

Case Officer: Gemma Magnuson

Applicant: Mr Julian Bernard

Proposal: Demolition of 20th Century extensions and erection of replacement two storey part subterranean extension and associated engineering works

Ward: Cropredy, Sibfords And Wroxton

Councillors: Cllr Phil Chapman, Cllr George Reynolds and Cllr Douglas Webb

Reason for Referral: Called in by Cllr Phil Chapman for the following reasons: Public interest

Expiry Date: 4 October 2019

Committee Date: 24 October 2019

EXECUTIVE SUMMARY OF PROPOSALS AND RECOMMENDATION

RECOMMENDATION: REFUSE PERMISSION

Proposal

The proposed development would involve the replacement of an existing single storey flat roofed extension to the rear of the lodge with a two storey rear extension, an element of which would be subterranean, together with associated engineering works to facilitate the development. An existing dormer window would also be removed from the rear facing roofslope of the building. Construction materials would consist of a coursed rubble stone masonry lower level, with stone coloured render upper level. The roof would be constructed using Welsh slate, and the openings would be metal framed.

Consultations

The following consultees have raised **objections** to the application:

- CDC Conservation

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

- OCC Highway Authority, OCC Archaeology, CDC Building Control, CDC Environmental Protection, CDC Ecology

The following consultees are **in support** of the application:

- Wardington Parish Council

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

Planning Policy and Constraints

Lower Lodge is a curtilage listed building to Grade II* Williamscot House. The site is in the Williamscot Conservation Area and also sits to the edge of the Battle of Cropredy Bridge 1644 Registered Historical Battlefield. A number of trees protected by virtue of their positioning within the conservation area are both within and directly adjacent to the site, forming an area of protected lowland mixed deciduous woodland.

The application has also been assessed against the relevant policies in the NPPF, the

adopted Local Plan and other relevant guidance as listed in detail at Section 8 of the report.

Conclusion

The key issues arising from the application details are:

- Principle of Development
- Design, impact on the character of the area and heritage impact
- Residential amenity
- Ecology impact
- Highway safety
- Protected trees

The report looks into the key planning issues in detail, and Officers conclude that the proposal is unacceptable for the following reasons:

1. Loss of appreciation of historic significance of the building as a small lodge building to Grade II* Williamscot House, resulting in less than substantial harm to the listed buildings and their setting.
2. Less than substantial harm to the character and appearance of Williamscot Conservation Area, and the visual amenities of the locality.
3. No public benefits that outweigh the identified harm.

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

MAIN REPORT

1. APPLICATION SITE AND LOCALITY

- 1.1. The application site is positioned to the north-west of the village of Williamscot, and south-east of the village of Cropredy, accessed off the Williamscot Road connecting the two villages. The site is occupied by Lower Lodge, a detached dwelling constructed from stone with a slate roof. A single storey extension has been added to the dwelling, constructed from artificial stone and brick, with felt flat roof. A timber clad pitched roof dormer window has also been added to the rear facing roofslope. Two detached outbuildings are positioned to either side of the dwelling. A gravelled off-street parking and turning area is positioned to the front of the dwelling, with garden and lawn to the rear. The land level begins to slope downwards from the rear elevation of the dwelling, culminating at the river Cherwell to the south. Open countryside surrounds the site on all sides, with the access road leading to Williamscot House now closed.

2. CONSTRAINTS

- 2.1. Lower Lodge is one of two lodge houses that sit adjacent to the access roads originally serving Grade II* Williamscot House; Lower Lodge sitting to the north-west of the house and Upper Lodge to the south-east. Lower Lodge is curtilage listed to Grade II* listed Williamscot House. The site lies within the Williamscot Conservation Area, and the Battle of Cropredy Bridge 1644 Registered Historical Battlefield is positioned across the road to the north.

- 2.2. Several trees, protected by virtue of their positioning within the Conservation Area, are both within and directly adjacent to the site. They form an area of protected lowland mixed deciduous woodland.
- 2.3. A number of public rights of way are in the vicinity, including a bridleway across the road to the north-east. Views of Lower Lodge are also obtainable from the public rights of way running alongside the Oxford Canal and the river Cherwell to the south-west.

