

<b>Application No:</b> 10/01599/F	<b>Ward:</b> Sibford	<b>Date Valid:</b> 23/11/2010
<b>Applicant:</b>	Persimmon Home Ltd	
<b>Site Address:</b>	Land Adjacent 54 Highlands, Tadmarton	

**Proposal:** Two detached dwellings and double garages

## 1. Site Description and Proposal

- 1.1 Highlands is a development of 54 new build dwellings owned/occupied by retirement age residents and 11 open market conversions created from Tadmarton House itself and its associated outbuildings (Cannards Close). The dwellings are situated in around 23 hectares of land in a prominent hilltop position, just off the Bloxham-Tadmarton Road and within an area of High Landscape Value. The site as a whole is surrounded by substantial, mature planting.
- 1.2 The site in question is situated on the southern side of Highlands to the east of Tadmarton House and adjacent to No 54 Highlands. It is currently laid to grass, planting, some new trees and some mature trees to the rear. The site was originally reserved for a care/community building in association with the Highlands development, however this was never built and it seems from the third party representations that the developer sought the views of the residents as to what they as a community wanted the land to be used for. Residents chose to put the land to the current amenity use.
- 1.3 The proposal involves the construction of two, two storey detached dwellings with detached double garages on the site, involving the removal of three mature trees and the existing planting.

## 2. Application Publicity

- 2.1 The application was advertised by way of a site notice, press notice and neighbour notification letters. The final date for comment was 23 December 2010.
- 2.2 23 letters of representation have been received from third parties including a letter from Tadmarton Park Residents Association which are summarised below (see electronic application file for full comments):

### 2.2.1 Material Considerations

- Out of keeping with area, height/scale/no of bedrooms
- Overcrowding
- Spoil very nice development
- Retirement community. Age restriction should be adhered to (if not residents could assume that controls are irrelevant and can be set aside).
- Family homes will attract families – no facilities at Highlands for them (no permanently resident children
- No detached dwellings on Highlands or detached double garages
- Size of dwellings unsuitable (if approved should be bungalows)
- Additional traffic and parking problems
- Loss if mature TPO trees
- Overlooking/loss of privacy
- Road not adopted – not suitable for extra traffic/adoption will be delayed

- Site reserved for community facility
- Loss of amenity land
- Drastically alter street scene
- There are other small areas of land which a developer may take advantage of
- On the south side there should be single storey only
- Plot layout interrupted
- Greater proximity to boundaries
- 24-28 should have been notified
- Open character affected

### 2.2.2 Non-material Considerations

- No suitable turning area for large construction vehicles
- New residents should share costs for maintenance and development of parkland
- Children will play in communal areas
- Residents had a say in how plot was developed
- Disruption and safety resulting from construction

## 3. Consultations

- 3.1 A summary of the consultation responses is set out below (see electronic file for full details)
- 3.2 **Tadmarton Parish Council** objects to the proposal referring to the covenant that affects the area, the TPO trees that area important part of this recreational site and the view that two double storey dwellings would be out of keeping with the neighbouring bungalows and cottages opposite. If housing is approved it should be single storey.
- 3.3 The Council's **Head of Planning Policy** states that in principle proposals for two new dwellings at Highlands are contrary to the Adopted Cherwell Local Plan and Non-Statutory Cherwell Local Plan 2011 in relation to the categorisation policies as development other than conversions is only permitted in Category 1 and Category 2 settlements, of which Highlands is identified as neither.
- 3.4 The **Local Highway Authority** raises no objections\*
- 3.5 The Council's **Conservation Team** considers the application to be unacceptable based on its impact upon the setting of the listed building and the design and scale of the proposed dwellings. Furthermore the Design and Access Statement is lacking in detail.
- 3.6 The Council's **Head of Urban and Rural Services** states that the trees form an integral part of the overall character of the estate and should be retained. The application in its present form should be refused.
- 3.6 The Council's **Ecologist** comments that the removal of the three mature trees may have implications for bats due to their location. Any trees to be removed should first be checked by an ecologist for the presence of bat roosts to ensure that no bats will be harmed by their removal. Tree removal should take place outside the bird nesting season.
- 3.7 The Council's **Chief Engineer** has no comments to make
- 3.8 The Council's **Environmental Protection Officer** states that this is a sensitive development and therefore recommends the full contaminated land condition
- 3.9 The County **Archaeologist** raises no objections, however recommends the standard planning note relating to archaeology

3.10 **Thames Water** raises no objections in relation to the sewerage or water infrastructure however makes the developer aware of their responsibilities.

