

**Case Officer:** Gemma Magnuson      **Ward(s):** Deddington

**Applicant:** Cadmonkies

**Ward Member(s):** Cllr Bryn Williams  
Cllr Hugo Brown  
Cllr Mike Kerford-Byrnes

**Proposal:** Alterations to include extension and basement (revised scheme of 15/01895/F)

**Committee Date:** 29.09.2016      **Recommendation:** Approve

Referred to Planning Committee because previous applications have also been determined by the Committee

### 1. **Application Site and Locality**

- 1.1 Orchard Way is a detached one and a half storey building situated central to the village of Somerton. The building sits behind link-terraced properties that front onto Heyford Road, and to the front of properties along The Paddock; a shared access track taken from Heyford Road that is also a Public Footpath (ref: FP/349/10). The access to the site is within the Conservation Area, although the building itself is not in the Conservation Area. The building is not listed and the site does not form part of the setting of any listed buildings. The land may be contaminated by naturally occurring Arsenic. The site is of medium archaeological interest. The Common Swift and Brown Long-eared Bat, Protected and Notable Species, have been identified in close proximity to the site, and the Ardley Cutting and Quarry and Bestmoor SSSI's are within 2km.
- 1.2 The building was originally constructed as a detached double garage, then home office, serving Somerfields, a property fronting onto Heyford Road. The home office gained retrospective planning permission on 16 February 2007 under reference 06/02348/F that included the following condition:
- 1.3 The building hereby approved for conversion shall be used for purposes ancillary to the residential use of "Somerfields", and/or to conduct office activities related to the business of the applicant and his wife only, namely office uses that support the operation of an after school instruction academy operated elsewhere and for no other use whatsoever and no other persons shall be employed therein.
- 1.4 Planning permission for the independent use of the building as a self-contained dwelling was granted at Appeal on 12 June 2015 under reference 14/00067/F, subject to pre-commencement conditions that have not yet been discharged. The permitted development rights for extensions to the dwelling and the erection of outbuildings were also removed.
- 1.5 Officers are of the opinion that the use of the building as a self-contained dwelling is not authorised, although the relevant permission does not expire until 12 June 2018, and therefore could still be implemented. For the purposes of the consideration of this application, both scenarios have been assessed; the extension and alteration of a detached home office to be used ancillary to Somerfields, and the extension and alteration of a self-contained dwelling.

## 2. Description of Proposed Development

- 2.2 The development would involve the erection of the single storey extension that recently gained planning permission following an Appeal against non-determination of application ref: 15/01895/F. In addition, a lean to style porch and basement accommodation is now proposed.

## 3. Relevant Planning History

- 3.1 96/01695/F – Two storey rear extension and extension of garden and new double garage – granted.

NB. The garage was not constructed in accordance with the approved plans.

- 3.2 99/01840/F – Erection of a double detached garage and change of use of adjoining land to form new access from garage to private access drive (Retrospective) – granted.

The application sought to regularise the works undertaken following approval of 96/01695/F. The application was approved subject to conditions, including condition 5 that removed the permitted development rights for new openings and condition 8 that required the garage to remain ancillary to Somerfields.

- 3.3 02/00497/F – Removal of Condition 8 on 99/01840/F to allow use of garage not in conjunction with or ancillary to 'Somerfields' – refused, on the following grounds:

In the absence of any further information regarding the future use of the garage independently of the property at "Somerfields" the proposed removal of Condition 8 of 99/01840/F would be likely to lead to additional traffic generation using a substandard access which would be detrimental to highway safety and which would have an adverse affect on the residential amenities of neighbouring residents contrary to Policies C31 and TR2 of the adopted Cherwell Local Plan.

The access serving this garage is substandard in vision and geometric terms. Traffic generated as a product of the proposal will result in a detriment to the safety of other road users.

No Appeal was submitted.

