

**Site Address: Allotment Gardens west of
Roebuck Inn and south east of the
Blinking Owl PH, Banbury Road, North
Newington**

14/01816/F

Ward: Sibford

District Councillor: George Reynolds

Case Officer: Rebekah Morgan

Recommendation: Approval

Applicant: Penfield Homes Ltd (Mr Christopher McNally)

Application Description: Erection of 1 no. detached dwelling and detached garage

Committee Referral: Member
Request – Cllr Reynolds

Committee Date: 11th June 2015

1. Site Description and Proposed Development

- 1.1 The application site is a parcel of mainly agricultural land located within North Newington. There is a small, single storey building on the site that benefits from an industrial use (see planning history) however, the remainder of the land is still considered to be an agricultural use. A stone boundary wall runs along the boundary of the site adjacent to the Banbury Road and vehicular access is gained via The Pound.
- 1.2 The application site is within the North Newington Conservation Area and there are Grade II listed buildings within the vicinity of the site.
- 1.3 The application seeks consent for an 'L' shaped, two storey, 3 bedroom detached dwelling and detached garage/outbuilding to be positioned on the southern side of the site.

2. Application Publicity

- 2.1 The application has been advertised by way of neighbour letter, site notice and press notice. The final date for comment is the 11th June 2015.

12 letters have been received. The following issues were raised:

- Planning statement incorrectly states that villagers don't want land to be used for agriculture
- The Pound has not always provided access to the site
- Vehicle movements along The Pound will not be reduced following the development
- The Pound is not suitable for construction vehicles
- Concerns that a future occupier could arrange for The Pound to be re-surfaced causing drainage issues
- Could set a precedent for further houses requiring access off The Pound
- Access is dangerous/inadequate
- Drainage
- Property within a Conservation Area
- Increased traffic will damage The Pound surface
- Banbury Road is already a busy road through the village
- Access crosses a footpath
- Impact on street scene
- Impact on neighbours view
- Potential overlooking
- Impact on Conservation Area

3. Consultations

3.1 North Newington Parish Council: The Parish Council submitted the following comments.

14/01816/F Application from agricultural to Business Use

We object to the above application on the following basis:

- There is not a business premises on the land, as there is no permanent building structure. It is our understanding that a corrugated shed is not a permanent structure and should not be classed as one.
- There is no business use on the land that has been noted by the Parish Council or by the neighbours. It is our understanding that before a conversion to business use the premises need to be in use for the purpose for a period of time. This has not been the case.
- The land does not have a right of access via the Pound as has been stated in the application.
- On the application map the Brick storage shelter to the left of the workshop does not belong to the applicant and should not be included as part of the application.

If however, the land meets the criteria for the change of use from agricultural to business use, the Parish Council also has the following comments to make regarding application **14/01758/POA**

- Right of access. The land has no right of access via The Pound. The gated area was knocked through by the applicant and is where none existed before.
- The application shows that the lane is part of the property, but this is not the case.
- The street scene of the application is disproportionate and is not an accurate representation of the land levels.
- We have concerns regarding the ridge height levels. We have also expressed concerns regarding other applications on ridge height, especially with the application overlooking so many properties so that it will be very imposing for current residents.

We also believe the planning design and access statement contains many inaccurate statements which are misleading.

1.2 states the village have been adamant that the land be used for agricultural use. This has not been the case, the animals were placed there after the applicant did not get planning permission. The land has always been an open garden and was enclosed by a stone wall all the way around.

1.3 The agricultural building described is a temporary structure made from corrugated iron. The small brick building does not belong to the land. There has been no redevelopment of the building.

3.1 The statement regarding the agricultural user and business user is misleading. There are both different sides of the same coin, one being Mr McNally and the other being Penfield Homes Ltd. This company is under the ownership of Mr McNally. Also the vehicle number do not show any basis for comparison.

3.2 The existing vehicular access is not entitled to be there. There was no vehicle right of way onto the land until the applicant knocked down a wall to allow access. According to OCC the Pound is listed as having pedestrian use only. There is a given that access is to the properties that are already built and therefore for access only. Larger vehicles do struggle to enter and exit the Pound due to the narrow nature so to state that lorries regularly enter with no problems is misleading.

The Parish Council would like to respectfully request that before any decisions are

made, that the full historic application details be read in full. We would like the decision process to only be taken when all the information is available. We also feel that this application should go before the full committee, not be made by a planning officer.