#### **4. Relevant Planning Policies**

##### 4.1 Central Government Guidance

Planning Policy Statement (PPS) 1 – Delivering Sustainable Development

Planning Policy Statement (PPS) 3 – Housing

Planning Policy Statement (PPS) 5 – Planning for the Historic Environment

Planning Policy Statement (PPS) 9 – Biodiversity and Geological Conservation

Planning Policy Guidance (PPG) 13 – Transport

##### 4.2 South East Plan Policies

CC1 Sustainable Development

T1 Manage and Invest

T4 Parking

NRM5 Conservation and Improvement of Biodiversity

BE6 Management of the Historic Environment

##### 4.3 Adopted Cherwell Local Plan

H18 New Dwellings in the Countryside

C7 Landscape conservation

C8 Sporadic development in the open countryside

C28 Standards of layout, design and external appearance

C30 Design of new residential development

ENV12 Contaminated Land

##### 4.3 Non Statutory Cherwell Local Plan

H19 New Dwellings in the Countryside

EN22 Nature Conservation

EN23 Ecological surveys

EN30 Sporadic development in the countryside

EN35 Retention of local landscape features (e.g. trees)

EN44 Listed Building Setting

EN47 Archaeology

D3 Local distinctiveness

D6 Design Control

#### **5. Appraisal**

##### 5.1 Main Planning Considerations

5.1.1 The main issues to consider in the determination of this application are as follows –

- Planning History
- Principle of Housing Development
- Visual Amenity/Landscape Impact
- Trees
- Layout/Design
- Residential Amenity
- Setting of Listed Building
- Highway Impact
- Ecology
- Archaeology

Each of the above points will be considered in turn.

## 5.2 Planning History

- 5.2.1 Planning permission and listed building consent were granted for the existing development at Highlands and the renovation and conversion of the listed buildings under application CHN.LB.79/91. The permission included conversion of the main dwelling to 5 self-contained flats (open market) conversion of outbuildings on Cannards Close to 7 units (open market) and 54 new retirement units (age restricted) a small health centre and a gate lodge to be occupied in association with the occupation of the sheltered units.
- 5.2.2 The principle of converting the house and the outbuildings on Cannards close to open market dwellings was considered to be acceptable in accordance with Policy H19 (conversion of buildings in the countryside) of the adopted Cherwell Local Plan.
- 5.2.3 Consent for the retirement housing scheme was a balanced decision based on weighing the dis-benefits of significantly contravening policy by allowing specialist housing on the site with the benefits of removing the unauthorised commercial uses, the unsightly sub-standard buildings, improving the environment and providing funds to renovate the listed buildings on the site.
- 5.2.4 The scheme at the time was recognised as a form of enabling development, where revenue-producing new development (which would normally be rejected because of overriding planning objections) is required in order to finance a desirable project or restoration scheme at other premises owned by the applicant
- 5.2.5 In order to secure the age restriction in relation to the 54 new units, a s106 agreement was put in place which included an age occupancy restriction on the new build dwellings that at least one owner/occupant must be 55 years and over. The agreement also secured no further development on the site (with the exception of a golf course) other than in accordance with any subsequent amendments or further planning application within the defined area, drainage of the site in accordance with details set out by Thames Water and the works to the listed building to be carried out concurrently with the remainder of the works comprised in the development and in conjunction with the occupation of the new units.
- 5.2.6 Whilst there were a number of approaches to the Council to amend the scheme to make it more economically viable (increased number of open market dwellings), works to carry out the approved development began on site in the late 1990s. Today, the 54 units exist with the age restriction, the listed building and outbuildings have been fully renovated and converted and Highlands presents a very pleasant living environment for all residents. The small health centre however has not been constructed. The site for which is the subject of this application for two detached dwellings.
- 5.2.7 It should be noted at this point that in 2001 two applications (01/00333/OBL and 01/00332/OBL) were made to the Council to vary the s106 agreement to remove the age restriction from the agreement. Both were refused for three key reasons:
- 1) Significant generation of increased travel by private car giving rise to

