

WEST OXFORDSHIRE DISTRICT COUNCIL

UPLANDS AREA PLANNING SUB-COMMITTEE

Date: 2nd December 2019

**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

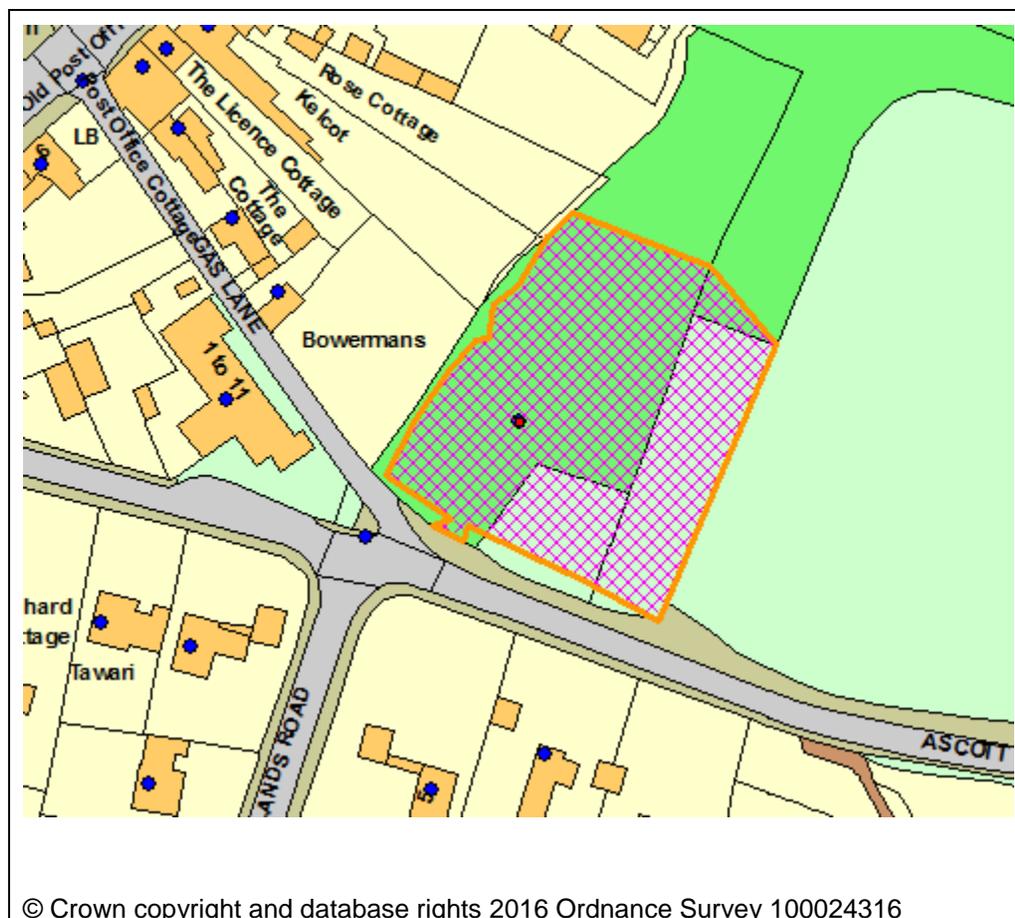
All documents, including forms, plans, consultations and representations on each application, but excluding any document, which in the opinion of the 'proper officer' discloses exempt information as defined in Section 1001 of the Local Government Act 1972.

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

Item	Application Number	Address
I	19/01474/FUL	<u>Land North Of Gas Lane And Ascott Road, Sipton Under Wychwood</u>

Application Number	19/01474/FUL
Site Address	Land North Of Gas Lane And Ascott Road Shipton Under Wychwood Oxfordshire
Date	20th November 2019
Officer	Chloe Jacobs
Officer Recommendations	Refuse
Parish	Shipton Under Wychwood Parish Council
Grid Reference	427959 E 217796 N
Committee Date	2nd December 2019

Location Map



Application Details:

Erection of two detached dwellings, access and landscaping (amended plans).

Applicant Details:

Mr Vince O'Brien
C/O Agent

I. CONSULTATIONS

Parish Council

The PC has no objection to the amended planning application. Whilst the PC, as in previous comments would have preferred one dwelling, nevertheless it believes that the proposed amendment addresses the PC's comments to the size and scale of the previous house

OCC Highways

The proposal, if permitted, will not have a significant detrimental impact (in terms of highway safety and convenience) on the adjacent highway network.