- 3.4 06/02348/F – Non-Compliance with condition 5 of 99/01840/F - To change the use from double garage to study, store and loft and insert windows and door (RETROSPECTIVE) with pitched roof over utility room – Granted

The application was approved subject to conditions, including condition 1 that restricted the use of the outbuilding as follows:

The building hereby approved for conversion shall be used for purposes ancillary to the residential use of "Somerfields", and/or to conduct office activities related to the business of the applicant and his wife only, namely office uses that support the operation of an after school instruction academy operated elsewhere and for no other use whatsoever and no other persons shall be employed therein.

- 3.5 10/01719/F – Detached garage/store/log hovel and drive with associated landscaping and external works – refused. No Appeal was submitted.

The application sought consent for a garage to be positioned forward of the building that is the subject of the current application. The application was refused on the following grounds:

The proposed garage/store and access route, by reason of siting, design, materials and scale will result in an unsympathetic and incongruous addition on an undeveloped and elevated important gap of land which forms part of the character of this loose knit settlement and further, the development would fail to preserve, enhance or better reveal the significance of the setting of the Somerton Conservation Area heritage asset as it would be visually prominent and intrusive along a public footpath route no. FP349/10. The development would therefore be contrary to policies BE1, BE6, CC6 of the South East Plan 2009, Policies C28 and C33 of the adopted Cherwell Local Plan and Government advice contained in PPS1 (Delivering Sustainable Development) and PPS5 (Planning for the Historic Environment).

The access from which it is proposed to serve the development is substandard in vision terms and movements generated as a product of the proposal will be of detriment to the safety and convenience of other road users, contrary to Policy T1 of the South East Plan and Government advice contained in PPG13 (Transport).

- 3.6 11/00448/F – Erection of detached garage, store, log hovel and drive with associated landscaping and external works - resubmission of 10/01719/F – refused. No Appeal was submitted.

The application sought to address the reasons for refusal of 10/01719/F through rotating the garage by 90 degrees, although still sitting to the front of the building that is the subject of the current application.

The application was refused on the following grounds:

The proposed garage/store and access route, by reason of siting, design, materials and scale will result in an unsympathetic and incongruous addition on an undeveloped and elevated important gap of land which forms part of the character of this loose knit settlement and further, the development would fail to preserve, enhance or better reveal the significance of the setting of the Somerton Conservation Area heritage asset as it would be visually prominent and intrusive along a public footpath route no. FP349/10. The development would therefore be contrary to policies BE1, BE6 and CC6 of the South East Plan 2009, Policies C28 and C33 of the adopted Cherwell Local Plan and Government advice contained in PPS1 (Delivering Sustainable Development) and PPS5 (Planning for the Historic Environment).

The access from which it is proposed to serve the development is substandard in vision terms and movements generated as a product of the proposal will be of detriment to the safety and convenience of other road users, contrary to Policy T1 of the South East Plan and Government advice contained in PPG13 (Transport).

- 3.7 11/01805/F – Erection of detached garage, store and log hovel – granted.

The application sought to address the reasons for refusal of 10/01719/F and 11/00448/F by positioning the garage adjacent to the building that is the subject of the current application.

The application was approved. The Case Officer for the current application visited the site on 17 November 2015 and the base for the garage was in place.

- 3.8 13/00894/F – Extension to existing outbuilding and conversion to single dwelling house – refused. No appeal submitted.

The application sought consent to join the garage approved under reference 11/01805/F and the building that is the subject of the current application to form a self-contained dwelling. The application was refused on the following grounds:

Somerton is a Category 2 settlement as defined in the Adopted Cherwell Local Plan 1996. Within such settlements, new residential development is restricted to conversions, infilling and small-scale development which can be shown to secure significant environmental improvements. It is the opinion of the Local Planning Authority that the proposed development does not accord with these provisions as it will erode an established gap to the significant harm to the setting of the adjacent Somerton Conservation Area and to the established settlement pattern of the village. The proposal is therefore contrary to Government guidance contained within the National Planning Policy Framework and saved policies H14, C23, C27, C28 and C33 of the adopted Cherwell Local Plan 1996.