materially less sustainable development

- 2) Additional demand for primary and secondary school places in Sibford Gower and Warriner School, both of which are projected to have insufficient capacity to accommodate the additional pupils which the proposed modification would generate. Greater demand of library resource
- 3) Would result in provision of open market housing in an area where there is a demonstrable lack of affordable housing to meet local needs and development makes no contribution towards the achievement of affordable housing objectives.

### 5.3 Principle of Housing Development

- 5.3.1 An assessment of the proposal for two dwellings in principle must be made against relevant planning policy and is based on the status of Highlands itself and the location of the site in relation to existing settlements.
- 5.3.2 Highlands is situated beyond the built up limits of any recognised settlement and as such proposals for residential development should be considered against policy H18 of the adopted Cherwell Local Plan 1996 which restricts the construction of dwellings beyond the built up limits of settlements unless they are essential for agriculture. Whilst SDPHE acknowledges that the adopted Cherwell Local Plan predates the construction of the Highlands development, Highlands is not recognised as a settlement in either the non-statutory Cherwell Local Plan (adopted as non-statutory policy in 2004) or the Draft Core Strategy (published February 2010) as a settlement and as such the existing development is still considered to be situated within the open countryside. For this reason, the principle of constructing two dwellings on the site in question is contrary to planning policy in principle.
- 5.3.3 It should also be recognised, that new residential development was only permitted in this location as a way of securing the renovation of the listed building and subject to the age restriction, and therefore can be classed as a 'planning anomaly'.
- 5.3.4 It may be argued that due to the existing development at Highlands which surrounds the application site in question, that in land use terms it is not considered to be 'open' countryside and therefore the development of the site should be considered under alternative housing policies. Exploring this argument further requires an assessment of the proposal against village categorisation policies. However, Highlands is not recognised as falling within any village category in either the adopted or non-statutory Cherwell Local Plans. Whilst again recognising that the adopted Cherwell Local Plan pre-dates the development of Highlands, the non-statutory Cherwell Local Plan and the Draft Core Strategy (both succeeding the development of Highlands) do not include Highlands amongst village categorisation policies. Therefore and as set out above, the Council's Head of Planning Policy and Affordable Housing (HPPAH) states that in principle a proposal for two new dwellings at Highlands is contrary to the adopted Cherwell Local Plan and Non-Statutory Cherwell Local Plan 2011, as development other than for the conversion of existing buildings is only permitted in Category 1 and Category 2 settlements. Highlands is identified as neither.
- 5.3.5 The categorisation of the District's villages is based on their physical characteristics and the range of services and infrastructure available to support further limited housing growth. In the case of Highlands, there are no services to serve the

community whatsoever, which means that residents must travel by vehicle to get to shops and other facilities. Whilst these circumstances create an unsustainable location, it was considered to be appropriate at the time of the original planning application, balanced against the benefits of restoring the listed building, removing unauthorised commercial activity and tidying an unsightly site, subject to imposing an age restriction for occupants of the new dwellings which has assisted with limiting the number of vehicular movements (compared to those associated with family units) and keeping pressure on local schools and the requirement for affordable housing to a minimum. At the time of the original application the care/community centre was proposed and approved which would have assisted with creating a more sustainable location, however this was not a requirement of the s106 and therefore the developer was not obligated to build it.

