

**Kirtlington Park House, East Wing Kirtlington Park
Kirtlington OX5 3JN**

19/02772/F

Case Officer: Shona King

Applicant: Mr Simon Holland

Proposal: Alterations to outbuilding to create living accommodation ancillary to East Wing, Kirtlington Park House

Ward: Fringford And Heyfords

Councillors: Councillor Corkin, Councillor Macnamara and Councillor Wood

Reason for Referral: Application submitted by a CDC Councillor

Expiry Date: 30 January 2020

Committee Date: 13 February 2020

EXECUTIVE SUMMARY OF PROPOSALS AND RECOMMENDATION

RECOMMENDATION: GRANT PERMISSION SUBJECT TO CONDITIONS

Proposal

The proposal is to convert part of a detached outbuilding to living accommodation ancillary to East Wing, Kirtlington Park House. The remainder of the outbuilding has already been converted.

Consultations

The following consultees have raised **no objections** to the application:

Kirtlington Parish Council, OCC Highway Authority, Historic England, CDC Building Control.

No letters of objection have been received and no letters of support have been received.

Planning Policy and Constraints

The site lies within the curtilage of Kirtlington Park House, a Grade 1 Listed building and within the Registered Park and Garden. It also lies within Kirtlington Conservation Area.

The application has also been assessed against the relevant policies in the NPPF, the adopted Local Plan and other relevant guidance as listed in detail at Section 8 of the report.

Conclusion

The key issues arising from the application details are:

- Principle of Development
- Design and impact on the visual amenities of the area
- Impact on Heritage Assets
- Residential amenity
- Ecology
- Highway safety

The report looks into the key planning issues in detail, and Officers conclude that the proposal is acceptable subject to conditions.

Members are advised that the above is a summary of the proposals and key issues contained in the main report below which provides full details of all consultation responses, planning policies, the Officer's assessment and recommendations, and Members are advised that this summary should be read in conjunction with the detailed report.

MAIN REPORT

1. APPLICATION SITE AND LOCALITY

- 1.1. The application site comprises part of a single storey outbuilding, of natural stone construction, which lies to the north of Kirtlington Park House.

2. CONSTRAINTS

- 2.1. The application site is a curtilage listed building and lies within both the Registered Park and Garden and Kirtlington Conservation Area.

3. DESCRIPTION OF PROPOSED DEVELOPMENT

- 3.1. Permission is sought for the conversion of part of the outbuilding to living accommodation ancillary to the use of the dwelling currently known as East Wing. The remainder of the outbuilding was converted in 1994 and does not form part of East Wing.
- 3.2. The proposed works involve infilling two large openings in the north elevation with timber boarding, doors and windows. The accommodation to be provided includes a living area with kitchen a bedroom and an en-suite.
- 3.3. Amended plans have been received which simplify the design of the infill panels, omitting a full length glazed screen and a window and the insertion of a row of windows.

4. RELEVANT PLANNING HISTORY

- 4.1. There is no planning history directly relevant to the proposal

5. PRE-APPLICATION DISCUSSIONS

- 5.1. The following pre-application discussions have taken place with regard to this proposal:
- 5.2. 19/00157/PREAPP – the principle of the conversion to ancillary living accommodation was considered to be acceptable however the details of the design needed revising to minimise the impact on the heritage assets. In addition, an assessment of the impact on ecology was required.

6. RESPONSE TO PUBLICITY

- 6.1. This application has been publicised by way of a site notice displayed near the site, by advertisement in the local newspaper, and by letters sent to all properties immediately adjoining the application site that the Council has been able to identify from its records. The final date for comments was **7 January 2020**, although

comments received after this date and before finalising this report have also been taken into account.

6.2. No comments have been raised by third parties.

7. RESPONSE TO CONSULTATION

7.1. Below is a summary of the consultation responses received at the time of writing this report. Responses are available to view in full on the Council's website, via the online Planning Register.

PARISH/TOWN COUNCIL AND NEIGHBOURHOOD FORUMS

7.2. KIRTLINGTON PARISH COUNCIL: **No objection**

CONSULTEES

7.3. OCC HIGHWAYS: **No objection** subject to use as an annexe only.

7.4. BUILDING CONTROL: **Comment** that an application under the Building Regulations is required

7.5. HISTORIC ENGLAND: **No objection**

8. RELEVANT PLANNING POLICY AND GUIDANCE

8.1. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.