The access from which it is proposed to serve the development is substandard in vision and geometric terms and movements generated as a product of this proposal will result in a detriment to the safety and convenience of other road users contrary to central Government guidance contained within the National Planning Policy Framework.

- 3.9 14/00067/F – Conversion of existing building into a self-contained dwelling with associated Highway Safety access improvement works (re-submission of 13/00894/F) – refused; allowed at appeal 12 June 15.

The application sought to change the use of the existing building to a self-contained dwelling, to include works to access in order to overcome the previous reasons for refusal on the grounds of highway safety. Officer's recommended that the application was approved, although this was overturned by Members at Planning Committee on 07 August 2014 and the application was refused on the following ground:

The proposed development of a new unit of accommodation in this backland location would erode the established settlement pattern of the village, and with the introduction of a domestic curtilage with all the paraphernalia associated with it, the character and setting of the Conservation Area and the character and amenity of the immediately surrounding area would be detrimentally affected contrary to Policy C27 of the adopted Cherwell Local Plan and Government guidance contained in the National Planning Policy Framework.

An Appeal was submitted and the proposal was subsequently approved on 12 June 2015 subject to conditions under reference: APP/C3105/W/15/3008323. Some conditions were pre-commencement and these have not yet been discharged. The permitted development rights for extensions and outbuildings were removed.

- 3.10 15/00005/DISC – Discharge of Condition 3 of 11/01805/F – granted.

The application related to the approved detached garage to the west of the building that is the subject of the current application. The application form confirmed that works had started on site on 01 December 2014.

The application was approved on 24 February 2015

### 3.11 15/01895/F - Alterations and erection of extension - Appeal allowed.

The application sought consent to extend and alter the building that was given planning permission at Appeal (ref: APP/C3105/W/15/3008323). Whilst Members resolved to refuse the application, a delay was experienced in issuing the decision and an Appeal against non-determination was subsequently submitted (ref: APP/C3105/W/16/3143988) including an Appeal for Costs against the Council, both of which were allowed on 09 May 2016.

The current application seeks to amend the development approved as part of 15/01895/F.

### 3.12 16/01078/F – Alterations and erection of car port – due to be considered by Members at the Planning Committee meeting on 04 August 2016.

## 4. **Response to Publicity**

- 4.1 The application has been publicised via neighbour letter, press notice and site notice. The final date for comment is 18 August 2016. No responses have been received at the time of writing.

## 5. **Response to Consultation**

- 5.1 Somerton Parish Council: no comments received at the time of writing.
- 5.2 Oxfordshire County Council Highway Authority: no comments received the time of writing.

## 6. **Relevant National and Local Planning Policy and Guidance**

### 6.1 **Development Plan Policies:**

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. Planning legislation requires planning decisions to be made in accordance with the Development Plan unless material planning considerations indicate otherwise. The relevant planning policies of Cherwell District's statutory Development Plan are set out below:

#### Cherwell Local Plan 2011 - 2031 Part 1

ESD15 - The Character of the Built and Historic Environment

#### Cherwell Local Plan 1996 (Saved Policies)

C23 – Retention of features contributing to character or appearance of a Conservation Area  
C28 - Layout, design and external appearance of new development  
C30 - Design of new residential development

## 6.2 Other Material Planning Considerations:

National Planning Policy Framework (“the Framework”) - National Planning Policy Framework sets out the Government’s planning policies for England and how these are expected to be applied.

Planning Practice Guidance (“nPPG”) – This sets out regularly updated guidance from central Government to provide assistance in interpreting national planning policy and relevant legislation.