- 5.3.6 To conclude on the assessment of the development in principle, it is clear that there is no capacity within adopted, non-statutory or draft policy to allow the construction of new dwellings on the identified site at Highlands.
- 5.3.7 For further consideration however is the extent to which, in spite of the principle of residential development being unacceptable, the development of the site for two dwellings would cause material harm and whether or not this would be unacceptable in planning terms, which is discussed below (other material planning matters are addressed further below under each heading).
- 5.3.8 It is clear throughout sections 5.2 and 5.3 above, that the age restriction was key to the acceptability of the development of the 54 retirement units in the first place particularly now that the listed buildings have been restored, the unauthorised commercial uses have been removed and the general environment is by far improved and that furthermore the retention of the age restriction is a significant factor to ensuring that the development remains as sustainable as possible under the circumstances. The proposed detached two storey dwellings with four bedrooms, four reception rooms, double detached garage and no age restriction would have the potential to attract two large families to an unsustainable location, attracting significantly more vehicular movements per dwelling than the existing dwellings at Highlands; trips that could not be made by any form of public transport and therefore always requiring the use of a private vehicle.
- 5.3.9 Furthermore, the acceptance of the scheme would wholly undermine the concept behind the status of the surrounding dwellings and would clearly weaken the Council's position in relation to retaining the age restriction associated with them. If the Council considered that the construction of two dwellings beyond the built up limits of any settlement was acceptable in principle, there would be a strong argument in SDPHE's view for further applications for additional dwellings to be made, which would be clearly unacceptable in an open countryside location. Furthermore, if two open market dwellings were accepted by the Council (no age limit is proposed) this would, quite understandably lead owners of existing dwellings to believe that their dwellings would be acceptable with no age limit and as such apply to remove the age restriction, which SDPHE would find difficult to resist.
- 5.3.10 The removal of the age restriction from all of the existing dwellings would cause significant material harm in terms of sustainability issues as the units would be authorised to be used as family homes, bringing with them the three significant

concerns set out above in relation to the refusal of the applications to vary the s106 agreement (significant increase of traffic resulting in a less sustainable development, increased pressure on local schools and infrastructure and no opportunity to secure the provision of affordable housing in association with the development). It is also considered that the increased demand for parking would have a significantly negative impact upon Highlands given the fact that each property is only designed to accommodate the parking of vehicles in association with retirement and not family homes.

- 5.3.11 Whilst only two dwellings are proposed, the application has the potential to have a significant and harmful impact upon Highlands and the surrounding area as it would set a clear precedent for a change to the status in the existing retirement homes.
- 5.3.12 In principle therefore SDPHE considers the application for two dwellings to be contrary to both national planning guidance and local planning policy and which would cause harm by reason of being in conflict with the existing established planning use and sustainability issues contrary to PPS1, PPS3, Policy CC1 of the South East Plan and Policy H18 of the adopted Cherwell Local Plan.

#### 5.4 Visual Amenity/Landscape Impact

- 5.4.1 The existing site provides a visual break between the existing elements of built form and a high level of amenity value, being put to grass, planting and accommodating a number of significant trees towards the rear. The site as it exists reminds us that the Highlands development is situated in a rural, countryside location and assists with providing some relief between buildings together with adding positively to the rural character of the development as a whole. Whilst a care/community centre was proposed on the site at the time of the original application, this would have been a single storey unit of some 400sqm, respecting the original condition 15 of the Outline planning permission, which states that all new buildings on the southern side of the site shall be single storey only.
- 5.4.2 The development of the land to accommodate two detached two storey dwellings with detached double garages situated just 2m from the highway would significantly alter the appearance of this site to its detriment. The dwellings would be overbearing within the street scene at a height of 8m and being positioned so close to the road, in direct contrast to the neighbouring single storey dwellings to the east which are set back from the road by 34m. As set out by the Council's Design and Conservation Team, other than a few exceptions (mainly garages, the existing dwellings enjoy quite significant front gardens, which add positively to the character of the development as a whole.
- 5.4.3 The development would also result in the loss of some quite significant trees (discussed in more detail below), which would further detract from the amenity value of the site and its rural character.
- 5.4.4 For the reasons given, SDPHE considers that the proposal would represent overdevelopment of the site, be out of keeping with the general character of the area and result in the loss of important amenity land which contributes significantly to the appearance of the development as a whole. As such the application is contrary to PPS1, Policy C28 of the adopted Cherwell Local Plan and Policy D3 of the non-statutory Cherwell Local Plan.