3. DESCRIPTION OF PROPOSED DEVELOPMENT

- 3.1. The proposed development would involve the removal of one existing outbuilding, the existing single storey flat roofed extension and dormer window, and their replacement with a two storey rear extension. The extension would make use of the sloping land level, to create a dining room at ground floor level, leading down to the lower ground floor level where two bedrooms and two bathrooms would be accommodated. An outdoor terrace would also be provided as part of the development.
- 3.2. The extension would be constructed with pitched roofs finished in Welsh slate, with coursed rubble stone masonry upon the lower ground floor level and stone coloured render to the upper elements. Stone quoin detailing would be used throughout the extension. Openings would be metal framed.
- 3.3. The development would increase the number of bedrooms at the property from two to three bedrooms.

4. RELEVANT PLANNING HISTORY

- 4.1. The following planning history is considered relevant to the current proposal:

<u>Application Ref.</u>	<u>Proposal</u>	<u>Decision</u>
67/00296/B	Extension and improvement to cottage and new garage	Approved
72/00800/B	Erection of pre-fabricated garage	Approved
81/00224/N	Extensions to form kitchen and porch	Approved
07/01396/F	Two storey extension, sun room and double garage	Refused
08/00943/F	Two storey extension, sunroom and replacement double garage	Withdrawn
08/01704/F	Replace single storey rear extension, erect	Withdrawn

	conservatory/sun room plus detached garage	
09/01100/LB& 09/01125/F	Alterations to roof and extensions to form 3 bed dwelling and new garage to side	Withdrawn
10/01264/F &10/01265/LB	Rear single storey extension and attached garage. Demolition of 2 no. detached garage	Approved
16/00433/F& 16/00434/LB	Resubmission of 10/01264/F & 10/01265/LB -Extension to existing lodge to form three bedroom accommodation with new garage to side.	Withdrawn
16/01681/F& 16/01682/LB	Demolition of existing flat roof extension to the listed building and erection of new single storey extension	Withdrawn
18/00736/F& 18/00737/LB	Single storey rear extension and recladding and reroofing of existing single storey flat roof extension, insertion and alteration of windows and doors and internal alterations	Withdrawn

- 4.2. Planning permission was originally granted for the erection of a single storey extension to the rear of Lower Lodge in 1967, with a later extension approved fourteen years later. Although the first of these applications did not require listed building consent it should have been sought in 1981.
- 4.3. During 2007 an application for planning permission was refused for the replacement of the single storey extension with a two storey extension, garage and sunroom. The refusal was based on the conclusion that the development be out of keeping with the scale of, and wholly overwhelm, the existing modest lodge. It was at this point that the building was recognised as being curtilage listed.
- 4.4. Three further schemes were proposed during 2008 and 2009; two to replace the existing single storey extension and one to alter the existing structure. Historic England, as it is now known, commented on the 2009 application that sought to alter the existing structure to create a one and half storey structure, with first floor accommodation in the roofspace of both the existing lodge and the extension. The width of the extension would have been no greater than that existing, and the ridge height was proposed to sit lower than that existing. Historic England commented

that the new extension would seriously damage the architectural quality of the lodge with the new roof would emphasising the size of the extension and make it clear that this is no longer a lodge but a sizeable house.

- 4.5. Historic England considered that the current single storey extension, whilst a poorly designed addition, has the merit of being virtually invisible in views from the front of the property, thus preserving the image of a small gate lodge in a landscape. In addition, the existing extension was not considered to impinge greatly on long views over the valley from Cropredy, as it is relatively low-lying and partially screened by a hedge. Historic England went on to suggest that the appearance of the building could be improved by a modern flat roofed rebuilding of the current extension, that could be increased in size, to a limited extent, without damaging the architectural significance of the lodge.
- 4.6. During 2010 approval was given to replace the existing single storey extension and two detached outbuildings with a large flat roofed single storey extension and attached garage, seemingly in accordance with the advice from Historic England in the previous year. However, this scheme was never implemented and lapsed in October 2013.
- 4.7. Applications for the same scheme that had been approved during 2010 were submitted during 2016. However, these were not viewed favourably by Officers reflecting changes in national and development plan policies which placed a greater emphasis on design and the need to protect heritage assets. The applications were withdrawn. A revised application was also submitted later that year, although again these were withdrawn.
- 4.8. During 2018 approval was again sought for the erection of a single storey rear extension to form a third bedroom. The scheme included the re-cladding and re-roofing of the existing flat roofed extension. Although the proposal was ultimately withdrawn, Officers had considered this scheme to be broadly acceptable subject to minor modifications.