Cherwell District Council Consultees

- 3.2 Conservation Officer: The scheme has been modified that it is now considered that the siting of the proposed dwelling and the proposed access no longer contribute significant harm to the character and appearance of the conservation area. Recommended conditions.
- 3.3 Ecology Officer: The piece of land involved in the proposals has some potential to support reptiles on an occasional basis which are protected from killing and injury under the Wildlife and Countryside Act 1981. I do not think a survey is necessary but should permission be granted we should include a condition designed to minimise risk of harm. In addition there is said to be building(s) on site – do you know what these consist of and what type of roofing they have? I cannot see these details in the application documents. I do not imagine that bat usage is likely to be an issue as there is some mention of corrugated iron but just to check given local records. In addition in line with guidance in the NPPF for biodiversity gain it would be beneficial in this location if the plans included some measures for bat roosting opportunities within any new dwelling. These could take the form of bat bricks or tubes within the building or a couple of raised ridge tiles or bat tiles etc..
- 3.4 Environmental Protection Officer: No comments received

Oxfordshire County Council Consultees

- 3.5 Highways Liaison Officer: No objections subject to conditions
- 3.6 Archaeologist: There are no archaeological constraints to this scheme.
- 3.7 Rights of Way Officer: I am emailing with reference to the above planning application. A public footpath runs along the western boundary of the site (North Newington Public Footpath 11) and another public footpath runs along The Pound (North Newington Public Footpath 18). These public rights of way are not mentioned in the application despite the applicant showing The Pound (footpath 18) as providing the access into the site.

Public Footpath 18 runs over The Pound and provides a right of way for the public on foot only. Anyone driving over The Pound will be exercising a private vehicular right. I understand that access to the site was originally via a narrow gateway, only wide enough for pedestrians and it is therefore questionable as to whether a vehicular right over The Pound exists. If a private vehicular right does not exist, driving over the footpath with a vehicle would be unlawful.

The Pound is approximately 135m in length. The majority of the track has a relatively hard surface apart from a 30m section closest to the site which is currently grass. The route is particularly narrow and steep over the western section from Main Street and there is a blind bend so you are not able to see whether a vehicle is already on The Pound when entering or exiting. There are no places to pass on this section and any vehicles meeting each other would need to reverse. Any increase in traffic along The Pound is therefore of concern particularly as this is a well-used public footpath.

I am a little confused about the vehicle movements that are described in the Design and Access Statement. Under 4.4 Parking and Highway Safety it states that *'approval of the proposal will lead to a substantial reduction in vehicular movements*

both on and off site, and would be an obvious enhancement in road safety'. There is currently limited damage to the grassed section of The Pound which suggests that the current vehicular movements are infrequent. Approval of the proposal is therefore likely to increase the traffic rather than reduce it and this would have a negative impact on the route.

If the decision is made to grant planning permission the grassed section of The Pound would need to be surfaced to make it suitable for vehicles. It is important that any work to the surface is in keeping with the surrounding area and we would not want to see this surfaced with tarmac. The Applicant would need to agree any proposals to alter the surface of The Pound with the Highway Authority (in this case the Countryside Access Team) and with the Landowner/s.

If permission is granted it is suggested that conditions are applied in order to protect the public footpath.

4. Relevant National and Local Policy and Guidance

4.1 Development Plan Policy

Adopted Cherwell Local Plan (Saved Policies)

H14:	Category 2 Settlements
C27:	Development in villages to respect historic settlement pattern
C28:	Layout, design and external appearance of new development
C30:	Design of new residential development

4.2 Other Material Policy and Guidance

National Planning Policy Framework

Submission Local Plan (January 2014)

Submission Local Plan (October 2014) (SLP) has been through public consultation and was submitted to the Secretary of State for examination in January 2014, with the examination beginning in June 2014. The Examination was suspended by the Inspector to allow further work to be undertaken by the Council to propose modifications to the plan in light of the higher level of housing need identified through the Oxfordshire Strategic Housing Market Assessment (SHMA), which is an objective assessment of need. Proposed modifications (August 2014) to meet the Objectively Assessed Need were subject to public consultation, from 22nd August to 3rd October 2014. Although this plan does not have Development Plan status, it can be considered as a material planning consideration. The examination reconvened and closed in December 2014 and the Inspectors report is likely to be published in March 2015.