OCC as the Local Highways Authority, hereby notify the District Planning Authority that they do not object to the granting of planning permission, subject to condition.

Conservation Officer

Design:

I remain uneasy about the increased scale and presence of these buildings, by comparison with the low-lying structures previously approved for this site.

But the latest proposals have carefully considered forms - of more interest and of arguably higher design quality than those previously approved - which have broad plans and low pitches, somewhat reminiscent of static caravans. It is also notable that the applicants have made various changes in response to officer's guidance.

So, on balance, I think that this is supportable, from our point of view.

Impact on Conservation Area:

Paragraph 200 of the NPPF directs the LPA to look for opportunities for new development within conservation areas and within the setting of heritage assets which better reveal their significance, and proposals that preserve the elements of the setting that make a positive contribution to the asset or which better reveal its significance. Furthermore, LP Policy EH10 states proposals for development in conservation areas or affecting the setting will be permitted where it is shown to conserve or enhance the special interest, character, appearance and setting, specifically provided that the 'the location, form, scale, massing, density, height, layout, landscaping, use, alignment and external appearance of the development conserves or enhances the special historic or architectural interest, character and appearance of the conservation area, and is not detrimental to views within, into, and out of the area.

The current proposal (Plot 1 specifically) does not preserve the elements of the setting that make a positive contribution, due to its height and prominence at this location, and by dominating the views into the heritage assets, (views which for the past 30 years have been a paddock with trees and vegetation), the entrance into the conservation area will be significantly altered, and views into the heritage assets will become obscured (this is irrespective of whether there are currently trees and vegetation on the application site) and therefore, they will be harmed by this proposal. Lower-lying buildings are the only supportable solution at this location.

Because the current proposal does not comply with national and local legislation and policy including EH9, EH10 and EH11 of the Local Plan 2031 and the NPPF Section 16, I therefore raise an objection to this proposal in its current form.

WODC Drainage Engineers

No objection subject to all comments above being taken on board and pre-commencement surface water condition being adhered to in full.

WODC Env Services -
Landscape

No Comment Received.

Biodiversity Officer

I note that no ecological assessment report has been submitted with the above planning application. An ecological report was submitted with the 2017 planning application, but this was dated December 2014. At that time I commented on the 2017 application and said that the report would be sufficient. However another 2 years have passed and the ecological report is now 5 years old. This is considered to be out of date and a lack of up-to-date ecological information could form a reason for refusal. This recognises that the biodiversity value of site can change over time with species colonising as habitats establish or mature, particularly highly mobile species such as bats, birds, otters and reptiles/amphibians.

Updated ecological survey information is vital to ensure that the LPA is taking all material considerations into account, including the presence of protected species, priority species and priority habitats in line with Local Plan Policy EH3, paragraphs 170-175 of the NPPF and to meet their statutory duty under Section 40 of the NERC Act 2006. It is also a requirement of Circular 06/2005.

The 2014 ecological survey report was also based on a completely different development proposal and must be updated to take account of the current proposals, including the management of the land within the blue line boundary.

I therefore recommend that an updated ecological assessment is required. This should encompass the application site and the adjacent "protected land" that is the subject of the S106 agreement as part of the 2017 permission (land within blue line boundary). Without the updated ecological survey information the LPA would be unable to ensure that the existing biodiversity value of the site and the "protected land" within the blue line boundary is properly understood and that any future management would meet the requirements for enhancement (or biodiversity net gain).

OCC Archaeological Services

The application area contains no identified heritage assets and lidar suggests it falls outside the area of medieval settlement. As such there are no archaeological constraints to this application.

WODC Env Health - Uplands

I have no objections in principle to the application, however past use of the land (ancillary to the former gasworks on Gas Lane) may have left behind ground contamination, which will need to be managed as part of this development. Therefore a condition is recommended so as to ensure that the land is suitable.