5. PRE-APPLICATION DISCUSSIONS

- 5.1. No pre-application discussions have taken place with regard to this proposal.

6. RESPONSE TO PUBLICITY

- 6.1. This application has been publicised by way of a site notice displayed near the site, by advertisement in the local newspaper, and by letters sent to all properties immediately adjoining the application site that the Council has been able to identify from its records. The final date for comments will be **10 October 2019**. Seven responses were received on the scheme at the time of writing, all in support of the application. The comments raised by third parties are summarised as follows:

- If the application is successful it will make a great difference visually to the property and remove appalling flat roof of the existing extension.
- Cottage will be more suitable as a family home.
- It will have no impact on surrounding areas and is difficult to imagine why permission should not be granted.
- Size of current dwelling and layout is unsuitable and proposed improvements are in keeping with the local area as well as providing a better layout.

- Existing extensions are not, nor have they ever been, in keeping with our village, or such a beautiful period property.
- Plans are a vast improvement on the existing structure.
- Planning structure will be a welcomed enhancement to this lovely lot at the end of our village.
- Witnessed applicant's continued investment in the property by way of landscaping and other exterior improvements, confident that the plans will be carried out with pride and utmost respect for the character of the existing building and that of the village.
- Will greatly improve this existing location within our village.
- A very attractive development to a very unattractive current site.
- Lodge has been spoilt by current extension and is not in keeping with the village and its surroundings.
- The new owners have already enhanced the aspect to the front of Lower Lodge with new and extensive landscaping.
- The planned improvements will not only be of benefit to the property but also to Williamscot village.
- The property is not overlooked and the replacement two storey structure would not only enhance the property but be more in keeping with the property itself and surrounding countryside.
- Current design of dwelling is out of character with rural environment. The plans represent an opportunity to address this, providing better aspect from adjacent countryside without being imposing.
- Property is set back from the road and within the plot there is ample access for contractors vehicles and materials, ensuring that the Cropredy Road would not be restricted during works.

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

7. RESPONSE TO CONSULTATION

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

PARISH/TOWN COUNCIL AND NEIGHBOURHOOD FORUMS

7.2. WARDINGTON PARISH COUNCIL: **support**, feel like this building work would improve the residence and make it more in keeping with the area.

CONSULTEES

7.3. THE GARDENS TRUST: no comments received at the time of writing.

- 7.4. HISTORIC ENGLAND (consulted as part of accompanying 19/01400/LB): do not wish to comment and suggest that the views of our specialist conservation advisor is sought.
- 7.5. OCC HIGHWAYS: **no objection**.
- 7.6. OCC ARCHAEOLOGY: no archaeological constraints to the scheme.
- 7.7. CDC ARBORICULTURE: **no objection**, subject to conditions relating to tree protection.
- 7.8. CDC BUILDING CONTROL: **no comment**.
- 7.9. CDC CONSERVATION (consulted as part of accompanying 19/01400/LB): **object**. The development would result in harm to the curtilage listed building through the loss of historic fabric, the loss of the plan form of the building and diminished architectural significance. The development would also harm the setting of Grade II* listed Williamscot House by diminishing the relationship between the lodge and the principal building, including when viewed in context with the principal building from long range views from public rights of way, the understanding of this relationship would also be damaged, along with the significance of the former access to Williamscot House. Further, the landscape surrounding Williamscot House forms a significant proportion of the land within the Conservation Area and the change in relationship between these two identified positive landmarks will cause a high level of harm to the fundamental significance of character and appearance of the Williamscot Conservation Area.
- 7.10. CDC ECOLOGY: **no objection**, subject to conditions relating to the timing of works, obtaining a licence and providing biodiversity enhancements on site.
- 7.11. CDC ENVIRONMENTAL HEALTH: **no comments**.
- 7.12. NATIONAL AMENITY SOCIETIES: no comments received at time of writing.