## 5.5 Trees

- 5.5.1 The area proposed for the erection of the dwellings supports three mature trees, two Willows and a Hornbeam, all covered by preservation orders as well as a young Walnut tree, which in the opinion of the Head of Urban and Rural Services (HURS), is of very good form and has high potential for significant contribution in the future. As set out above, HURS raises objections to the loss of the trees identified to be removed to accommodate the two dwellings stating that the trees provide significant amenity for the area creating a break in the built environment in the centre of the development and a green connection to the trees and shrubs situated around the periphery of the site. The proposals will require the removal of both Willows and the Walnut.
- 5.5.2 It should be noted that although the Willows are suffering from Anthracnose (a foliar disease which causes the loss of leaves and small twigs in the summer) HURS advises that the disease is not generally fatal, its severity fluctuates from season to season and trees are usually able to recover from the loss of some foliage.
- 5.5.3 SDPHE agrees with the comments raised in relation to the existing trees and the amenity value that they provide, which would be lost to accommodate the proposed development. The removal of the trees would represent the loss of some important features from the site which would be detrimental to the rural character of the site, contrary to Policy EN35 of the non-statutory Cherwell Local Plan.

## 5.6 Layout/Design

- 5.6.1 The 54 dwellings at Highlands which are subject to the age restriction are generally more suitable for retirement age; smaller units, some single storey. The proposed dwellings would dominate the street frontage, existing as 2 storey detached dwellings just a few meters back from the pavement amongst a development consisting of smaller, mainly terraced units which are generally quite significantly set back from the road frontage. Given the contrast between the existing and proposed, the two new dwellings would sit incongruously in the street scene significantly and negatively altering the planned appearance of the development as a whole, overshadowing the scale of surrounding development.
- 5.6.2 With regard to their specific design, as set out by the Council's Design and Conservation Team, The projecting front gables are reminiscent of the design style of the area, but are too narrow and do not make the statement of those on the properties adjacent. Furthermore, the proposed dormers are of a different style to others in the area, which are generally completely within the roof space.
- 5.6.3 The proposed houses appear as standard detached dwellings, which in this case seem to have taken little inspiration from the dwellings already constructed on the site. Whilst they may be suitable in alternative locations, it is not considered that they are suitable in Highlands.
- 5.6.4 Overall the design of the dwellings together with their scale and massing would be out of keeping with the existing dwelling on the development and as such it is considered that they would be visually inappropriate, contrary to PPS1, PPS Policy C28 of the adopted Cherwell Local Plan and Policy D3 of the non-statutory Cherwell Local Plan



5.7 Residential Amenity

5.7.1 The proposed dwellings, due to their location in relation to other existing dwellings would not by virtue of their positioning, scale or arrangement of fenestration, cause unacceptable harm to the amenity of existing residents by way of loss of light, privacy or by being overbearing. SDPHE notes the concerns raised by third parties in relation to these matters, however the dwellings would be sufficiently distanced from the dwellings to the north, west and south east not to cause harm. The application therefore complies with PPS3 and Policy C30 of the adopted Cherwell Local Plan in respect of residential amenity requirements only.

5.8 Setting of Listed Building

5.8.1 The two new dwellings would be constructed within the setting of the listed Tadmarton House and its associated curtilage listed buildings (now converted). The development would alter the views of the listed buildings from Highlands across the amenity land and it would in SDPHE's view be unfortunate to crowd them further with two storey development, however due to the fact that a number of new dwellings have been constructed within the setting of the listed building, it is not considered that two further dwellings would cause unacceptable harm to the setting of the listed buildings. In this respect therefore the proposal complies with PPS5, Policy BE6 of the South East Plan and Policy EN44 of the non-statutory Cherwell Local Plan.

5.9 Highway Impact

5.9.1 The Local Highway Authority raises no objections to the application on highway safety grounds subject to conditions relating to the specification of the access to each dwelling, the retention of parking and manoeuvring areas and a restriction over the conversion of the garages to residential accommodation. With regard to highway safety and convenience issues alone, I am in agreement with the Local Highway Authority, as the existing road into Highlands has a very engineered access from the Bloxham Tadmarton Road, and although not adopted, the road is more than capable of physically accommodating the extra vehicles that would result from the proposed development and the development itself has been designed to accommodate at least four vehicles off road. For these reasons, I am satisfied that the proposal is acceptable in highway safety and convenience terms in accordance with PPG13 and Policies T1 and T4 of the South East Plan.