2. REPRESENTATIONS

2.1 Twelve letters of objection have been received and are summarised as follows:

- The land to be built upon has laid waste for many years and has attracted local wildlife.
- Although in its unattended state (with unsightly temporary railings) it is not particularly attractive, it is at the very least one of the few open spaces left in our village.
- Surely, given Shipton is within an AONB and in a conservation area, a larger part of this site could be left untouched to continue to attract wildlife.
- One new house (set further back on the road) with a reasonable garden would suffice?
- It is contrary to policy Policy EH10
- There has been "planning creep" over the last three years
- Previous application allowed "following clear advice from officers and the Conservation Office, it is considered that a single dwelling is the most appropriate scale of development when considered against the context of the site and its wider surroundings"
- two very large and high buildings which will effectively destroy this beautiful and much appreciated part of the Conservation Area

3. APPLICANT'S CASE

3.1 The design, access and heritage statement can be read in full online but is concluded as follows:

The proposed development builds on the features which have already been established by the approved scheme for two dwellings on the site. The new dwellings have been designed and laid out to better reflect the character of this part of the village compared to the extant permission. In particular, the new dwellings have been given a greater presence to ensure they provide an attractive and appropriate entrance in to the village.

The proposal reflects the form, layout and materials found in this part of the Conservation Area and, as such, it is a much more appropriate development than the previously approved scheme. The high quality, bespoke nature of the scheme ensures the proposal complies with Policies OS2, OS4, EH1, EH9 and EH10 of the Local Plan 2031.

There are no highway safety, landscape or neighbour impact objections to the proposal.

It is hoped, therefore, that planning permission will be granted as soon as possible to enable the site to be developed and the character and appearance of this part of the Conservation Area to be enhanced.

4. PLANNING POLICIES

OS2NEW Locating development in the right places

OS4NEW High quality design

H2NEW Delivery of new homes

H6NEW Existing housing

EH1 Cotswolds AONB

EH9 Historic environment

EH10 Conservation Areas

EH3 Biodiversity and Geodiversity

NPPF 2019

DESGUI West Oxfordshire Design Guide

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

5. PLANNING ASSESSMENT

- 5.1 The proposal relates to a 0.175ha parcel of land to the north of Ascott Road, Shipton-Under-Wychwood. The application site is located towards the east of the village centre, facing onto Ascott Road. To the south of the site, on the opposite side of Ascott Road, lies residential development at Courtlands Road and Sinnels Field. To the west are the rear gardens of the properties in Church Fields and Gas Lane. To the north east are a number of larger residential properties sited within large plots, including the Grade II Listed Old Vicarage.
- 5.2 The site is within the Cotswolds AONB and the Shipton-Under-Wychwood Conservation Area.
- 5.3 There is an extensive recent planning history for this site, members may recall considering some of the following applications at committee previously:
 - 14/02088/FUL: Proposed erection of single detached dwelling with associated garage withdrawn 26.01.2015 on the grounds of inappropriate siting, scale and design, and impact on the character and appearance of the Conservation Area.
 - 16/00421/FUL: Erection of single detached dwelling with associated access and landscaping works. This application was withdrawn on the grounds that it did not read clearly as workshop (or converted workshop) space. It was also considered too large in terms of scale and massing, with the barn element at 1.5 storey height (7.5m).
 - 16/01566/FUL: Erection of a single storey detached dwelling with associated access and landscaping works was approved under delegated authority on 04.08.2016

- 17/03057/FUL: Erection of two single storey detached dwellings with associated access and landscaping was approved at committee on the 04.12.2017 subject to a unilateral agreement to retain the rear of the site in a natural state in perpetuity, and this permission is extant.

- 5.4 An earlier application (WV2002/1788) was refused and dismissed at appeal on the grounds that the proposal would erode the character and harm the visual amenity of an important area of open space which contributes to the wider character and appearance of the Shipton Conservation Area.
- 5.5 The application is before committee as the Parish Council comments conflict with the officer recommendation.
- 5.6 Taking into account planning policy, other material considerations and the representations of interested parties your officers are of the opinion that the key considerations of the application are:

Principle
Siting, design and scale
Impact on the character and appearance of the area
Residential amenity
Ecology and biodiversity
Highways

Principle

- 5.7 The principle for the redevelopment of the site for two residential properties was established with the 2017 extant approval.
- 5.8 The officer concerns relate to design, form and scale and the lack of public benefits which will be discussed in more detail below.

Siting, Design and Form

- 5.9 Members may recall, as set out in the opening paragraph of the assessment, this site has a long and complicated planning history.
- 5.10 In 2002 the District Council and the Planning Inspectorate took the view that the site wasn't suitable for development due to its importance in the conservation area. The 2016 application allowed for one modest dwelling, the 2017 application was purposely designed to reflect a link to historical context of the site, in terms of modest, single storey workshop building(s) which once occupied the front part of the site, with an additional building to the rear.
- 5.11 The application now seeks consent for two 1.5 storey buildings which are much more domestic in design, are orientated more towards the open countryside and do not so much reflect the low key workshop style buildings that were approved. Although amended plans were received to address some of the design concerns, officers consider that this sustained increase and "mission creep" in built form is not appropriate on this sensitive site.

