

**Site Address: Land to the rear of
Rickyard House, Hethe Road, Hardwick**

13/00415/OUT

Ward: Fringford

Councillor(s): Cllr Wood

Case Officer: Laura Bailey

Recommendation: Refusal

Applicant: Mr and Mrs Curtis

Application Description: OUTLINE – Proposed new dwelling and garage

Committee Referral: Chairman agreed call-in by the Ward Member

1. Site Description and Proposed Development

- 1.1 The site is located to the south east of Rickyard House. The site is not in a Conservation Area, although there are several listed buildings in close proximity; the barn and stable building opposite is Grade II listed, St Mary's Church directly opposite is Grade II listed and Manor Farm to the west is Grade II* listed. A bridleway (BR 241/1) runs parallel with the western site boundary. The site is occupied by a collection of small sheds and is relatively unkempt.
- 1.2 The proposal seeks outline planning permission for 1 dwelling and associated garage with all matters reserved except access. Access is to be taken from the bridleway, which is currently used by vehicular traffic accessing Rickyard House, Sycamore House and the agricultural/business buildings beyond.

2. Application Publicity

- 2.1 The application has been advertised by way of neighbour letters, site notice and press notice. The final date for comment was the 23rd May 2013.

Two letters of support have been received; one from Sycamore House and one from Manor Farm.

3. Consultations

- 3.1 Hardwick with Tusmore Parish Meeting: Fully support the application.

Cherwell District Council Consultees (in summary)

- 3.2 Conservation Officer: Objects to the proposal.
- 3.4 Rights of Way Officer: No objection.
- 3.5 Ecology Officer: No objection, subject to conditions.

Oxfordshire County Council Consultees

- 3.6 Highways Officer: No objection, subject to conditions.
- 3.7 OCC Archaeologist: No objection, subject to conditions.

Other Consultees

3.8 None.

4. Relevant National and Local Policy and Guidance

4.1 Development Plan Policy

Adopted Cherwell Local Plan (Saved Policies)

H15:	Category 3 settlements
H18:	New dwellings in the countryside
C1:	Nature Conservation
C2:	Protected Species
C7:	Topography and character of landscape
C8:	Resist sporadic development in open countryside
C28:	Layout, design and external appearance of new development
C30:	Design of new residential development
C33:	Loose knit settlements
ENV1:	Environmental protection

4.2 Other Material Policy and Guidance

National Planning Policy Framework

Cherwell Local Plan – Proposed Submission Local Plan Incorporating Proposed Changes (March 2013)

Although this plan does not have Development Plan status, it can be considered as a material planning consideration. The plan sets out the Council's strategy for the District to 2031. The policies listed below are considered to be material to this case and are not replicated by saved Development Plan policy:

ESD10: Biodiversity and the natural environment
ESD13: Local landscape protection and enhancement
ESD16: Character of the built environment

Policy Villages 1: Village Categorisation
Policy Villages 2: Distributing Growth Across the Rural Areas

5. Appraisal

5.1 The key issues for consideration in this application are:

- Relevant planning history
- Principle of the development
- Highway safety
- Visual amenity/landscape impact
- Impact on the setting of the listed buildings
- Neighbour amenity
- Ecology

Relevant planning history

- 5.2 There have been numerous applications for residential development in and around Hardwick over the last 15 years. The applicants have cited some of these decisions as setting a precedent for this proposal and as such, it is important to review the particular circumstances pertaining to these decisions;
- 5.3 96/00709/OUT (APPEAL ALLOWED) – This related to a development for the demolition of existing workshops and barns and the erection of 2 dwellings, on land at Manor Farm, Hardwick. This is essentially the land to the north of the current application site, which is now occupied by Rickyard House.
- 5.4 The Inspector allowed the appeal on the basis that the existing uses on the site were causing serious detriment to local amenities (smell of pigs and unsightly buildings) and the erection of 2 dwellings on the site would therefore comply with the requirements of Policy ENV2 of the Adopted Cherwell Local Plan. It is noteworthy that the Inspector commented that, *'I consider that granting permission for this proposal is unlikely to create a precedent for others elsewhere in view of the particular circumstances of this case'*.
- 5.5 98/01988/F (PERMITTED) – This related to the development of the dwelling now referred to as Rickyard House. Given that the principle of a dwelling on this site had already been accepted by the previous outline permission (above), this application was approved, following amendments to the design of the dwelling.
- 5.6 05/02283/F (PERMITTED) – This application related to the erection of one dwelling on land to the north east of 5 Hethe Road, Hardwick. This was originally recommended for refusal by Officers (following dismissal of an appeal for a dwelling on the site) on the basis that it would extend the built up limits of the settlement and was not required for an essential agricultural need. However, the application went before Full Council and was approved, contrary to Officer recommendation. It is noteworthy that Members stated that the Council does not lightly approve an exception to Policy H15 and believed it to be a very rare occurrence.
- 5.7 Members noted that, *'Whilst accepting that the proposal is contrary to Policy H15 of the Adopted Cherwell Local Plan, the Council considered that an exception could be made in this instance whereby in this particular case the Council is cognisant of the concept of "no demonstrable harm"'*.