8. RELEVANT PLANNING POLICY AND GUIDANCE

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

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

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

CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- C23 – Retention of features contributing to character or appearance of a conservation area
- C28 – Layout, design and external appearance of new development
- C30 – Design control

8.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- National Design Guide (NDG)
- The Planning (Listed Buildings and Conservation Areas) Act 1990
- EU Habitats Directive
- Natural Environment and Rural Communities Act 2006
- Conservation of Habitats and Species Regulations 2017
- Circular 06/2005 (Biodiversity and Geological Conservation)
- Human Rights Act 1998 (“HRA”)
- Equalities Act 2010 (“EA”)

8.4. Council Corporate Priorities

Cherwell District Council’s Business Plan for 2019-20 sets out the Council’s three strategic priorities which form our overarching business strategy. Below these are the key actions for the year 2019–20. This is a strategy which looks to the future taking into account the priorities and aspirations of the communities who live and work in the district.

The three corporate priorities are to ensure the District is “Clean, Green and Safe”, that it supports “Thriving Communities & Wellbeing”, and is a District of “Opportunity & Growth”. All three priorities are of significance to the determination of planning applications and appeals. Below these priorities, the key actions which are of most relevance to planning applications and appeals are: (1) deliver the Local Plan; (2) increase tourism and increase employment at strategic sites; (3) develop our town centres; (4) protect our built heritage; (5) protect our natural environment; (6) promote environmental sustainability; (7) promote healthy place shaping; (8) deliver the Growth Deal; (9) delivery innovative and effective housing schemes; and (10) deliver affordable housing.

The remaining key actions may also be of significance to the determination of planning applications and appeals depending on the issues raised.

The above corporate priorities are considered to be fully compliant with the policy and guidance contained within the National Planning Policy Framework and Planning Practice Guidance.

9. APPRAISAL

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

- Design, impact on the character of the area and heritage impact
- Residential amenity
- Ecology impact
- Highway safety
- Protected Trees

Design, Impact on the Character of the Area and Heritage Impact

Legislative context

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

Policy context

- 9.6. Government guidance contained within the NPPF requires development to function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development. Development should be visually attractive, sympathetic to local character and history, and establish or maintain a strong sense of place. Permission should be refused for development of poor design that fails to take opportunities available for improving the character and quality of an area and the way it functions.
- 9.7. Any harm to, or loss of, the significance of a designated heritage asset should require clear and convincing justification. Substantial harm to or loss of assets of the highest significance, including Grade II* listed buildings, should be wholly exceptional. Where a proposed development will lead to substantial harm to, or total loss of significance of a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh that harm or loss.
- 9.8. Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.
- 9.9. The National Design Guide explains that development should respond to existing local character and identity, and that well designed new development is influenced by an appreciation and understanding of vernacular, local or regional character, including existing built form, landscape and local architectural precedents, and the

elements of place or local places that make it distinctive. This includes considering the relationships between buildings, and views, vistas and landmarks.

- 9.10. Policy ESD15 of The Cherwell Local Plan 2011-2031 Part 1 requires development to complement and enhance the character of its context through sensitive siting, layout and high quality design. All new development will be required to meet high design standards. Further, development proposals will be required to conserve, sustain and enhance designated and non-designated heritage assets including buildings, features, archaeology, conservation areas and their settings.
- 9.11. Policy ESD13 of the Cherwell Local Plan 2011-2031 expects development to respect and enhance local landscape character, securing appropriate mitigation where damage to local landscape character cannot be avoided.
- 9.12. Saved Policy C23 of the Cherwell Local Plan 1996 seeks to retain features that contribute to the character or appearance of a conservation area. Saved Policies C28 and C30 of the Cherwell Local Plan 1996 seek a standard of layout, design and external appearance, including the choice of external finish materials, that are sympathetic to the character of the context of the development. In sensitive areas, such as conservation areas, development will be required to be of a high standard and the use of traditional local building materials will normally be required.