The policies listed below are considered to be material to this case and are not replicated by saved Development Plan Policies:

Policy Villages 1: Village Categorisation

Policy ESD 16: The Character of the Built and Historic Environment

5. Appraisal

5.1 The key issues for consideration in this application are:

- Relevant planning history
- Principle of the development
- Visual amenity and impact on heritage assets

- Neighbouring amenity
- Highway safety
- Impact on public right of way

Relevant Planning History

5.2 **01/02095/OUT:** Erection of 1 no. dwelling and new vehicular and pedestrian access (Outline). Application withdrawn.

5.3 **02/01103/OUT:** Erection of 1 no. dwelling and new vehicular and pedestrian access (Outline). Application refused.

5.4 The above application was refused for the following reasons:

- 1) The proposed development would be contrary to Policy G2 of the Oxfordshire Structure Plan and Policies H14, C22 and C30 of the adopted Cherwell Local Plan. The development of this site for one dwelling does not constitute infill development and by virtue of the loss of this elevated and open land, which is prominent in the street scene and Conservation Area, and the likely character and appearance of any dwelling, including the significant reduction in site levels, would result in development which is unsympathetic and detrimental to the character and appearance of the site and the street scene in general and would neither preserve nor enhance the character and appearance of the Conservation Area.
- 2) The unjustified loss of the front boundary wall from its original position in order to provide access to the site would be contrary to Policy C23 of the Cherwell Local Plan and would neither preserve or enhance the character and appearance of the Conservation Area.
- 3) The proposed access would be contrary to Policy T18 of the Oxfordshire Structure Plan and Policies TR2 and TR5 of the Cherwell Local Plan as it is sub-standard in terms of visibility and the traffic generated by the proposal would result in a hazard and be detrimental to the safety of other road users.

5.5 **14/01758/PAO:** Change of Use from agricultural to B8 business use. Prior approval not required.

5.6 The above notification was submitted under the new permitted changes of use in The Town and Country Planning (General Permitted Development) (England) Order 2013 (as amended). As the building was less than 150 sqm in size, the applicant was only required to notify the council of their intent to implement a permitted change of use.

Principle of the development

5.7 The most significant change on the site since the submission of the last planning application is the creation of a vehicular access off The Pound. It is clear from the neighbour comments that there are disagreements regarding how this access came about and whether the applicant has a legal right of access. For the purpose of this application, the applicant has served the relevant notices and the Council's legal team has advised that issues relating to rights of access are a third party matter and not a material planning consideration.

5.8 The vehicular access has now changed the nature of the proposal as previous proposals sought to create an access off the Banbury Road which required the demolition of a substantial part of a stone wall within the Conservation Area.

5.9 There have been changes in national policy since the previous submissions with the introduction of the National Planning Policy Framework which replaced the previous planning policy guidance and planning policy statements. The National Planning Policy Framework is a material planning consideration and must be given appropriate weight when considering the proposal.

- 5.10 The Council can demonstrate a 5.1year housing land supply as set out in the Annual Monitoring Report 2014 (march 2015). Therefore, the housing policies contained within the adopted Cherwell Local Plan are considered relevant to the application and can be given weight.
- 5.11 The application is for a new dwelling within North Newington with is classified as a Category 2 settlement within the adopted Cherwell Local Plan and Category C in the Submission Local Plan. Policy H14 of the adopted Cherwell Local Plan restricts new residential development to:
- Conversions
 - Infilling
 - Other small scale development that can be shown to secure significant environmental improvement within the settlement
- 5.12 The Submission Local Plan states '*Policy Villages 1 allows for the most sustainable villages to accommodate 'minor development' and all villages to accommodate infilling or conversions. The appropriate form of development will vary depending on the character of the village and development in the immediate locality. In all cases, Policy ESD 16: The Character of the Built and Historic Environment will be applied in considering applications*'.
- 5.13 The proposal is for a new build property therefore it is not a conversion. The site is agricultural in nature with only a small building to one side; although this building has a permitted industrial use (see planning history) Overall the land is in a good state and the proposal would not represent a 'significant environmental improvement'.
- 5.14 The adopted Cherwell Local Plan defines infilling as 'being the development of a small gap in an otherwise continuous built-up frontage suitable for one or two dwellings'. The application site does represent a gap within the village however, it is noted that the built form is different on either side of the site. The existing gap along the road frontage is approximately 75m wide, although it is noted that the applicant does not own all of the land forming the gap.
- 5.15 Although, the proposal does not wholly comply with the definition of infilling due to the size of the gap, it does respect the linear development along the Banbury Road with the new dwelling proposed to be located adjacent to an existing dwelling. Therefore, your officers consider that it would be difficult to defend a reason for refusal at appeal based on non-compliance with the Council's definition of infilling.
- 5.16 When deciding if a 'gap' is suitable for new development, consideration must also be given to the development form and the importance of the 'gap' within the village.
- 5.17 Policy C27 of the adopted Cherwell Local Plan states 'development proposals in villages will be expected to respect their historic settlement pattern'. With the supporting text going on to state:
- *The settlement pattern of a village can be as important to its character as the buildings. Proposals which would result in the obliteration of part of an historic plan form or fail to respect the traditional settlement pattern will be considered contrary to policy and will be resisted.*
 - *Particular attention will be paid to Policy C27 within the existing and proposed conservation areas where the character of the settlement is particularly sensitive to change.*
- 5.18 The planning history highlights the importance of this site as a gap within the village that should be preserved, however, this does not rule out any development on the site, provided the important 'gap' is preserved and any development respects the character and appearance of the Conservation Area.