## 7. Appraisal

7.1 Officers consider the following matters to be relevant to the determination of this application:

- Principle of Development;
- Design, Layout and Appearance;
- Impact on Heritage Assets;
- Landscape and Visual Impact;
- Trees and Landscaping;
- Accessibility, Highway Safety and Parking;
- Effect on Neighbouring Amenity;
- Drainage

### Principle of Development

7.2 The application seeks consent to extend an existing building that is used as a home office ancillary to Somerfields, and that also benefits from planning permission to be converted to a self-contained dwelling. In either case, Officers do not consider that there are any site constraints which should restrict the principle of the erection of an extension to a domestic building in this location.

### Design, Layout and Appearance

7.3 Government guidance contained within the Framework attaches great importance to the design of the built environment and states that good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.

7.4 Policy ESD 15 of the adopted Cherwell Local Plan 2011-2031 states that new development will be expected to complement and enhance the character of its context through sensitive siting, layout and high quality design.

7.5 Saved Policies C28 and C30 of the Cherwell Local Plan 1996 seek to control new development to ensure that it is sympathetic to the character of its context, and that any proposal to extend an existing dwelling is compatible with the scale of the existing dwelling, its curtilage and the character of the streetscene.

7.6 The proposed extensions and basements would be single storey and would not represent disproportionate additions to the building. External construction materials are proposed to match those existing. Indeed the larger of the extensions already benefits from planning permission that was granted at Appeal where the Inspector commented as follows:

7.7 *The Council is concerned that further extension and expansion of the building would increase its prominence and would be harmful to the character and appearance of the adjacent Conservation Area. However, its siting to the rear of Somerfield, coupled with its*

*modest size and scale, significantly restricts views of the proposed extension from the public realm. It would integrate well with the existing building and its impact on both its immediate surroundings and the nearby Conservation Area would be limited and insufficient to justify a refusal of planning permission.*

- 7.8 *While I acknowledge that the separation between the houses situated on Heyford Road and those situated in The Paddock adds to the overall character of the area, I do not regard the modest extension proposed would alter this in any material way or justify a refusal of planning permission.*
- 7.9 The proposed basement would be underground, with the only visible element being a central light well that would not protrude above ground level.
- 7.10 For these reasons officers consider that the extensions and basement would appear as subservient additions to the building, with a design and appearance that is sympathetic to their host.

### **Impact on Heritage Assets**

- 7.11 Government guidance contained within the Framework 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 putting them to viable uses consistent with their conservation, the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality, and the desirability of new development making a positive contribution to local character and distinctiveness.
- 7.12 Officers consider that, due to the position of the extensions to the rear and side of the building, and beneath the ground, and given the presence of surrounding boundary treatments, the development would not result in any material harm to the setting of the Conservation Area.

### **Landscape and Visual Impact**

- 7.13 Policy ESD 13 of the adopted Cherwell Local Plan 2011-2031 states that development will be expected to respect and enhance local landscape character, securing appropriate mitigation where damage to local landscape character cannot be avoided.
- 7.14 The proposed extensions would be positioned to the rear and side of the existing building. Due to site sitting at a lower level than the public footpath, the development would be largely screened from view of the public domain by the existing close boarded fence, although the roof of the rear extension and flue would be visible. Despite the visibility of the roof, Officers consider that the development would not appear overly prominent or detract from the visual amenities of the area.
- 7.15 The flue would exceed the height of the roof by 60cm, and would be positioned upon the least prominent western roof slope, along with the proposed rooflights. Given the proximity to the Conservation Area boundary, Officers consider it reasonable to impose a condition requiring the flue to be of matt black appearance. Subject to this condition, it is considered that these elements of the proposal would not cause any material harm to the amenities of the area.

### **Trees and Landscaping**

- 7.16 The southern (rear) boundary of the site is currently marked by a hedgerow and some trees, both within and beyond the site. Condition 5 of approved application 11/01805/F relating to the detached garage to the west requires the hedgerow and trees to be maintained at a height not less than 4 metres, and that any hedgerow or tree that should die within 5 years of

completion of development be replaced and maintained in accordance with the condition. The reason for the imposition of this condition was in the interests of visual amenity and to provide an effective screen of the development.