Assessment

- 9.13. Lower Lodge dates back to 1842, forming a part of the Williams Scot House estate, that was at the time being remodelled by the Loveday family who were the owners of the estate from 1777 until 1969. Sales particulars from 1968 described Lower Lodge as sitting at the back gate to Williams Scot House, whereas Upper Lodge, a second lodge serving the house, is described as sitting at the entrance to the main drive. Lower Lodge was constructed prior to Upper Lodge, and both provided gated entrances to the private way running through the estate. The private way itself has historic significance as it was the original route of the road through Williams Scot that was altered to its current alignment around 1830.
- 9.14. The historic significance of Lower Lodge lies in the largely unaltered plan and roof form of the original building, its relationship with Grade II* listed Williams Scot House and wider estate, and its positioning adjacent to the private way running through the estate, that was once the original road running through the village of Williams Scot.
- 9.15. Williams Scot House was designated as a Grade II* listed building in December 1955, when the estate and Lower Lodge was within the ownership of the Lovedays. As Lower Lodge was within the same ownership at the beginning of 1969 and given its then function and physical relationship to Williams Scot House, it is considered to be curtilage listed (1969 saw a change to the legislation to formally recognise curtilage listed structures).
- 9.16. The Heritage, Design and Impact Assessment submitted with the application describes Lower Lodge as having a low historic and communal value, given that it did not serve the principal entrance, and the previous tenants of the lodge have been difficult to track. It is therefore considered that the Lodge was occupied by estate workers until it was sold, and few people would have a living memory of the lodge and its importance as part of the Williams Scot estate.
- 9.17. The Conservation Officer disagrees with this assessment, and considers the Lodge to have high historic value, sitting at one of two principal entrances to Williams Scot House and located alongside the former public road. The position of Lower Lodge in this location is considered to be of particular historic value as it denotes changes of

private ownership and control of the former public highway. Further, it is not disputed that estate workers occupied the lodge, as it functioned as part of the wider estate.

- 9.18. The Heritage, Design and Impact Assessment also concludes that the aesthetic value of Lower Lodge is low, being reduced by the extensions approved in 1967 and 1981 that in particular obscure views of the original rear elevation.
- 9.19. The Conservation Officer disagrees with this conclusion and considers the aesthetic value of Lower Lodge to be high, forming a part of the core significance of Williamscot House. It is acknowledged however, that the later extensions have little architectural merit and could be improved upon.
- 9.20. The site lies within the Williamscot Conservation Area and is visible from the Oxford Canal Conservation Area. The Williamscot Conservation Area Appraisal identifies Lower Lodge as a positive landmark, with a number of long range views of the structure and its setting specifically identified across the agricultural land to the west and south-west. The site forms a part of the Williamscot House estate character area, described as being formed through a combination of the principal property and other associated historic buildings, of which Lower Lodge is one, and the picturesque landscape in which it sits.
- 9.21. It is commonly accepted that lodge buildings were originally constructed for both security purposes, and to give the passer by or visitor a hint of the quality of the house beyond. Historic England explain in their publication *The Garden and Park Structures Listing Selection Guide* that lodge buildings were generally small but often elaborate, and often designed to anticipate the architectural achievement of the great house beyond.
- 9.22. When approaching the site from Cropredy, Lower Lodge is clearly visible due to its proximity to the road. Lower Lodge, whilst modest in size, has high quality and elaborate architectural features such as the decorative external stack, arch headed windows and a hood mould over the door. Although the flat roofed rear extension is not of any architectural merit, the low profile succeeds in maintaining the appearance of a modest sized lodge building when viewing from the road, as it sits at a lower land level to the lodge, and the flat roofed design avoids any conflict with the eaves or roof form of the original building.
- 9.23. Longer range views of the structure from the west and south-west allow appreciation of the lodge building in context with Williamscot House, appearing as a small ancillary building within the setting of this Grade II* listed building, enabling the two distinct functions of these structures to be read and understood. Whilst the existing flat roofed extension is visible from this aspect, due to the retention of the original eaves and roof form, and as the extension does not extend beyond the sides of the original lodge, the original height and width of the Lodge remain clear.
- 9.24. The proposed extension, at 7.65 metres in depth from the rear of the original lodge, with a height sitting around 70cm from the ridge of the original lodge, would be clearly visible when approaching the site from Cropredy. The floorspace of the original building would be approximately tripled as a result of the development, which is considered to be a disproportionate extension given the nature of the building and its listed status. It is acknowledged that the existing extensions almost doubles the floorspace of the original building, although the Lodge was not or not identified as a curtilage listed building at the time of their consideration.
- 9.25. The design of the proposed extension would include large expanses of glazing over two levels, the design of which is out of keeping with the original building and would

draw undue attention to the extension when viewed from the road and public rights of way to the west and south-west respectively.