Principle

- 5.8 The site lies within a category 3 settlement and is not an allocated site for development. Policy H15 restricts new residential development in category 3 settlements to the conversion of non residential buildings in accordance with Policy H21 or where there is a proven essential agricultural need for a new dwelling. This application does not seek consent for such a dwelling.
- 5.9 The applicant's agent asserts that the application site is part of the residential curtilage of Rickyard House. Having visited the site and reviewed the planning history I do not agree. The red line application site area pertaining to the erection of Rickyard House did not include this parcel of land, nor has there been any application for a certificate of lawfulness to use the land as a domestic garden. In my view, this land is agricultural and does not form part of the residential curtilage. In any case, in the context of the presumption in favour of sustainable development, the land is not considered to be previously developed.
- 5.10 The agent states that the approval of previous applications for the erection of dwellings in Hardwick (as set out in the Planning History section above) has set a

precedent within the settlement for new dwellings, where there is no essential agricultural or other proven need.

- 5.11 It is considered that there are material differences in the cases mentioned above and this proposal. In the case relating to the redevelopment of Manor Farm (96/00709/OUT refers) (which is now partly occupied by Rickyard House), the Inspector concluded that the removal of the existing buildings and the use of the site for housing pigs and poultry, together with the creation of a car park for the existing farm shop were sufficient grounds to set aside Policy H15 of the Adopted Cherwell Local Plan. He also concluded that this would be unlikely to set a precedent for others elsewhere, in view of the particular circumstances of the case. This application quite clearly does not create a nuisance and is not comparable with this appeal decision.
- 5.12 In relation to the site on Hethe Road, Officers had successfully defended an appeal for the erection of a dwelling on this site. Application 05/02283/F was subsequently submitted and was determined by Full Council, in light of the Inspector's categoric dismissal of the proposal. Council permitted the scheme, on the basis of the particular circumstances of the case and the lack of demonstrable harm. Again, the circumstances of this application are not comparable.
- 5.13 The agent also quotes no. 5A Hethe Road and states that it is being used as a separate residential unit. There is no record of any planning permission for such a use and as such, this matter has been passed to the enforcement team to investigate.
- 5.14 The NPPF advocates a presumption in favour of sustainable development (para 14). As part of this, a set of core land use planning principles should underpin plan making and decision taking. This includes seeking to secure high quality design and recognising the intrinsic character and beauty of the countryside (para 17). The framework also advocates the conservation of heritage assets in a manner appropriate to their significance (para 17).
- 5.15 The framework states that there are three dimensions to sustainable development, which give rise to the need for the planning system to perform a number of roles, including an economic, social and environmental role (para 7). It also states that planning law requires applications for planning permission to be determined in accordance with the development plan, unless material considerations indicate otherwise.
- 5.16 It is acknowledged that the basis for the application rests upon the desire for Mr Curtis to continue to reside in Hardwick, albeit in a new, smaller dwelling due to his failing mobility and this may be a material consideration in favour of the proposal, given that the NPPF seeks to improve the conditions in which people live, work, travel and take leisure. However, the proposal must also be assessed in terms of whether the development would be sustainable and whether the proposal would cause significant and demonstrable harm, sufficient to outweigh any benefit.
- 5.17 It is clear that new residential development should be located in the 'right place' and 'with accessible local services that reflect the community's needs and support its health, social and cultural well being'. The village categorisation policies reflect this approach and as such, Hardwick is defined as a village that cannot support any additional residential development, except where an essential agricultural need is demonstrated.
- 5.18 The proposal seeks consent for a new dwelling for which there is no demonstrable agricultural or other essential rural need. In conclusion, the proposal is not considered to comply with the Council's development plan and in the context of the presumption

in favour of sustainable development set out within the NPPF, it is considered that the proposal does not represent sustainable development and would cause significant and demonstrable harm (as set out in the sections below) that outweighs the benefits of granting consent.