8.2. The Cherwell Local Plan 2011-2031 - Part 1 was formally adopted by Cherwell District Council on 20th July 2015 and provides the strategic planning policy framework for the District to 2031. The Local Plan 2011-2031 – Part 1 replaced a number of the 'saved' policies of the adopted Cherwell Local Plan 1996 though many of its policies are retained and remain part of the development plan. The relevant planning policies of Cherwell District's statutory Development Plan are set out below:

CHERWELL LOCAL PLAN 2011 - 2031 PART 1 (CLP 2031 Part 1)

- PSD1: Presumption in Favour of Sustainable Development
- SLE 4: Improved Transport and Connections
- Villages 1: Village Categorisation
- ESD1: Mitigating and Adapting to Climate Change
- ESD 7: Sustainable Drainage Systems (SuDS)
- ESD10: Protection and Enhancement of Biodiversity and the Natural Environment
- ESD 13: Local Landscape Protection and Enhancement
- ESD 15: The Character of the built and historic environment

CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- H18: New dwellings in the countryside
- C28: Layout, design and external appearance of new development
- C30: Design control

8.3. Under Section 38 of the Planning and Compulsory Purchase Act 2004, a Neighbourhood Plan that has been approved at referendum also forms part of the statutory development plan for the area. In this case, the application site falls within the Mid Cherwell Neighbourhood Plan and the following Policies of the Neighbourhood Plan are considered relevant:

- PD5: Building and Site Design

8.4. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- The Planning (Listed Buildings and Conservation Areas) Act 1990

9. APPRAISAL

9.1. The key issues for consideration in this case are:

- Principle of development
- Design and impact on the character of the area
- Heritage impact
- Residential amenity
- Ecology impact
- Highway safety

Principle of Development

9.2. The building is located outside the built-up limits of a settlement and as such all new residential development stands to be assessed against Saved Policy H18 of the Cherwell Local Plan 1996. This policy sets out that a new dwelling in the open countryside will only be granted planning permission where it is considered to be essential for agriculture or another existing undertaking or where it meets the criteria for the provision of affordable housing and in either case where it does not conflict with any other policy in the development plan. .

9.3. In this instance, however, the proposal is simply to convert the outbuilding for use as additional living accommodation for East Wing only and not as a separate unit. Therefore, this Policy does not apply but, given the location of the building, it is considered necessary to impose a condition to restrict its occupancy to ancillary accommodation to East Wing and to ensure that it could not be let out or allowed to be occupied separately from East Wing.

Design and impact on the character of the area

9.5. The outbuilding is constructed from natural stone with a natural stone slate roof. The south elevation faces across the open parkland and is currently blank, as is the western elevation which faces towards East Wing. The north elevation has two wide openings, without doors, in the part to be converted and a pedestrian entrance door in the part that has already been converted, along with three rooflights. There is a set of glazed french doors in the western elevation.

9.6. The conversion works would retain the blank southern and western elevations and infill the two wide openings with glazing and entrance doors. Three additional rooflights are proposed in the north elevation. Amended plans have been received

which simplify the treatment of these infill panels and would ensure the agricultural character of the building is retained.

- 9.7. It is therefore considered that the proposal complies with saved Policy C28 of the Cherwell Local Plan 1996 which states that control will be exercised over all new development to ensure that standards of layout, design and external appearance are sympathetic to the character of the urban or rural context of that development.

Heritage Impact

Legislative and policy context

- 9.8. The site is within Kirtlington Conservation Area, is a curtilage listed building, being within the curtilage of Grade 1 listed Kirtlington Park, and is within the Kirtlington Park registered park and garden.
- 9.9. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) states that in carrying out its functions as the Local Planning Authority in respect of development in a conservation area: *special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.*
- 9.10. Likewise, Section 66 of the same Act states that: *In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority...shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.* Therefore, significant weight must be given to these matters in the assessment of this planning application.
- 9.11. Conservation Areas and Listed Buildings are designated heritage assets, and Paragraph 193 of the NPPF states that: *when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.* Policy ESD15 of the CLP 2031 Part 1 echoes this guidance.

Assessment

- 9.12. The building forms part of the setting of Kirtlington Park House, which has been divided into separate dwellings but retains the appearance of a single large country house. The conversion works are considered to preserve the character and appearance of the Conservation Area and would not result in any significant harm to the setting of the listed building or registered park and garden. The amendments to the design as set out above would ensure that the simple agricultural character is retained.