- 7.17 An area of earth would need to be removed in order to construct the rear extension as the hedgerow and trees sit at a higher level than the existing building. As part of the recent Appeal decision at this site the Inspector commented as following with regard to the trees:
- 7.18 *I note the Council's concerns regarding the impact of the proposed development on the trees along the site boundary. While I acknowledge that they make a positive contribution to the visual amenities of the site and its surroundings, I am satisfied that any harm likely to arise can be adequately guarded against by the imposition of a condition requiring the submission of an arboricultural survey and method statement such as that suggested by the Council.*
- 7.19 Officers consider this to continue to be applicable to the scheme and conditions have been recommended accordingly.

### **Accessibility, Highway Safety and Parking**

- 7.20 Government guidance contained within the Framework seeks developments that are located and designed where practical to create safe and secure layouts which minimise conflicts between traffic and cyclists or pedestrians. Due to the proposed location of the basement and light well the proposed parking area has been relocated closer to the entrance to the curtilage where an application for a car port is currently being considered (ref: 16/01077/F). The proposed development would not, however, result in a reduction of off-street parking within the site. The local highway authority has not provided comments on the scheme at the time of writing.

### **Effect on Neighbouring Amenity**

- 7.21 Government guidance contained within the Framework seeks to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings. Policy ESD 15 of the adopted Cherwell Local Plan 2011-2031 that states that development should consider the amenity of both existing and future development, including matters of privacy, outlook, natural lighting, ventilation, and indoor and outdoor space. Saved Policy C30 of the Cherwell Local Plan 1996 seeks standards of amenity and privacy acceptable to the LPA.
- 7.22 Officers consider that the extensions are a sufficient distance from all neighbouring properties in order to avoid any harm in terms of a loss of amenity. Two rooflights are proposed, although as the mezzanine floor would be removed these would be high level and no outlook would be obtained. Further, the openings are over 22 metres from the rear elevations of dwellings fronting onto Heyford Road. Officers do not consider that the development would result in an undue or demonstrably harmful loss of privacy.

### **Drainage**

- 7.23 The application was deferred by the 4<sup>th</sup> August Planning Committee for more information to be sought from the applicant with regard to hydrological and service run issues across the site.
- 7.24 A plan has been obtained from the applicant's agent to show existing services. The plan shows no service runs pertaining to any other property, except a water main running from Emanon across the site towards 5 The Paddock. This water main is shown to stop short of the site's eastern boundary but would appear to be the one referred to by an objector to that which provides 4 and 5 The Paddock and Paddocks End. However, the said water main does not go close to the application building or the proposed below ground element.

- 7.25 If the local planning authority was to take this issue forward, it would require evidence in the form of plans and legal documentation (which the Council would keep confidential) to show the sewage and water supplies mentioned in the objectors' representations.
- 7.26 Notwithstanding the above, there are no known hydrological constraints at the site or in its vicinity, and in the view of officers a refusal reason on this basis could not be substantiated at appeal.

## Conclusion

- 7.27 For the reasons set out in this report the principle of the proposed extensions, basement and alterations of the building in this location is considered acceptable. The development would not materially harm the setting of the Somerton Conservation Area, the visual amenities of the locality, highway safety or the amenity and privacy currently enjoyed by neighbouring properties, or hydrological conditions, or drainage in the locality, and thus accords with Government guidance contained within The Framework, Policies ESD 13 and ESD 15 of the Cherwell Local Plan 2011-2031 and saved Policies C28 and C30 of the Cherwell Local Plan 1996.

## 9. Recommendation

### Approve, subject to 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 conditions attached to this permission, the development shall be carried out strictly in accordance with the following plans and documents: Application Form, Drawing No's: P/16/103/001 and P/16/103/002

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.