- 9.26. The proposed extension would extend above the height of the original eaves and cut into the rear roofslope of the original building, obscuring the majority of the rear elevation of the existing lodge when viewing from the west and south-west. The extension would also extend beyond the side elevation of the original lodge, substantially increasing the overall width of the structure when viewing from this aspect.
- 9.27. Where harm would be caused to a designated heritage asset, the NPPF requires this to be weighed against the public benefits arising from the scheme. The applicant has put forward a justification for the scheme arguing that a three bedroom dwelling in this location would be more sustainable than the existing two bedroom dwelling. Furthermore, it is argued the removal of the modern extensions that do not comply with current insulation requirements and the general restoration of the remainder of the building would be a positive.
- 9.28. Officers do not consider the creation of a three bedroom dwelling to constitute a public benefit, given that there is generally a demand for both two and three bedroom dwellings, and in any case, it would be possible to achieve a three bedroom dwelling through a more sympathetic development. Such a scheme was largely agreed prior to the withdrawal of the previous application. Indeed, Officers concur with the Historic England advice from 2009 that a modest extension could be countenanced if the appearance of the flat roofed extension were to be improved. The principle of a replacement single storey flat roofed extension, which sits under the eaves of the Lodge, has been viewed as the most acceptable solution to redevelop the building as it results in the least amount of harm.
- 9.29. Therefore whilst the development would involve the removal of the existing extension and reveal an element of the rear wall of the original building that is not currently visible, and an existing dormer upon the roofslope would be removed, these benefits, which could be achieved as part of an alternative scheme, are considered to be outweighed by the harm that would be caused by introducing a disproportionately large incongruous extension, and the loss of historic fabric, roof and plan form.
- 9.30. It is the opinion of Officers that the proposed extension to the Lodge would result in the loss of appreciation of the historic significance of this building as a small lodge building to Grade II* Williamscot House, through the introduction of a visually dominant and incongruous extension that pays little respect to the historic structure to which it would attach or the setting of the Grade II* listed building within which it would be positioned.
- 9.31. Furthermore, the appreciation of the Williamscot House estate, from both the road and public rights of way to the south and south-west, would be detrimentally affected. Officers therefore conclude that the proposed development would result in less than substantial harm to the historic significance of this curtilage listed building and the setting of Grade II* Williamscot House. In addition, the development would result in less than substantial harm to the Williamscot Conservation Area and the visual amenities of the wider locality. In the absence of public benefits that outweigh the identified harm the development is contrary to Government guidance contained within the National Planning Policy Framework, Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and saved Policy C28 of the Cherwell Local Plan 1996.

Residential Amenity

- 9.32. Government guidance contained within the NPPF requires development to create places that are safe, inclusive and accessible, promoting health and well-being, and with a high standard of amenity for existing and future users. Policy ESD 15 of the Cherwell Local Plan 2011-2031 Part 1 requires all development to consider the amenity of both existing and future development. Saved Policy C30 of the Cherwell Local Plan 1996 seeks standards of amenity and privacy acceptable to the Local Planning Authority.
- 9.33. There are no neighbouring properties in close proximity to the site that could be affected by the proposed development in terms of a loss of amenity or privacy. The development and therefore complies with the above policies.

Ecology Impact

Legislative context

- 9.34. The Conservation of Habitats and Species Regulations 2017 consolidate the Conservation of Habitats and Species Regulations 2010 with subsequent amendments. The Regulations transpose European Council Directive 92/43/EEC, on the conservation of natural habitats and of wild fauna and flora (EC Habitats Directive), into national law. They also transpose elements of the EU Wild Birds Directive in England and Wales. The Regulations provide for the designation and protection of 'European sites', the protection of 'European protected species', and the adaptation of planning and other controls for the protection of European Sites.
- 9.35. Under the Regulations, competent authorities i.e. any Minister, government department, public body, or person holding public office, have a general duty, in the exercise of any of their functions, to have regard to the EC Habitats Directive and Wild Birds Directive.
- 9.36. The Regulations provide for the control of potentially damaging operations, whereby consent from the country agency may only be granted once it has been shown through appropriate assessment that the proposed operation will not adversely affect the integrity of the site. In instances where damage could occur, the appropriate Minister may, if necessary, make special nature conservation orders, prohibiting any person from carrying out the operation. However, an operation may proceed where it is or forms part of a plan or project with no alternative solutions, which must be carried out for reasons of overriding public interest.
- 9.37. The Regulations make it an offence (subject to exceptions) to deliberately capture, kill, disturb, or trade in the animals listed in Schedule 2, or pick, collect, cut, uproot, destroy, or trade in the plants listed in Schedule 4. However, these actions can be made lawful through the granting of licenses by the appropriate authorities by meeting the requirements of the 3 strict legal derogation tests:
- (1) Is the development needed to preserve public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment?
 - (2) That there is no satisfactory alternative.
 - (3) That the action authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range.