Highway Safety

- 5.19 The Local Highway Authority has stated that whilst they have no objection to the proposal, they note that the site is not considered to be a sustainable location. Opportunities to travel by modes other than the private car are limited, and the site is remote from main sites of employment, shopping and education.
- 5.20 The private access road from Hethe Road is shared by two dwellings, a farm and business units. Access to the new dwelling is proposed to be taken from this private road via an existing access to the site.
- 5.21 Vehicular hard-standing areas are proposed to comprise shingle and permeable paving and surface water is proposed to discharge to soakaway. Three parking spaces are proposed on the site, including a double garage.
- 5.22 Subject to a condition to require the submission and approval of a plan showing car parking provision for at least 2 cars on the site, the Local Highway Authority are satisfied that the proposal is acceptable.
- 5.23 In conclusion, it is considered that the proposed development would not cause detriment to highway safety and as such, accords with central Government advice contained within the NPPF.

Visual amenity/landscape impact

- 5.24 Under section 7 of the NPPF (Requiring Good Design), the Government attaches great importance to the design of the built environment (para 56). It goes on to say that planning decisions should address the integration of new development in to the natural, built and historic environment (para 61). Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions (para 64).
- 5.25 Policy C28 reflects government guidance in relation to the design of new development, by seeking to ensure that such development is in harmony with the general character of its surroundings and is sympathetic to the environmental context of the site and its surroundings, and the nature, size and prominence of the development proposed.
- 5.26 Policy C33 also echoes the advice provided in the NPPF, by seeking to prevent damage to the character and appearance of rural areas and to ensure that loose-knit settlement structures are preserved and retained.
- 5.27 This part of the settlement is sparsely developed, with a predominance of interesting, historic former agricultural buildings. The exception to this is Sycamore House, which is more modern in appearance, but is set back a significant distance from the bridleway and is therefore not a dominant feature. The Grade II listed St Mary's church lies directly opposite the site, within open, landscaped grounds. The rear of the site is open, scattered with two large ponds.
- 5.28 Whilst matters relating to external appearance, scale, landscaping and layout are reserved, the Design and Access statement notes that 'a modest sized single storey structure would be appropriate for the applicant's needs'. It goes on to state that a single storey structure emulating a barn or ancillary buildings would be more

appropriate than a bungalow. It also states that materials will reflect prominent features in the village (natural stone walls, plain tiled or slate roof with brick detailing).

5.29 However, the illustrative site layout shows a footprint with a protruding gable, which is uncharacteristic of a historic, linear barn formation. The footprint shown is also fairly substantial (14 metres x 6 metres, with a 6 metre gable protrusion), which is at odds with the commentary within the Design and Access statement. The site is visually prominent from public vantage points, particularly from the bridleway running past to the west and its development would be uncharacteristic with open, loose knit form of the village.

5.30 Development of this prominently located site would erode the open, loose knit character of the settlement and would fail to respect the historic style and form of development in the vicinity, contrary to Policies C28 and C33 of the Adopted Cherwell Local Plan and Government guidance contained in the NPPF.

Impact on the setting of the Grade II listed buildings

5.31 Section 12 of the NPPF (Conserving and Enhancing the Historic Environment) states that in determining planning applications, Local Planning Authorities should take account of the desirability of sustaining and enhancing the significance of heritage assets...and the desirability of new development making a positive contribution to local character and distinctiveness (para 131). 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 (para 132). Proposals that preserve those elements of the setting that make a positive contribution to or better reveal the significance of the asset should be treated favourably (para 137).

5.32 The Conservation Officer has stated that Hardwick is a very small settlement with no backland development. Despite the continuous building line to the main street, the spaces between the properties emphasise the loose-knit arrangement to the village. Within the immediate vicinity, the setting of the Grade II listed Church of St Mary would be disrupted, even by a single storey building and given the footprint that is likely to be required to incorporate accessibility requirements (wheelchairs etc), it is likely that the ridge would actually be around 7 metres high, incorporating an appropriate pitch.

5.33 Although design is not a matter for an outline application, this would be a key factor in the suitability of a structure in the proposed location. The indicative layout shows a structure which replicates neither a barn nor a traditional dwelling.