- 5.19 The current proposal is for a dwelling to be located towards the southeast corner of the site adjacent to the neighbouring property Stonecroft. The redline area has been amended during the course of the application to restrict the proposed residential area for the property and to deliberately exclude a large portion of the site that fronts the Banbury Road. This will ensure that any future occupier is unable to use the land at the front of the site for domestic purposes and prevent the erection of ancillary domestic buildings on that parcel of land. The amendment to the redline will help to ensure the open character and feel of the village is retained in this location.
- 5.20 Therefore, your officers consider that in principle a well-designed dwelling could be accommodated on the site while protecting the historic settlement pattern of the village and the character of the Conservation Area. The principle of the development is considered to comply with Policies H14 and C27 of the adopted Cherwell Local Plan.

Visual amenity and impact on heritage assets

- 5.21 The initial design that was submitted resembled a barn conversion although the proposal is for a new build property. This approach to design was considered to be inappropriate as it is unlikely that you would find a stone barn in this location in the centre of this village.
- 5.22 Following discussions with the applicant, the proposal has been amended in a number of ways. The design of the dwelling seeks to reflect the types of property typically found in North Newington with much simpler fenestration and small dormer features; changes to the east elevation have also created some interest. The footprint of the dwelling has been reversed to create an enclosed, private garden area for the future occupiers and the garage is moved forward to ensure the boundary treatment along the north elevation was kept to a minimal section of stone wall. Further minor amendments were also sought to remove external chimneybreasts, balance fenestration and remove capping edge details on the roof.
- 5.23 Policy C28 of the adopted Cherwell Local Plan seeks to protect the visual amenities of an area and states 'that new housing development is compatible with the appearance, character, layout, scale and density of existing dwellings in the vicinity'.
- 5.24 Paragraph 56 of the National Planning Policy supports this view and states 'The Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people'.
- 5.25 In your officer's opinion the final design is now reflective of the traditional character of North Newington. The changes to the east elevation will ensure that the property has a 'front' appearance; although this is partially hidden by the neighbouring building, it ensures an interesting elevation if that building is ever removed.
- 5.26 The application site is within a Conservation Area and there are some Grade II listed buildings within the vicinity of the site, therefore consideration must be given to the impact on heritage assets.
- 5.27 Following the amendments, the Council's Conservation officer has advised '*The scheme has been modified that it is now considered that the siting of the proposed dwelling and the proposed access no longer contribute significant harm to the character and appearance of the Conservation Area*'.
- 5.28 The proposed dwelling would fit comfortably within the street scene and its traditional style would preserve the character and appearance of the Conservation Area. The building would not appear overly prominent and the gap within the village is retained,

albeit a slightly smaller gap. With the vehicular access off The Pound, the stone boundary wall that runs the length of the site along the Banbury Road would be protected as this feature can be retained.

5.29 The Roebuck on the opposite side of Banbury Road and the property adjoining the west side of The Blink Owl as both Grade II listed buildings. Due to the position of the proposed dwelling and its design, the proposed development is not considered to cause harm to the setting of the listed buildings.

5.30 In conclusion the design of the dwelling is high quality and appropriate for the site. The character and appearance of the Conservation would not be harmed by the development and the historic settlement pattern has been respected. The proposal complies with government guidance on conserving and enhancing the historic environment contained within the National Planning Policy Framework and Policies C27 and C28 of the adopted Cherwell Local Plan.

Neighbouring Amenity

5.31 Due to the location of the proposed dwelling and the position of windows, the proposal would not result in harmful overlooking of the neighbouring properties.

