

**Applicant:** Banks Design Architects

**Proposal:** Erection of one detached dwelling with access

**Ward:** Adderbury, Bloxham And Bodicote

**Councillors:** Cllr Mike Bishop  
Cllr Chris Heath  
Cllr Andrew McHugh

**Reason for Referral:** Called in to Planning Committee by Cllr McHugh

**Expiry Date:** 10 July 2017                      **Committee Date:** 6 July 2017

**Recommendation:** Refuse

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## **1. APPLICATION SITE AND LOCALITY**

- 1.1. The application site is located in the village of Adderbury and currently serves as part of the garden for Orchard House, a dwelling located at the end of Sir Georges Lane, a cul-de-sac leading south from the High Street. The site backs on to Chestnut and Apple Tree Cottage, properties to the west on Church Lane. The levels of the site drop significantly from north to south.
- 1.2. The application site is located within the Adderbury Conservation Area. The site is located in an area where there are naturally elevated levels of arsenic in the ground. The site is located in an area of high archaeological interest. A number of protected species have been located in close proximity to the site, including the Great Crested Newt, Swifts and Wall Butterfly.

## **2. DESCRIPTION OF PROPOSED DEVELOPMENT**

- 2.1. Planning consent is sought for a new four bedroom dwelling on the site. The dwelling would be constructed from Hornton stone, brick and natural slate and due to the levels of the site, would be on a number of different levels that would be cut into the ground. The access to the dwelling would be from the north, with a new driveway created in between Toben House and Orchard House from the gravel forecourt at the end of Sir Georges Lane. The dwelling would have two pitched roof elements at the north and south constructed from stone, which would be linked by a lower element constructed from brick which would have a monopitch roof.

## **3. RELEVANT PLANNING HISTORY**

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

#### **4. PRE-APPLICATION DISCUSSIONS**

- 4.1. The following pre-application discussions have taken place with regard to this proposal:

<u>Application Ref.</u>	<u>Proposal</u>
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13/00024/PREAPP	Pre-App Enquiry - Erection of a new dwelling
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16/00209/PREAPP	New dwelling
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16/00360/PREAPP	Pre- Application Follow up Enquiry - New dwelling
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- 4.2. The initial pre-application response (13/00024/PREAPP) stated that the development would be likely to have a detrimental impact on the character and appearance of the Adderbury Conservation Area and on the amenity of neighbouring properties.
- 4.3. The next pre-application proposal (16/00209/PREAPP) was submitted more than three years later, under a different policy context following the adoption of the Cherwell Local Plan 2011 – 2031 Part 1 in 2015. This response concluded that whilst the broad principle of a dwelling on the site may be acceptable, without the submission of detailed drawings it would not be possible to determine whether the dwelling would have an impact on the visual amenities of the area or the amenity of neighbouring occupiers.
- 4.4. The final pre-application response (16/00360/PREAPP) came to similar conclusions to the previous proposal. Detailed plans were not submitted, however it was concluded that the dwelling in its proposed siting and scale would not have a significant impact on residential amenity. It was also stated that any design should be kept simple and low in scale and should be constructed from materials used elsewhere in the conservation area.

#### **5. RESPONSE TO PUBLICITY**

- 5.1. This application has been publicised by way of a site notice displayed near the site, by advertisement in the local newspaper, and by letters sent to all properties immediately adjoining the application site that the Council has been able to identify from its records. The final date for comments was 18.05.2017, although comments received after this date and before finalising this report have also been taken into account.

- 5.2. The comments raised by third parties are summarised as follows:

- Land ownership relating to the gravel forecourt at the end of Sir Georges Lane.
- The development would have a detrimental impact on the character and appearance of the conservation area.
- The development would have a detrimental impact on the residential amenity of neighbours.
- The development would have a detrimental impact on the safety of the local highway network and residents walking along Sir Georges Lane.

- The building phase of the development will cause a lot of noise, pollution and disturbance.
- The dwelling is too large and sited too close to neighbouring properties.
- The construction of the dwelling would risk affecting the existing boundary walls to the west.
- The development would affect the water table and cause increased run-off towards existing properties.
- The development would be contrary to the Adderbury Neighbourhood Development Plan which limits 'garden development'.
- The development constitutes 'backland development' which would not relate well to the pattern of development in the area.
- The access track is located too close to Toben House.