Impact on the character and appearance of the area and AONB

- 5.12 The application site lies within both the Cotswolds Area of Outstanding Natural Beauty and the Shipton-Under-Wychwood Conservation Area. The application site is also within close proximity to Cedar Lodge / The Old Vicarage a Grade II listed building which lies to the north-east of the site. Given this, it is evident that the site is sensitive in its very nature.
- 5.13 Within the Shipton-under-Wychwood Conservation Area, decision makers are required to take account of section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended which states that, with respect to buildings or other land in a conservation area, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area. Further the paragraphs of section 16 'Conserving and enhancing the historic environment ' of the NPPF are relevant to consideration of the application.
- 5.14 Policy EH10 of the WODC Local plan states that proposals for development within the Conservation Area or affecting the setting of a Conservation Area will be permitted where it can be shown to conserve or enhance the special interest, character, appearance and setting, specifically provided that:
- the location, form, scale, massing, density, height, layout, landscaping, use, alignment and external appearance of the development conserves or enhances the special historic or architectural interest, character and appearance of the Conservation Area;
 - the development conserves or enhances the setting of the Conservation Area and is not detrimental to views within, into or out of the Area;
 - the proposals are sympathetic to the original curtilage and pattern of development and to important green spaces, such as paddocks, greens and gardens, and other gaps or spaces between buildings and the historic street pattern which make a positive contribution to the character in the Conservation Area;
 - the wider social and environmental effects generated by the development are compatible with the existing character and appearance of the Conservation Area; and
 - there would be no loss of, or harm to, any feature that makes a positive contribution to the special interest, character or appearance of the Conservation Area, unless the development would make an equal or greater contribution
- 5.15 In 2017 the principal of two dwellings at this site was supported because they were considered low lying and reminiscent of the previous workshops / sheds that were located at the site, thereby, not diminishing the character or significance of the any heritage assets, and the provision of land to the south as ecological gain was secured as a benefit to offset any harms arising from the development. The latest proposal is to build two one-and-a-half storey houses.
- 5.16 Having assessed the new proposal and taken all heritage assets into consideration, Plot 2 is supportable because it sits lower and further into the plot, still maintaining a lower-lying construction, and it will preserve the views and setting of the heritage assets.
- 5.17 However, Plot 1 is considered to be too prominent and this will have a significant impact at this location due to its height and its length along Ascott Road. Its prominence and dominance over of the views and setting of the heritage assets, particularly views and setting of the conservation area and the Grade I listed church (views of the church are currently experienced as one enters the conservation area on Ascott Road) are going to be significantly diminished. It is noted that although the applicant provided a heritage statement - and assessed impact of the proposal on

the conservation area and one listed building (The Old Vicarage), however, they have not assessed the other heritage assets, especially the grade I listed church which can be viewed across the site. On these grounds, it is not considered that the form and height of the proposed development would conserve or enhance the special historic or architectural interest, character and appearance of the Conservation Area.

- 5.18 The site also 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 EH1 of the local plan and the NPPF which requires 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.
- 5.19 Due to the prominent location of the site, the proposed dwellinghouses would be visible along Gas Lane. In comparison to the previously consented scheme whereby the proposed dwellings were designed to ensure minimal visual intrusion from Ascott Road, it is considered that plot 1 will be more visible by reason of its form and height. Having given this harm "great weight" it is considered that in terms of its siting and design the harm is not considered to adequately conserve or enhance this valued landscape.

Residential Amenities

- 5.20 In terms of the impact on residential amenity, the separation distance between the existing dwellings to the west and the aspect of those properties is such that there would be no unacceptable loss of light or overlooking to properties adjoining the site.
- 5.21 In terms of amenity space provided for the new dwellinghouses, it is considered that an appropriate garden space has been provided for both new dwellings, and general amenity space would therefore be catered for.