5.32 The proposal would impact on some views from the properties on the opposite side of Banbury Road; however, views themselves are not protected by planning. There is sufficient distance between the existing and proposed dwelling as not to appear overly dominant or overbearing when viewed from the neighbouring properties.

5.33 The main area of concern raised by the neighbours relates to the vehicular access off The Pound. The issue regarding legal rights of access has already been dealt with in this report and concerns relating highway safety will be dealt with in the next section.

5.34 The proposal would not cause harm to neighbouring amenity and accords with the core principles of the National Planning Policy Framework and Policy C30 of the adopted Cherwell Local Plan.

Highway safety

5.35 The application site has an existing vehicular access via The Pound and does not propose changing this access. Although concerns have been raised regarding the formation of this access some years ago, it has to be acknowledged that the vehicular access to the site does now exist.

5.36 The planning history shows that the existing building on the site has a lawful use to be used for B8 (storage and distribution) and it is assumed that a certain level of vehicular movements could be associated with this use. Therefore, when assessing the application, consideration must be given to the likely vehicular movements associated with a B8 use and the likely vehicular movements associated with a single dwelling.

5.37 It is noted that there is some dispute as to whether the B8 use has been implemented, however as previously stated, the building can lawfully change to B8 at any time. Therefore consideration must be given to the type of vehicular movements that could be associated with the site.

5.38 The Local Highways Authority has concluded that the proposal would not result in a material increase in vehicular movements at the site. The application includes an adequate amount of on-site parking provision and manoeuvring areas would be provided to enable vehicles to enter and leave the site in a forward gear.

5.39 Conditions have been requested including the full re-surfacing of The Pound (access road). It is noted that the applicant does not control this land. Given the conclusions

regarding the existing and proposed uses in relation to expected vehicles movements, it would not be reasonable to require the applicant to re-surface this land.

- 5.40 The proposal would not be detrimental to highway safety and complies with government guidance contained within the National Planning Policy Framework.

Impact on public right of way

- 5.41 There is a public right of way running along the west boundary of the site and a right of way along The Pound.

- 5.42 The existing vehicular access crosses the public right of way and the granting of consent would not alter this arrangement. It has been questioned if the applicant has the legal right for vehicles to cross the footpath, but this is a third party matter relating to land ownership and rights of access not a material planning consideration.

- 5.43 The proposal would be visible from the rights of way, but would generally be viewed with the back drop of other buildings. It is not considered that the proposal would be detrimental to the enjoyment of footpath users.

Engagement

- 5.44 With regard to the duty set out in paragraphs 186 and 187 of the Framework, amendments have been sought during the application process. It is considered that the duty to be positive and proactive has been discharged through the efficient and timely determination of the application.

6. Recommendation

Approval, subject to the following conditions:

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.

2. Except where otherwise stipulated by condition, the development shall be carried out strictly in accordance with the following plans and documents: Application forms, Design and Access Statement and drawings numbered: 14-21-05 rev D, 14-21-06, 14-21-07 rev C and 14-21-08 rev A.

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

3. Prior to the construction of the development hereby approved, a stone sample panel (minimum 1m² in size) shall be constructed on site in natural ironstone, which shall be inspected and approved in writing by the Local Planning Authority. Thereafter, the external walls of the development shall be laid, dressed, coursed and pointed in strict accordance with the approved stone sample panel.

Reason - To ensure the satisfactory appearance of the completed development and to comply with Policy C28 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

4. Prior to the construction of the development hereby approved, samples of the slate to be used in the construction of the roof of the development shall be submitted

to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the samples so approved.

Reason - To ensure the satisfactory appearance of the completed development and to comply with Policy C28 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

5. Prior to the construction of the development, full details of the doors and windows hereby approved, at a scale of 1:20 including a cross section, cill, lintel and recess detail and material and colour/finish, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the doors and windows shall be installed within the building in accordance with the approved details.

Reason - To ensure the satisfactory appearance of the completed development and to comply with Policy C28 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

6. Prior to the construction of the development full details of the enclosures along all boundaries of the site shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the approved means of enclosure shall be erected, in accordance with the approved details, prior to the first occupation of the dwelling and thereafter maintain in accordance with the approved details.

Reason - To ensure the satisfactory appearance of the completed development, to safeguard the privacy of the occupants of the existing and proposed dwellings and to comply with Policies C28 and C30 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

7. Prior to the commencement of the development hereby approved, full specification details (including construction, layout, surfacing and drainage) of the parking and manoeuvring areas shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, and prior to the first occupation of the development, the parking and manoeuvring areas shall be provided on the site in accordance with the approved details and shall be retained unobstructed except for the parking and manoeuvring of vehicles at all times thereafter.