5.3. The comments received can be viewed in full on the Council's website, via the online Planning Register.

## 6. RESPONSE TO CONSULTATION

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

### PARISH COUNCIL AND NEIGHBOURHOOD FORUMS

6.2. ADDERBURY NEIGHBOURHOOD FORUM: No comments received.

6.3. ADDERBURY PARISH COUNCIL: **Objects**, for a number of reasons:

- The site is located partially outside of the settlement boundary proposed in Neighbourhood Plan Policy AD1.
- The dwelling would be built in the garden of an existing house and would increase the density of housing in a location where the houses are large and on spacious plots. This would be contrary to the Conservation Appraisal Report (2012) and also to the Adderbury Neighbourhood Plan policy AD7: Managing Design in the Conservation area: The Green which states "To the South (of the Green), proposals must not impact on the spacious nature of the area and the looser building line"
- There is a sense of the house being squeezed into a plot which cannot comfortably accommodate the new structure.
- The architectural design is not appealing and will probably date very quickly.
- Looking up at the site from the fields to the south, the insertion of this house will result in a harder edge to the village where it currently has a soft edge.

### STATUTORY CONSULTEES

6.4. LOCAL HIGHWAYS AUTHORITY: **No objections**, subject to a condition relating to the parking and manoeuvring areas of the development.

Parking for Orchard House is retained and access to the site emerges onto an area which is not part of the public highway. Within the public highway there is good inter-visibility along Sir Georges Lane itself and the vision and geometry of the access crossover onto the local network is good.

- 6.5. THAMES WATER: No comments received.

#### NON-STATUTORY CONSULTEES

- 6.6. CDC ARBORICULTURE: **No objections.**

- 6.7. OCC ARCHAEOLOGY: **No objections.**

- 6.8. CDC CONSERVATION: **Objects**, on the following grounds:

The existing development on Sir Georges Lane is considered to be 'backland', which causes harm to the character and appearance of the Adderbury Conservation Area. The proposed development would be 'backland' to the existing 'backland' as the building line would go further than Stags Leap to the east and protrude further into the 'pastoral landscape' identified as forming part of the character area in the Conservation Area Appraisal.

The design of the dwelling would also cause harm to the character and appearance of the conservation area. The current proposed design has odd proportions (including pitch of the roofs) and solid to void ratios (particularly with the openings on the southern elevation facing towards the open meadowland.) The development would not sit well with the historic properties located to the west of the site along Church Lane.

- 6.9. CDC ECOLOGY: **Comments** there is a pond onsite which is ornamental in nature and it is therefore unlikely to support great crested newts. The existing habitat is poor quality terrestrial habitat. However, as great crested newts have been found in the local area, their presence cannot be ruled out. Precautionary measures should be followed during construction to follow best practice such as storage of building materials above ground on pallets or in skips to avoid amphibians taking refuge in them. In the unlikely event any great crested newts are found, all works must stop immediately whilst Natural England or a licensed ecologist is contacted for advice. A number of trees are proposed to be removed and also some scrub vegetation, therefore works should be timed to avoid the nesting bird season (approx March to August). Subject to a condition relating to this and biodiversity enhancement, it is considered that the development may be acceptable on ecology grounds.

- 6.10. CDC ENVIRONMENTAL PROTECTION: **No objections.**

- 6.11. CDC LANDSCAPE SERVICES: No comments received.

## **7. RELEVANT PLANNING POLICY AND GUIDANCE**

- 7.1. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.
- 7.2. The Cherwell Local Plan 2011-2031 - Part 1 was formally adopted by Cherwell District Council on 20th July 2015 and provides the strategic planning policy framework for the District to 2031. The Local Plan 2011-2031 – Part 1 replaced a number of the 'saved' policies of the adopted Cherwell Local Plan 1996 though many of its policies are retained and remain part of the development plan. The

relevant planning policies of Cherwell District's statutory Development Plan are set out below:

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

- PSD1 – Presumption in Favour of Sustainable Development
- ESD10 – Biodiversity and the Natural Environment
- ESD13 – Local Landscape Protection and Enhancement
- ESD15 - The Character of the Built and Historic Environment
- Villages 1 – Village Categorisation

#### CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- C28 – Layout, design and external appearance of new development
- C30 – Design control

### 7.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- Cherwell Home Extensions Guidance (2007)
- Adderbury Conservation Area Appraisal (2012)
- Adderbury Neighbourhood Development Plan (ANDP)

The Neighbourhood Plan for Adderbury is still at an early stage. A pre-submission version of the plan has been accepted by the Parish Council and is due to be submitted to Cherwell District Council in due course. Given the early stages of the plan, in accordance with Paragraph 216 of the NPPF, no significant weight can be given to it as a material consideration at this time.