Ecology Impact

Legislative context

- 9.13. The Conservation of Habitats and Species Regulations 2017 consolidate the Conservation of Habitats and Species Regulations 2010 with subsequent amendments. The Regulations transpose European Council Directive 92/43/EEC, on the conservation of natural habitats and of wild fauna and flora (EC Habitats Directive), into national law. They also transpose elements of the EU Wild Birds Directive in England and Wales. The Regulations provide for the designation and

protection of 'European sites', the protection of 'European protected species', and the adaptation of planning and other controls for the protection of European Sites.

- 9.14. Under the Regulations, competent authorities i.e. any Minister, government department, public body, or person holding public office, have a general duty, in the exercise of any of their functions, to have regard to the EC Habitats Directive and Wild Birds Directive.
- 9.15. The Regulations provide for the control of potentially damaging operations, whereby consent from the country agency may only be granted once it has been shown through appropriate assessment that the proposed operation will not adversely affect the integrity of the site. In instances where damage could occur, the appropriate Minister may, if necessary, make special nature conservation orders, prohibiting any person from carrying out the operation. However, an operation may proceed where it is or forms part of a plan or project with no alternative solutions, which must be carried out for reasons of overriding public interest.
- 9.16. The Regulations make it an offence (subject to exceptions) to deliberately capture, kill, disturb, or trade in the animals listed in Schedule 2, or pick, collect, cut, uproot, destroy, or trade in the plants listed in Schedule 4. However, these actions can be made lawful through the granting of licenses by the appropriate authorities by meeting the requirements of the 3 strict legal derogation tests:
- (1) Is the development needed to preserve public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment?
 - (2) That there is no satisfactory alternative.
 - (3) That the action authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range.
- 9.17. The Regulations require competent authorities to consider or review planning permission, applied for or granted, affecting a European site, and, subject to certain exceptions, restrict or revoke permission where the integrity of the site would be adversely affected. Equivalent consideration and review provisions are made with respects to highways and roads, electricity, pipe-lines, transport and works, and environmental controls (including discharge consents under water pollution legislation).

Policy Context

- 9.18. Paragraph 170 of the NPPF states that planning policies and decisions should contribute to and enhance the natural and local environment by (amongst others): a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils; and d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.
- 9.19. Paragraph 175 states that when determining planning applications, local planning authorities should apply the following principles: a) if significant harm to biodiversity resulting from a development cannot be avoided, adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused; d) development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to incorporate biodiversity improvements in and

around developments should be encouraged, especially where this can secure measurable net gains for biodiversity.

- 9.20. Paragraph 180 of the NPPF states that planning decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should (amongst others) limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation.
- 9.21. Policy ESD10 of the Cherwell Local Plan 2011-2031 lists measures to ensure the protection and enhancement of biodiversity and the natural environment, including a requirement for relevant habitat and species surveys and associated reports to accompany planning applications which may affect a site, habitat or species of known ecological value.
- 9.22. Policy ESD11 is concerned with Conservation Target Areas (CTAs), and requires all development proposals within or adjacent CTAs to be accompanied by a biodiversity survey and a report identifying constraints and opportunities for biodiversity enhancement.
- 9.23. These policies are both supported by national policy in the NPPF and also, under Regulation 43 of Conservation of Habitats & Species Regulations 2017, it is a criminal offence to damage or destroy a breeding site or resting place, unless a licence is in place.
- 9.24. The Planning Practice Guidance dated 2014 post dates the previous Government Circular on Biodiversity and Geological Conservation (ODPM Circular 06/2005), although this remains extant. The PPG states that Local Planning Authorities (LPAs) should only require ecological surveys where clearly justified, for example if there is a reasonable likelihood of a protected species being present and affected by development. Assessments should be proportionate to the nature and scale of development proposed and the likely impact on biodiversity.

Assessment

- 9.25. Natural England's Standing Advice states that an LPA only needs to ask an applicant to carry out a survey if it's likely that protected species are present on or near the proposed site, such as protected bats at a proposed barn conversion affected by the development
- 9.26. It also states that LPAs can also ask for:
- a scoping survey to be carried out (often called an 'extended phase 1 survey'), which is useful for assessing whether a species-specific survey is needed, in cases where it's not clear which species is present, if at all
 - an extra survey to be done, as a condition of the planning permission for outline plans or multi-phased developments, to make sure protected species aren't affected at each stage (this is known as a 'condition survey')
- 9.27. The Standing Advice sets out habitats that may have the potential for protected species, and in this regard the site contains buildings of traditional construction, and there are a number of mature trees adjacent the site, and therefore has the potential to be suitable habitat for bats and breeding birds.