- 9.38. The Regulations require competent authorities to consider or review planning permission, applied for or granted, affecting a European site, and, subject to certain exceptions, restrict or revoke permission where the integrity of the site would be adversely affected. Equivalent consideration and review provisions are made with respects to highways and roads, electricity, pipe-lines, transport and works, and environmental controls (including discharge consents under water pollution legislation).
- 9.39. The Regulations require competent authorities to consider or review planning permission, applied for or granted, affecting a European site, and, subject to certain exceptions, restrict or revoke permission where the integrity of the site would be adversely affected. Equivalent consideration and review provisions are made with respects to highways and roads, electricity, pipe-lines, transport and works, and environmental controls (including discharge consents under water pollution legislation).

Policy context

- 9.40. Paragraph 170 of the NPPF states that Planning policies and decisions should contribute to and enhance the natural and local environment by (amongst others): a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils; and d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.
- 9.41. Paragraph 175 states that when determining planning applications, local planning authorities should apply the following principles: a) if significant harm to biodiversity resulting from a development cannot be avoided, adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused; d) development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity.
- 9.42. Paragraph 180 of the NPPF states that planning decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should (amongst others) limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation.
- 9.43. Policy ESD10 of the Cherwell Local Plan 2011-2031 lists measures to ensure the protection and enhancement of biodiversity and the natural environment, including a requirement for relevant habitat and species surveys and associated reports to accompany planning applications which may affect a site, habitat or species of known ecological value.
- 9.44. These policies are both supported by national policy in the NPPF and also, under Regulation 43 of Conservation of Habitats & Species Regulations 2017, it is a criminal offence to damage or destroy a breeding site or resting place, unless a licence is in place.
- 9.45. The Planning Practice Guidance dated 2014 postdates the previous Government Circular on Biodiversity and Geological Conservation (ODPM Circular 06/2005), although this remains extant. The PPG states that Local Planning Authorities should only require ecological surveys where clearly justified, for example if there is a

reasonable likelihood of a protected species being present and affected by development. Assessments should be proportionate to the nature and scale of development proposed and the likely impact on biodiversity.

9.46. Natural England's Standing Advice states that an LPA only needs to ask an applicant to carry out a survey if it's likely that protected species are:

- present on or near the proposed site, such as protected bats at a proposed barn conversion affected by the development

It also states that LPA's can also ask for:

- a scoping survey to be carried out (often called an 'extended phase 1 survey'), which is useful for assessing whether a species-specific survey is needed, in cases where it's not clear which species is present, if at all
- an extra survey to be done, as a condition of the planning permission for outline plans or multi-phased developments, to make sure protected species aren't affected at each stage (this is known as a 'condition survey')

9.47. The Standing Advice sets out habitats that may have the potential for protected species, and in this regard the site contains buildings of traditional construction, is close to a river and canal and there are a number of mature trees and hedgerows within and adjacent the site, and therefore has the potential to be suitable habitat for bats, breeding birds, badgers, reptiles, great crested newts, water voles and invertebrates.

9.48. The Standing Advice sets out habitats that may have the potential for protected species, and in this regard the site contains buildings of traditional construction, is close to a river and canal and there are a number of mature trees and hedgerows within and adjacent the site, and therefore has the potential to be suitable habitat for bats, breeding birds, badgers, reptiles, great crested newts, water voles and invertebrates.

9.49. In order for the local planning authority to discharge its legal duty under the Conservation of Habitats and Species Regulations 2017 when considering a planning application where EPS are likely or found to be present at the site or surrounding area, local planning authorities must firstly assess whether an offence under the Regulations is likely to be committed. If so, the local planning authority should then consider whether Natural England would be likely to grant a licence for the development. In so doing the authority has to consider itself whether the development meets the 3 derogation tests listed above.