## 8. APPRAISAL

### 8.1. The key issues for consideration in this case are:

- Principle of development
- Design, impact on the character of the area and heritage assets
- Residential amenity
- Highway safety
- Ecology
- Arboriculture
- Other matters

#### Principle of development

- 8.2. Paragraph 14 of the National Planning Policy Framework states that a presumption in favour of sustainable development should be seen as a golden thread running through decision taking. There are three dimensions to sustainable development, as defined in the NPPF, which require the planning system to perform economic, social and environmental roles. These roles should be sought jointly and simultaneously through the planning system.
- 8.3. Paragraph 12 of the NPPF notes that the development plan is the starting point of decision making. Proposed development that accords with an up-to-date Local Plan should be approved, and proposed development that conflicts should be refused unless other material considerations indicate otherwise. Cherwell District Council has an up-to-date Local Plan which was adopted on 20th July 2015.

- 8.4. Cherwell District Council can demonstrate a five-year supply of deliverable housing sites, therefore the presumption in favour of sustainable development, as advised by the NPPF, will therefore need to be applied in this context.
- 8.5. The principle of residential development in Adderbury is assessed against Policy Villages 1 in the Cherwell Local Plan Part 1 2011-2031 and within this policy Adderbury is recognised as a Category A village. Category A villages are considered the most sustainable settlements in the District's rural areas and have physical characteristics and a range of services within them to enable them to accommodate some limited extra housing growth. Within Category A villages, residential development will be restricted to the conversion of non-residential buildings, infilling and minor development comprising small groups of dwellings on sites within the built up area of the settlement. The site is on the edge of, but within the built limits of the village, and although it is doubtful the proposal can be considered infilling given its relationship with existing dwellings, it would constitute minor development.
- 8.6. Paragraph C.262 of the Cherwell Local Plan 2011 – 2031 Part 1, gives the criteria for assessing whether a proposal constitutes acceptable 'minor development', which includes:
- The size of the village and the level of service provision;
  - The site's context within the existing built environment;
  - Whether it is in keeping with the character and form of the village;
  - Its local landscape setting; and
  - Careful consideration of the appropriate scale of development.
- 8.7. Thus, whilst the dwelling could be acceptable in principle, this is subject to the proposal not causing adverse harm to the character and appearance of the area, neighbour amenity and highways safety. These issues are discussed below.

Design, impact on the character of the area and heritage assets

- 8.8. Saved Policies C28 and C30 of the adopted Cherwell Local Plan 1996 exercise control over all new developments to ensure that the standards of layout, design and external appearance are sympathetic to the character of the context. Furthermore, new housing development should be compatible with the appearance, character, layout, scale and density of existing dwellings in the vicinity.
- 8.9. Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1 states that new development should complement and enhance the character of its context through sensitive siting, layout and high quality design. Furthermore, new development should be designed to improve the quality and appearance of an area and contribute positively to an area's character and identity by creating or reinforcing local distinctiveness. Policy ESD15 also echoes the advice in the NPPF regarding the importance of new development preserving or enhancing designated heritage assets such as Conservation Areas.
- 8.10. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that special attention shall be paid in the exercise of planning functions to the desirability of preserving or enhancing the character or appearance of a Conservation Area.

- 8.11. The Conservation Officer has objected to the application on two grounds; these relate to the siting of the development to the rear of Orchard House and protruding further than the building line of Stags Leap, and the design of the dwelling.
- 8.12. The proposed dwelling would be located down Sir Georges Lane and would be located between Orchard House and Toben House but would be situated to the rear of these dwellings. There is no distinct settlement pattern for the existing dwellings located down Sir Georges Lane; the houses are sited in a sporadic and disparate fashion in fairly generous plots. However, the proposed dwelling would be constructed to the rear of Orchard House and would breach the rear building line of Stags Leap to the east of the site, albeit not significantly.
- 8.13. The area to the south of Sir Georges Lane is identified in the Conservation Area Appraisal as forming part of The Lanes character area. The Appraisal explains that *'The series of linear streets are linked by winding lanes, allowing for the continuous deflection of views; this and the undulating topography create pleasant and interesting streetscapes. Narrow lanes filter from the main spine into a series of small residential streets; many terminate abruptly to reveal expansive views of the surrounding countryside'*. That said the character of the application site is more aligned to the Valley Landscape character area. Public views into and out of this area are limited, but never-the-less important as identified by the Adderbury Conservation Area Appraisal: *'the character area features along the length of the conservation area and although a dominant landscape feature, the inward-looking central spine of the village restricts views of this valuable landscape to the perimeter, with views often only found at the end of secondary streets and lanes'*.
- 8.14. The existing properties are considered to cause harm to the character and appearance of the Adderbury Conservation Area, given their incongruous siting to the rear of more historic development on High Street and Church Lane. The Conservation Officer considers that the proposed development would cause additional harm to the character and appearance of the conservation area, with the building sited to the rear of the existing dwellings and protruding further into the 'pastoral landscape' which is identified as forming part of the character area. The building would respect the property boundaries of Chestnut Cottage and Apple Tree Cottage to the west; however it would extend further to the rear of Stags Leap to the east and would appear as another layer of backland development. For this reason it is considered that the dwelling would cause additional harm to the conservation area, by reinforcing a non-traditional form and layout of development and by encroaching into the Valley Landscape character area. A dwelling in this position would not result in an enhancement to the conservation area and would fail to respect the historic settlement pattern of Adderbury.
- 8.15. The Conservation Officer has also objected on the grounds that the design would cause harm to the character and appearance of the conservation area. There is a variety in the design of the buildings in close proximity of the site. The dwellings on Sir Georges Lane are modern, large ironstone-built dwellings, whilst the dwellings which the site backs on to on Church Lane are more simple cottages and there are a number of more formal, high status dwellings on High Street to the north of the site. The context in which the dwelling would be located is amongst the modern dwellings on Sir Georges Lane, whilst backing onto Church Lane.
- 8.16. The dwelling would be cut into the land and constructed in three different sections, a design that seeks to respond to the levels of the site, which drop significantly from north to south. The Conservation Officer has expressed concerns with the form of the dwelling, the varying pitches of the roofs and the solid to void ratios, particularly on the southern elevation facing the open meadowland. With regards to the design, the main impact on views from within the conservation area would be from the west,