- 9.28. In order for the LPA to discharge its legal duty under the Conservation of Habitats and Species Regulations 2017 when considering a planning application where EPS are likely or found to be present at the site or surrounding area, LPAs must firstly assess whether an offence under the Regulations is likely to be committed. If so, the LPA should then consider whether Natural England (NE) would be likely to grant a licence for the development. In so doing the authority has to consider itself whether the development meets the 3 derogation tests listed above.
- 9.29. In respect of planning applications and the Council discharging of its legal duties, case law has shown that if it is clear/ very likely that NE will not grant a licence then the Council should refuse planning permission; if it is likely or unclear whether NE will grant the licence then the Council may grant planning permission.
- 9.30. The application is supported by a detailed preliminary bat assessment which concluded that there was negligible roosting potential within the building so that bats are not considered to be a constraint on the site.
- 9.31. Officers are satisfied, on the basis of the advice from the Council's Ecologist and the absence of any objection from NE, and subject to conditions, that the welfare of any European Protected Species found to be present at the site and surrounding land will continue and be safeguarded notwithstanding the proposed development and that the Council's statutory obligations in relation to protected species and habitats under the Conservation of Habitats & Species Regulations 2017, have been met and discharged.

10. PLANNING BALANCE AND CONCLUSION

- 10.1. The proposal complies with the relevant Development Plan policies and guidance listed at section 8 of this report, and so is considered to be sustainable development. In accordance with Paragraph 11 of the NPPF, permission should therefore be granted.

11. RECOMMENDATION

RECOMMENDATION – DELEGATE TO THE ASSISTANT DIRECTOR FOR PLANNING AND DEVELOPMENT TO **GRANT PERMISSION, SUBJECT TO THE CONDITIONS SET OUT BELOW** (AND ANY AMENDMENTS TO THOSE CONDITIONS AS DEEMED NECESSARY)

CONDITIONS

Time Limit

1. The development to which this permission relates shall be begun not later than the expiration of three years beginning with the date of this permission.

Reason - To comply with the provisions of Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

Compliance with Plans

2. Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the following plans and documents: Design and Access Statement, Structural Report, Preliminary Bat Assessment carried out by Astute Ecology Ltd dated November 2019 and

drawing Nos: 100/03 rev A, 200/01, 300/01 rev A, 300/02 rev C and 500/02,

Reason – For the avoidance of doubt, to ensure that the development is carried out only as approved by the Local Planning Authority and comply with Government guidance contained within the National Planning Policy Framework.

Materials

3. Any remedial stonework necessary for the repair or making good of the elevations shall be carried out in natural stone of the same type, texture, colour and appearance as the stone on the existing building and shall be laid, dressed, coursed and pointed to match that of the existing building.

Reason – To ensure that the development is constructed and finished in materials which are in harmony with the materials used on the existing building and to safeguard the significance of the heritage asset and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

4. Prior to the insertion of the doors, rooflights and windows, full details of the doors, rooflights and windows hereby approved, at a scale of 1:20 including a cross section, cill, lintel and recess detail and colour/finish, shall be submitted to and approved in writing by the Local Planning Authority. The doors and windows shall not be installed within the building other than in accordance with the approved details and shall be retained as such thereafter.

Reason - To ensure the satisfactory appearance of the completed development and to safeguard the significance of the heritage asset and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

Ecology

5. The development hereby approved shall be carried out in accordance with the recommendations set out in sections 5.2, 5.3 and 5.4 of the Preliminary Bat Assessment carried out by Astute Ecology Ltd dated November 2019.

Reason - To ensure that the development does not cause harm to any protected species or their habitats in accordance with Policy ESD10 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

Occupancy

6. The residential accommodation hereby permitted shall be used solely as ancillary accommodation to the existing dwellinghouse currently known as East Wing Kirtlington Park and as such shall not be sold leased, sub-let or used as an independent dwelling unit.

Reason - The site is in an area where permission for development unrelated to the essential needs of agriculture or forestry would not normally be granted, in addition, the site is unsuitable to accommodate a separate dwelling without it being cramped and would not provide a satisfactory level of living amenity for the occupants on a permanent basis and in order to comply with Policy ESD 15 of the Cherwell Local Plan 2011-2031 Part 1 and saved Policies H18, C28 and

C30 of the Cherwell Local Plan 1996.

CASE OFFICER: Shona King

TEL: 01295 221643