9.50. In respect of planning applications and the Council discharging of its legal duties, case law has shown that if it is clear/ very likely that Natural England will not grant a licence then the Council should refuse planning permission; if it is likely or unclear whether Natural England will grant the licence then the Council may grant planning permission.

9.51. The application is supported by a Preliminary Roost Assessment and Ecological Appraisal undertaken during December 2018 that identified one bat behind a barge board on the dwelling. No evidence of bats was found within the outbuilding proposed for demolition. No evidence of nesting birds was found on, or inside, the house and outbuilding. It was considered very unlikely that any other protected species are present on site or use the habitats present on site.

- 9.52. The Council's Ecology Officer has raised no objection to the scheme subject to conditions requiring the avoidance of bird nesting season, a mitigation strategy for bats, a licence for any works where an offence under Regulation 41 of the Habitat and Species Regulations 2010 is likely to occur and the provision of bat and bird boxes within the site.
- 9.53. Officers are satisfied, on the basis of the advice from the Council's Ecologist, and subject to conditions, that the welfare of any European Protected Species found to be present at the site and surrounding land would continue and be safeguarded as a result of the proposed development and that the Council's statutory obligations in relation to protected species and habitats under the Conservation of Habitats and Species Regulations 2017, have been met and discharged.

Highway Safety

- 9.54. Government guidance contained within the NPPF and Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 seek to achieve safe and suitable access to sites for all users and requires development to be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
- 9.55. As at least two vehicles can be parked within the curtilage of the site and there is an adequate vision splay for vehicles entering and leaving the site, the proposed development is unlikely to cause harm to the local highway network from a traffic and safety aspect, in accordance with the above policy.

Protected Trees

- 9.56. Government guidance contained within the NPPF states that decisions should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes and recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services, including trees and woodland.
- 9.57. Policy ESD13 of the Cherwell Local Plan 2011-2031 expects development to respect and enhance local landscape character, securing appropriate mitigation where damage to local landscape character cannot be avoided. Saved Policy C23 of the Cherwell Local Plan 1996 seeks to retain features that contribute to the character or appearance of a conservation area, such as trees.
- 9.58. The Council's Arboricultural Officer considers that the measures set out in the Arboricultural Method Statement submitted with the application would ensure that the proposal would have no lasting impact on the trees within or adjacent to the site. Officers therefore consider the proposal to accord with the above policies in respect of this matter.

9. PLANNING BALANCE AND CONCLUSION

- 10.1. The proposal fails to comply with the relevant Development Plan policies and guidance listed at section 8 of this report because the proposed extension to Lower Lodge would result in the loss of appreciation of the historic significance of this building as a small lodge building to Grade II* Williamscot House, through the introduction of a visually dominant and incongruous extension that fails to respect to the historic structure to which it would attach or the setting of the Grade II* listed Williamscot House within which it would be positioned.

- 10.2. Furthermore, the appreciation of the Williamscot House estate from surrounding vantage points would be detrimentally affected. Officers therefore conclude that the proposed development would result in less than substantial harm to the historic significance of this curtilage listed building and the setting of Grade II* Williamscot House. In addition, the development would result in less than substantial harm to the character and appearance of the Williamscot Conservation Area and the visual amenities of the wider locality. Whilst some public benefits have been identified as a result of the scheme, these are not considered to outweigh the less than substantial harm that has been identified. The development is therefore contrary to Government guidance contained within the National Planning Policy Framework, Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and saved Policy C28 of the Cherwell Local Plan 1996.
- 10.3. There are no other material considerations that outweigh this conflict and the harm caused, and therefore permission should be refused.

10. **RECOMMENDATION**

RECOMMENDATION - REFUSAL FOR THE REASONS SET OUT BELOW

REASONS FOR REFUSAL

The proposed extension to Lower Lodge, by virtue of its size, design and positioning, would introduce a visually dominant and incongruous extension that would dwarf the curtilage listed building, and diminish both its architectural significance and the relationship between Lower Lodge and the principal building of Williamscot House. The development would result in less than substantial harm to the curtilage listed building, the setting of Grade II* Williamscot House, the character and appearance of the Williamscot Conservation Area and the visual amenities of the locality. In the absence of public benefits that outweigh the identified harm, the proposal is contrary to Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework and the National Design Guide.

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