Reason - In the interests of highway safety and to comply with Government guidance contained within the National Planning Policy Framework. Details are required prior to the commencement of development to ensure appropriate details can be agreed before any ground works are carried out.

8. Prior to the commencement of the development hereby approved, including any works of site clearance, any ground vegetation to be affected by the works should be cut to a height of approximately 15cm on the first cut and thereafter maintained at a height of approximately 7cm or less up until the commencement of building works. Any piles of rubble or debris on site should not be removed between 1ST November and 31ST March and thereafter removed carefully by hand to allow any reptiles to escape.

Reason - To ensure that the development does not cause harm to any protected species or their habitats in accordance with Policy C2 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

9. Prior to the construction of the development hereby approved, details of the location of two bat roosting opportunities on or in the proposed building shall be submitted to and approved in writing by the Local Planning Authority. Thereafter and prior to the occupation of any building the bat roosting opportunities shall be installed

on site in accordance with the approved details and thereafter maintain in accordance with the approved details.

Reason - To conserve and enhance biodiversity and prevent the spread of non-native species in accordance with Government guidance contained within the National Planning Policy Framework.

10. Notwithstanding the provisions of Class A of Part 2, Schedule 2 of the Town and Country Planning (General Permitted Development) (Amendment) (No. 2) (England) Order 1995 and its subsequent amendments, no gate, fence, wall or other means of enclosure shall be erected, constructed or placed on the site without the prior express planning consent of the Local Planning Authority.

Reason – To retain the open character of the development and the area in accordance with Policy C28 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

11. No materials, plant, temporary structures or excavations of any kind should be deposited / undertaken on or adjacent to the Public Right of Way that may obstruct or dissuade the public from using the public right of way whilst development takes place.

Reason - To ensure the public right of way remains available and convenient for public use.

12. Any gates provided shall be set back from the public right of way or shall not open outwards from the site across the public right of way.

Reason - To ensure that gates are opened or closed in the interests of public right

Planning Notes

1. Planning permission only means that in planning terms a proposal is acceptable to the Local Planning Authority. Just because you have obtained planning permission, this does not mean you always have the right to carry out the development. Planning permission gives no additional rights to carry out the work, where that work is on someone else's land, or the work will affect someone else's rights in respect of the land. For example there may be a leaseholder or tenant, or someone who has a right of way over the land, or another owner. Their rights are still valid and you are therefore advised that you should seek legal advice before carrying out the planning permission where any other person's rights are involved.

2. The applicant's and/or the developer's attention is drawn to the requirements of the Control of Pollution Act 1974, the Environmental Protection Act 1990 and the Clean Air Act 1993, which relate to the control of any nuisance arising from construction sites. The applicant/developer is encouraged to undertake the proposed building operations in such a manner as to avoid causing any undue nuisance or disturbance to neighbouring residents. Under Section 61 of the Control of Pollution Act 1974, contractors may apply to the Council for 'prior consent' to carry out works, which would establish hours of operation, noise levels and methods of working. Please contact the Council's Anti-Social Behaviour Manager on 01295 221623 for further advice on this matter.

3. Birds and their nests are fully protected under the Wildlife and Countryside Act 1981 (as amended), which makes it an offence to intentionally take, damage or destroy the eggs, young or nest of a bird whilst it is being built or in use. Disturbance to nesting birds can be avoided by carrying out vegetation removal or building work outside the breeding season, which is March to August inclusive.

4. No construction / demolition vehicle access may be taken along or across a public right of way without prior permission and appropriate safety/mitigation measures approved by the Countryside Access Team. Any damage to the surface of the public right of way caused by such use will be the responsibility of the applicants or their contractors to put right / make good to a standard required by the Countryside Access Team.

5. No vehicle access may be taken along or across a public right of way to residential or commercial sites without prior permission and appropriate safety and surfacing measures approved by the Countryside Access Team. Any damage to the surface of the public right of way caused by such use will be the responsibility of the applicants, their contractors, or the occupier to put right / make good to a standard required by the Countryside Access Team.

STATEMENT OF ENGAGEMENT

In accordance with the Town and Country Planning (Development Management Procedure)(England) Order 2015 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 to seek amendments to the application and the decision has been made in an efficient and timely way.