptive to the visual aspect on this wall of the building

**Conditions:**

In respect of the conditions outlined on pages 24 -25 of the agenda a number of amendments are recommended by Officers which are as follows:

That conditions 3(materials) and 7(tree protection) are deleted as they are no longer necessary

That the time frame associated with condition 4(hard and soft landscaping) is amended as above ground development has commenced.