5.34 The site occupies an important open space in the village which contributes positively to the openness and rural character of the area and setting of the Grade II listed church directly opposite the site. The proposal would erode the openness of this part of the village and in doing so, would harm the setting of the listed building, as it would be out of context with and unsympathetic to, the rural character of the area. The setting of the listed building would be eroded by the presence of a structure, which would disrupt the relationship the listed church currently enjoys with the open space surrounding it. Consequently, views currently enjoyed travelling along the public bridleway running directly past the site would be detrimentally affected as the listed building is presently surrounded by open, undeveloped land which contributes positively to its open setting.

5.35 It is therefore considered that the proposal fails to make a positive contribution or better reveal the significance of the setting of the Grade II listed building adjacent to the site, contrary to central Government advice contained in the NPPF and Policy C33 of the Adopted Cherwell Local Plan.

Neighbour amenity

- 5.36 The site is fairly isolated, with only two residential properties within close proximity; Rickyard House to the north and Sycamore House to the south. Whilst layout, scale and appearance are reserved, the Design and Access statement submitted refers to the erection of a two bedroom, single storey dwelling.
- 5.37 Given the distances between the respective neighbouring properties and screening around the site, it is considered that a dwelling could be satisfactorily accommodated on the site that would not be unduly overbearing or lead to an unacceptable loss of privacy or light.

As such, it is not considered that the proposed development would cause detriment to proposed or existing occupant amenity by way of overlooking, overbearing or loss of light.

Ecology

- 5.38 The applicants submitted a Phase 1 habitat survey with the application, which has been reviewed by the Council's ecologist. The site has been assessed as relatively low ecological value and the ponds adjacent to the site are unsuitable for great crested newts. As the majority of the trees and vegetation are due to be retained, there are unlikely to be any long lasting ecological impacts.
- 5.39 The Council's Ecologist notes that any additional landscaping proposed should be of native species due to its rural location and this could be controlled through a reserved matters application as could biodiversity enhancements, which are recommended within the NPPF.
- 5.40 Accordingly, it is considered that the proposal could satisfactorily deal with ecological issues by condition.

Engagement

- 5.41 With regard to the duty set out in paragraphs 186 and 187 of the Framework, no problems or issues have arisen during the application. It is considered that the duty to be positive and proactive has been discharged through the efficient and timely determination of the application.

Conclusion

- 5.42 The National Planning Policy Framework (NPPF) at paragraph 14 states 'At the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan making and decision taking...for decision taking this means¹:

- approving development proposals that accord with the development plan without delay; and
- where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:

any adverse impact of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or specific policies in this Framework indicate development should be restricted²

¹ Unless material considerations indicate otherwise.

² For example, those policies relating to sites protected under the Birds and Habitats Directives and/or designated as Sites of Specific Scientific Interest; land designated as Green Belt, Local Green Space, an Area of Outstanding

- 5.43 In the context of this application, it is considered that the erection of a dwelling on this site is contrary to Policy H15 of the Adopted Cherwell Local Plan, as no essential agricultural need has been demonstrated. Furthermore, the indicative layout demonstrates a size, style and form of development that fails to respect the traditional vernacular or loose knit settlement pattern and is therefore contrary to Policies C28 and C33 of the Adopted Cherwell Local Plan.
- 5.44 Therefore, in the context of the presumption in favour of sustainable development set out within the NPPF, it is considered that the proposal would result not in sustainable development and for these reasons, the application is recommended for refusal, for the reason set out below.

6. Recommendation

Refusal, for the following reason:

1. The proposal is contrary to Policy H15 of the adopted Cherwell Local Plan, which restricts new residential development in Hardwick, a category 3 settlement, to the conversion of suitable non- residential buildings, or where an essential need for agriculture or other existing undertaking has been proven. No such need has been demonstrated or exists in this case. Furthermore, the proposed dwelling fails to respect the loose knit, open, rural character of this part of the settlement, fails to make a positive contribution or better reveal the significance of the setting of the Grade II listed church and will result in an unduly prominent form of development, out of character with the traditional vernacular of Hardwick, to the detriment of the character and appearance of the area, contrary to Policies C28 and C33 of the Adopted Cherwell Local Plan and central Government guidance contained in the National Planning Policy Framework.

STATEMENT OF ENGAGEMENT

In accordance with the Town and Country Planning (Development Management Procedure) (England) (Amendment No 2) Order 2012 and paragraphs 186 and 187 of the National Planning Policy Framework (March 2012), this decision has been taken by the Council having worked with the applicant/agent in a positive and proactive way as set out in the application report.

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