3. The natural stone to be used on the walls of the extension shall be 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 the satisfactory appearance of the completed development and to comply with Policy ESD 15 of the Cherwell Local Plan 2011-2031, saved Policy C28 of the adopted Cherwell Local Plan and Government guidance contained within The Framework.

4. The slate to be used for the roof of the extension hereby approved shall match in terms of colour, type and texture those used on the existing building.

Reason – To ensure the satisfactory appearance of the completed development and to comply with Policy ESD 15 of the Cherwell Local Plan 2011-2031, saved Policy C28 of the adopted Cherwell Local Plan and Government guidance contained within The Framework.

5. The flue shall be painted black with a matt finish.

Reason – To ensure the satisfactory appearance of the completed development and to comply with Policy ESD 15 of the Cherwell Local Plan 2011-2031, saved Policy C28 of the adopted Cherwell Local Plan and Government guidance contained within The Framework.

6. Prior to the commencement of the development and notwithstanding the submitted details, an arboricultural survey, undertaken in accordance with BS:5837:2012 and all subsequent amendments and revisions shall be submitted to and approved in writing by the Local Planning Authority.

Reason - In the interests of identifying and retaining important trees on the site in accordance with saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

7. Prior to the commencement of the development hereby approved, an Arboricultural Method Statement (AMS), undertaken in accordance with BS:5837:2012 and all subsequent amendments and revisions shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, all works on site shall be carried out in accordance with the approved AMS.

Reason – To ensure the continued health of retained trees/hedges and to ensure that they are not adversely affected by the construction works, in the interests of the visual amenity of the area, to ensure the integration of the development into the existing landscape and to comply with saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

8. The existing hedgerow/trees along the southern boundary of the site shall be retained and properly maintained at a height of not less than 4 metres. Any hedgerow/trees which dies within five years from the completion of the development shall be replaced and thereafter properly maintained in accordance with this condition.

Reason – In the interests of the visual amenities of the area and to comply with Policies ESD 13 and ESD 15 of the Cherwell Local Plan 2011-2031, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within The Framework.

9. Prior to the commencement of the development hereby approved, full details of the hardsurfacing, (including material, colouring and layout), shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, and prior to the first use of the development, the hardsurfacing shall be provided on site in accordance with the approved details.

Reason - To ensure the satisfactory appearance of the completed development and to comply with saved Policy C28 of the Cherwell Local Plan, Policy ESD 15 of the Cherwell Local Plan 2011-2031 and Government guidance contained within the National Planning Policy Framework.

## **NOTES**

1. This permission shall not imply or be deemed to imply approval for details required in order to discharge conditions from application ref: 14/00067/F, the use of the extensions and basement as part of an independent self-contained dwelling, or the retention, or alteration, of the existing access or parking area serving the site. The above matters will need to be

considered as part of an application to discharge conditions, or to vary, or remove, relevant conditions.

2. It is known that in some areas of the northern part of Cherwell District elevated concentrations of naturally occurring arsenic, chromium and nickel and in Souldern, Somerton, Upper Heyford, Lower Heyford and Kirtlington elevated levels of naturally occurring arsenic exist above soil guideline values produced by DEFRA. While these elements are not considered a risk to residents occupying the completed development, there exists a potential risk to residents using the garden for home grown produce or where regular contact with the soil occurs due to ingestion and dermal contact. A risk may also occur to building site workers during construction, due to dermal contact and inhalation of potentially contaminated soil and dust. The applicant is therefore requested to ensure contact with the soil is minimised, especially where young children are present and not to grow home grown produce until such a potential risk has been shown to be negligible. In addition, to ensure that all site workers are informed of this potential risk and that appropriate health and safety requirements are used to protect the site workers. For further information please contact the Council's Environmental Protection Officer.

#### **STATEMENT OF ENGAGEMENT**

In accordance with the Town and Country Planning (Development Management Procedure) 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 as an amendment to the development description was accepted.

**CONTACT OFFICER:** Gemma Magnuson

**TELEPHONE NO:** 01295 221827