facing towards Church Lane. Church Lane is a more historic thoroughfare, with older dwellings located on it. Glimpses of the proposed dwelling would be seen from either side of Apple Tree Cottage and Chestnut Cottage.

- 8.17. The dwelling would be constructed from materials that are seen throughout the conservation area, using stone, brick and slate tiles. This is considered to be a positive element of the proposal. That said the staggered form of the dwelling, which would be constructed in three different sections, would appear somewhat complicated and contrived. Whilst the dwelling is not sited in the most prominent or sensitive part of the conservation area, the design of the dwelling and form of the dwelling does not relate well to that of other dwellings in the vicinity of the site, in particular the shallow sloping roofs and the disjointed appearance of the dwelling in three sections. It would appear somewhat cramped on the site and therefore, on balance, it is considered that the design of the proposed dwelling would also cause harm to the character and appearance of the conservation area.
- 8.18. It is the case that the applicant has received pre-application advice from Council officers prior to submitting this application, and Government guidance is clear that pre-application advice is a material consideration in the determination of a planning application. Whilst the advice given did not rule out the potential for a dwelling to be accommodated on the site and did not raise concerns with the siting of a dwelling in this location, it concluded that the acceptability of any proposal would be dependent on the design being acceptable.
- 8.19. Whilst the Conservation Officer was consulted on the pre-application proposals, unfortunately they did not comment on the proposals and so the advice was issued without their input. The Conservation Officer has now objected to the application, and their specialist advice and understanding of the historic environment is a new material consideration that must be given weight in the assessment of the current application. The advice given at pre-application stage must therefore be balanced against these comments.
- 8.20. The objection of the Conservation Officer is clear and unambiguous, and in light of this objection and for the reasons expanded on above, the development is considered to cause less than substantial harm to the character and appearance of the conservation area. In particular the incongruous and disjointed design and the backland siting of the development would cause harm to the significance of the conservation area. The benefit of the provision of a single dwelling in a sustainable location within the village of Adderbury is considered, on balance, to be outweighed by the harm caused to the heritage asset.

#### Residential amenity

- 8.21. Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1 states that new development proposals should consider the amenity of both existing and future development, including matters of privacy outlook, natural lighting, ventilation, and indoor and outdoor space.
- 8.22. The proposed dwelling would be located in close proximity to a number of other dwellings, both down Sir Georges Lane and Church Lane to the west. The dwelling would be located to the rear of Orchard House and Toben House. The Cherwell Home Extension Guidance (2007) states that where a building has a window at the rear, any new development should be at least 22 metres away from a window of a neighbour's habitable room to prevent harm to privacy. The Cherwell Home Extension Guidance also states that a proposed windowless elevation should normally be at least 14 metres from a window of a neighbour's habitable room to prevent overshadowing.