5.10 Ecology

5.10.1 The Council's Ecologist states that there could be potential for bats to roost in the trees on the site and recommends that these should be checked for the presence of bats prior to their removal. An ecological scoping survey was not submitted with the application, nor is ecology referred to in application forms or the design and access statement. SDPHE is not satisfied at this stage therefore that issues of ecology and protected species have been fully addressed. Whilst a scoping survey could have been requested during the application process, given the fact that the development is not considered to be acceptable in principle, it was considered to be unreasonable to require a survey at this stage. The application as submitted does not accord with advice contained within PPS9, Policy NRM5 of the South East Plan or Policy C2 of the adopted Cherwell Local Plan.

5.11 Archaeology

5.11.1 The comments of the County Archaeologist are noted and in the case of a recommendation of approval the standard archaeological planning note would be attached. The application complies with PPS5, Policy BE6 of the South East Plan and Policy EN47 of the non-statutory Cherwell Local Plan in terms of its impact upon archaeology.

5.12 Response to Third Party Representations

5.12.1 SDPHE considers that the material third party representations have been addressed throughout this report.

Matters relating to disruption from a building site, are not material planning considerations in relation to which an application for development could reasonably be refused.

6.1 Conclusion

6.1.1 The proposal for two dwellings is not considered to be acceptable in principle due to the fact that the site lies out side of any recognised settlement, thus being situated in 'open countryside'. Dwellings are not considered to be acceptable in principle when assessed against H18 of the adopted Cherwell local Plan unless they are required for agriculture.

6.1.2 The proposed dwellings if approved would set a precedent for further dwellings to be constructed at Highlands which are contrary to the development plan, would result in proposals for large extension to create family homes and would lead to pressure to remove the age limit for occupants of the existing dwellings, resulting in a much less sustainable form of development overall.

6.1.3 The proposed dwellings, due to their design, massing and scale would be out of keeping with the existing dwellings on Highlands, having a negative impact upon the character of the area and visual amenity.

6.1.4 The proposal would result in the loss of a number of mature trees and an existing established area of amenity which currently makes a positive contribution to the character to the area and some natural relief from the built environment.

6.1.5 Through the submission, the SDPHE is not convinced at this stage that the development would not be a risk to protected species (bats) as it has not been established whether bats use the trees on the site for roosting.

6.1.6 Given the above summary of the case, the application is recommended for refusal for the reasons set out below:

<b>6. Recommendation</b>
(i) <b>Refusal</b>
a) The application for two dwellings beyond the built up limits of any recognised settlement represents residential development in the open countryside which is unacceptable in policy terms and represents unsustainable development, particularly due to their scale and potential accommodation by families, which would attract significantly greater vehicular movements per dwelling to a remote location in comparison with the existing dwellings at Highlands. The application is therefore considered to be unacceptable in principle and would cause unacceptable harm by

representing unsustainable development in the open countryside contrary to PPS1: Delivering Sustainable Development, PPS3: Housing, Policy CC1 of the South East Plan, Policy H18 of the adopted Cherwell Local Plan and policy H19 of the non-statutory Cherwell Local Plan.

- b) The proposed dwellings by virtue of their height, scale, massing and positioning would be out of keeping with the existing dwellings on Highlands and as such would cause unacceptable harm to the planned layout of the existing development, its appearance and character, contrary to PPS1: Delivering Sustainable Development, PPS3: Housing, Policy CC1 of the South East Plan, Policy C28 of the adopted Cherwell Local Plan and Policy D3 of the non-statutory Cherwell local Plan.
- c) The proposal for two dwellings would involve the loss of the existing amenity area which contributes positively to the rural character of the area and the requirement to fell three mature trees all covered by a Tree Preservation Order which offer significant amenity value to Highlands as a whole. The loss of the amenity area and the significant trees would unacceptably harm the character and visual amenity of the area contrary to PPS1: Delivering Sustainable Development, Policy CC1 of the South East Plan and Policy EN35 of the non-statutory Cherwell Local Plan.

**CONTACT OFFICER: Jane Dunkin**

**TELEPHONE NO: 01295 221815**