Ecology

- 5.22 No ecological assessment report has been submitted with the planning application. An ecological report was submitted with the 2017 planning application, dated December 2014. At that time the ecologist raised no objection, but another 2 years have passed and the ecological report is now 5 years old. This is considered to be out of date and a lack of up-to-date ecological information is a valid reason for refusal. The ecological assessment recognises that the biodiversity value of site can change over time with species colonising as habitats establish or mature, particularly highly mobile species such as bats, birds, otters and reptiles/amphibians.
- 5.23 An updated ecological survey information is vital to ensure that the LPA is taking all material considerations into account, including the presence of protected species, priority species and priority habitats in line with Local Plan Policy EH3, paragraphs 170-175 of the NPPF and to meet their statutory duty under Section 40 of the NERC Act 2006. It is also a requirement of Circular 06/2005.
- 5.24 The 2014 ecological survey report was also based on a completely different development proposal and must be updated to take account of the current proposals, including the management of the land within the blue line boundary. Therefore, the scheme is considered refusible based on the lack of information submitted in regards to an updated ecological survey report.

- 5.25 Furthermore, in the supporting statement, the applicant states that the remaining site area to the rear of the site will be retained in separate private ownership and will be managed so as to minimise impact on the new property or other neighbours, acting as an area of natural habitat for wildlife and ecology.

Highways

- 5.26 The proposal is for vehicular and pedestrian access to be taken via a single access point from Gas Lane. The existing vehicular access off Ascott Road will be improved and re-used with the provision of appropriate vision splays in both directions, as per the extant permission. Each dwelling is served by a single garage with two additional parking spaces on the driveway which is considered to be sufficient enough to serve the needs of the future occupiers.
- 5.27 OCC Highways have been consulted on the application and have raised no objections in regards to highways safety and convenience. On this basis, the scheme is considered acceptable and complies with policy T4 of the West Oxfordshire Local Plan.

Unilateral undertaking

- 5.28 The previous application was subject to a unilateral undertaking to protect the trees and ecology to the rear of the development site. If this application was recommended for approval then a new UU would be required for the same reasons as the previous undertaking.

Conclusion

- 5.29 In light of the above assessment, given that the proposed development is not considered to conserve or enhance the Cotswolds Area of Outstanding Natural Beauty or the Shipton Under Wychwood Conservation Area, the proposal is contrary to policies OS2, OS4, EH1 and EH10 of the West Oxfordshire Local plan 2031 and sections 16 and Paragraph 172 of the NPPF. Furthermore, without an ecological assessment report, or the legal undertaking to retain the ecological area, the application is recommended for refusal based on insufficient information, contrary to policy EH3 and national legislation.

6. REASONS FOR REFUSAL

1. The proposal, by reason of its scale, prominence, form and siting and its location within the Shipton-under-Wychwood Conservation Area in a sensitive edge of settlement location, will appear as an incongruous and inappropriate building and will neither preserve nor enhance the character and appearance of the Conservation Area. This would lead to less than substantial harm to the Conservation Area which is not outweighed by the public benefits. As such the development is considered to be contrary to Policies OS2, OS4, EH9 and EH10 of the West Oxfordshire Local Plan 2031 and the relevant paragraphs of the NPPF, particularly paragraph 193.
2. The proposed development would have a harmful impact on the natural and scenic quality of the Cotswolds Area of Outstanding Natural Beauty which, when given great weight, is considered to be in conflict with Policies EH1 and OS2 of the adopted West Oxfordshire Local Plan 2031 and advice in the NPPF 2019.

3. Insufficient information has been submitted, in particular, ecological survey information, assessment and mitigation to enable the Local Planning Authority to fully assess the extent to which species and habitats of Principal Importance in s.41 of the Natural Environment and Rural Communities Act 2006 and protected species under the Wildlife and Countryside Act 1981 (as amended) or The Conservation of Habitats and Species Regulations 2017 may be affected by the proposed development and to ensure that biodiversity net gain would be secured. The Local Planning Authority is therefore unable to fully assess the development in respect of the requirements of the National Planning Policy Framework (in particular Chapter 15, paragraphs 170, 171, 174 and 175); The Planning Practice Guidance (including revisions made in July 2019); West Oxfordshire Local Plan Policy EH3 and ODPM Circular 06/2005. Without sufficient information the Local Planning Authority may be unable to meet its statutory duty under the Natural Environment and Rural Communities Act 2006 to "have regard, ..., to the purpose of conserving biodiversity".
4. The applicant has not entered into a legal agreement or agreements to secure the provision of the land to the south of the site as ecological land in perpetuity. The local planning authority cannot therefore be satisfied that the impacts of the development can be made acceptable. Consequently, the proposal conflicts with West Oxfordshire Local Plan 2031 Policy EH3.

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Date: 20th November 2019