- 8.23. The closest element of the proposed dwelling to an existing neighbouring dwelling would be to Apple Tree Cottage and the separation distance would be approximately 12m. Due to the single storey scale of the dwelling, being cut into the land, it is considered unlikely that this element would have a detrimental impact with regards to overshadowing.
- 8.24. The western elevation would be located approximately 18m from the windows in the principal rear walls of Chestnut Cottage and Apple Tree Cottage. One window is proposed in the north section of the building facing towards Church Lane. However, this window would be on what is effectively a single-storey element and would be lower than the height of the boundary wall. It is therefore considered that this element would not cause harm to the amenity of the neighbours on Church Lane.
- 8.25. There are a number of windows on the east elevation facing towards Orchard House. There are two small windows on the northern element of the building; these would face towards the garden and rear of Orchard House. The closest of these windows would be located approximately 18m away from Orchard House. This would be below the 22m distance specified in Cherwell's guidance document, however as this element would effectively only be single storey, would be screened by a fence and given that the buildings are on significantly different alignments, it is considered that the overlooking caused would not be significant. This harm could be further mitigated through appropriate landscaping through a planning condition. T
- 8.26. The dwelling would also have windows further to the south. The distances between these windows and Orchard House would exceed the distances specified in Cherwell's guidance document and these are therefore deemed to be acceptable. It is therefore considered that the development would not have a significantly detrimental impact on the amenities of neighbours.

#### Highway safety

- 8.27. The Highways Liaison Officer has offered no objections to the application, subject to a condition relating to the parking and manoeuvring areas of the development. Concerns have been raised in the public consultation process regarding the safety of Sir Georges Lane with additional traffic using it. The Highways Liaison Officer has stated that within the public highway there is good inter-visibility along Sir Georges Lane itself and that the vision and geometry of the access crossover onto the local network is good. It is therefore considered that the development of a single dwellinghouse would not cause harm to the safety of the local highway network.

#### Ecology

- 8.28. The Council's Ecologist has stated that there are no objections to the development, subject to the inclusion of two conditions. There is a pond onsite which is ornamental in nature and is unlikely to support great crested newts, however, as great crested newts have been found in the local area, a method statement for their protection, along with nesting birds should be conditioned. In the unlikely event any great crested newts are found, all works must stop immediately whilst Natural England or a licenced ecologist is contacted for advice.
- 8.29. A number of trees are proposed to be removed and also some scrub vegetation, therefore works should also be timed to avoid the nesting bird season (approx March to August). A condition can be included relating to a method statement for enhancing biodiversity on the site, through the provision of either bird nest boxes or bat boxes. Subject to these conditions, it is considered that the development would not cause harm to the local biodiversity network.

### Arboriculture

- 8.30. The development would involve the removal of a number of trees on the site. The Arboricultural Officer has responded and stated that as no significant trees will be affected by the proposal, that there are no objections to the application. It is therefore considered that the development would not cause harm to any significant trees within the conservation area.

### Other matters

- 8.31. Concerns have been raised by a number of the neighbours regarding the ownership of the gravel forecourt area at the bottom of Sir Georges Lane. Land ownership is not a material planning consideration and this is considered to be a civil matter between neighbours.
- 8.32. Concerns have also been raised by neighbours to the west on Church Lane regarding the impact that the dwelling would have on the nearby boundary wall, on land stability, and the impact on drainage. Similar to the land ownership issue, damage to a neighbour's property is a private, civil matter that is not a planning consideration. As regards drainage, this could be dealt with by condition if consent were to be granted.

## **9. PLANNING BALANCE AND CONCLUSION**

- 9.1. The broad principle of development is considered to be acceptable, given that the site is located within the built-limits of the village. However the siting of the development to the rear of Orchard House and protruding further to the south than Stags Leap to the east is considered to cause harm to the character and appearance of the conservation area. The siting of a dwelling in this location would exacerbate the harm caused by the existing dwellings in this backland location which does not relate to the historic settlement pattern of the village. The dwelling would not be overly prominent from the public domain and would be constructed from suitable materials; however on balance it is considered that the incongruous, contrived and disjointed design of the dwelling would add to the harm caused, and would not be outweighed by the benefits of the proposal.

## **10. RECOMMENDATION**

That permission is refused for the following reason:

1. The proposed development, by reason of its siting to the rear of Orchard House, would extend an unsympathetic form of development in the Conservation Area that fails to relate well to the historic pattern of development in Adderbury. This harm would be compounded by the incongruous and disjointed design of the dwelling that would be at odds with the character of surrounding development, and is considered to be detrimental to the character and appearance of the Adderbury Conservation Area. Although the harm caused would be less than substantial, the public benefits created by the development would not outweigh the harm. This would be contrary to advice within Policy ESD15 of the Cherwell Local Plan 2011 - 2031 Part 1, Saved Policies C28 and C30 of the Cherwell Local Plan 1996, and Government guidance contained within the National Planning Policy Framework.