

Case Officer: Lewis Knox

Applicant: Mrs E Lejeune-White

Proposal: Restoration of outbuilding & conversion to habitable accommodation; single storey garden room extension to cottage

Ward: Cropredy, Sibfords And Wroxton

Councillors: Councillor Phil Chapman, Councillor George Reynolds, Councillor Douglas Webb

Reason for Referral: Called in by Councillor Douglas Webb on the grounds of Public Interest

Expiry Date: 12 November 2019

Committee Date: 18 December 2019

EXECUTIVE SUMMARY OF PROPOSALS AND RECOMMENDATION

RECOMMENDATION: REFUSE PERMISSION

Proposal

This application relates to the restoration of an outbuilding & its conversion to habitable accommodation; and the erection of a single storey extension to the cottage to form a garden room.

The garden room would measure 4.9m in width, 4.8m in depth and would have a pitched roof of ridge height 3.5m falling to 2.4m at the eaves.

Consultations

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

- Cherwell District Council Conservation

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

- Epwell Parish Council, OCC Highways

No consultees responded **in support** of the application.

There have been no comments received from members of the public, either through objection or support

Planning Policy and Constraints

The application building is a Grade II Listed Building and the site is located within the Cotswolds Area of Outstanding Natural Beauty

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 issue in the assessment of the application is the proposals' impact on the historic significance of the listed building and its setting.

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

1. It would result in a visually incongruous and alien form of development that would relate poorly to the existing listed and curtilage listed buildings. As a result, the proposal would cause harm to the historic plan form of the cottage.

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 listing entry for the Manor Cottage describes the building as Manor Farm service block, which is a dairy, washhouse and bakery dating to the 16th and 17th century. The list entry suggests that the roof was raised in the 18th century. The building has a 2 unit plan and is single storey with an attic and an external staircase and corrugated iron roof. The construction of the building is of coursed ironstone rubble. The building appears to have been extended in 1988 when it was converted and a second storey and new roof were added. The roof retains the stone coped gables.
- 1.2. The significance of the buildings is their historical association with the farm complex and their ancillary use and relationship. Also the historic fabric that remains from the previous buildings is of significance.

2. CONSTRAINTS

- 2.1. The cottage is a grade II listed building and the outbuilding is considered to be curtilage Listed. The site is located within the Cotswolds Area of Outstanding Natural Beauty. There are no other planning constraints relevant to this application.

3. DESCRIPTION OF PROPOSED DEVELOPMENT

- 3.1. The application relates to the restoration and enlargement of an existing outbuilding in order for it to be converted to habitable accommodation. The works involved include raising the overall height of the building to allow for sufficient space in the first floor of the building for adequate living conditions. The proposals also include the addition of further openings for windows and doors. The original ground floor layout would be retained through the proposals.
- 3.2. The application also includes the erection of a single storey rear extension to Manor Cottage. The proposed extension would extend beyond the original side elevation of the dwelling and would feature one gable end and one hipped gable and would alter the plan form of the dwelling from the existing L-shape to a U-shape.
- 3.3. A large section of the original rear wall of the dwelling would be removed in order to achieve access from the main dwelling to the proposed extension.

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>	<u>Date</u>
04/02680/F	Conversion of existing outbuilding into a self-contained annexe (Resubmission 04/02205/F)	Application Permitted	17.03.2005
04/02681/LB	Conversion of existing outbuilding into a self-contained annexe	Application Permitted	17.03.2005
04/02205/F	Conversion of outbuilding into small cottage	Application Withdrawn	06.12.2004
19/00380/F	Restoration of outbuilding & conversion to habitable accommodation; single storey garden room extension to cottage	Application Refused	08.05.2019
19/00381/LB	Restoration of outbuilding & conversion to habitable accommodation; single storey garden room extension to cottage	Application Refused	08.05.2019

- 4.2. 19/00380/F & 19/00381/LB – A similar proposal to the current scheme and were refused on the grounds of the harm which would be caused cause to the historic plan form of the cottage; and would have therefore detrimentally impacted on the character and appearance of the grade II listed Manor Cottage and the setting of the curtilage listed outbuilding. The identified harm identified would not have been outweighed by any public benefits.

5. PRE-APPLICATION DISCUSSIONS

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

<u>Application Ref.</u>	<u>Proposal</u>
18/00090/PREAPP	Single storey extension to main dwelling and conversion of existing outbuilding
18/00225/PREAPP	Pre-Application Enquiry - Follow Up Request- Single storey extension to rear

- 5.2. 18/00090/PREAPP - the proposed conversion of the existing outbuilding to ancillary accommodation was considered to be acceptable and any future planning application for this proposal would be viewed favourably subject to the materials and detailing and the proposed living accommodation remaining ancillary to Manor Cottage. The proposed rear extension would not be viewed favourably in any form due to the significant detrimental impact it would have on the Grade II listed building by virtue of the unacceptable alteration of the historic plan form of the building.
- 5.3. 18/00225/PREAPP - the proposed rear extension would not be viewed favourably in any form due to the significant detrimental impact it would have on the Grade II

listed building by virtue of the unacceptable alteration of the historic plan form of the building.

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 was **9 October 2019**, although comments received after this date and before finalising this report have also been taken into account.
- 6.2. No comments have been raised by third parties:

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. EPWELL PARISH COUNCIL: **Raised no objections**

CONSULTEES

- 7.3. OCC HIGHWAYS: **No objections**
- 7.4. CHERWELL DISTRICT COUNCIL LANDSCAPE SERVICES: No comments received
- 7.5. CHERWELL DISTRICT COUNCIL CONSERVATION: The conversion of the existing outbuilding is considered to be acceptable in principle. The plans submitted show additional openings to this building, however these are not extensive and are designed to be in keeping with the character of the building as an outbuilding. The existing layout at ground floor will be retained and this is welcomed. The roof is of modern construction and therefore raising the roof will not result in a loss of historic fabric. Overall there are no objections to the proposed works to the outbuilding to convert it to habitable space subject to the use of appropriate materials to ensure that the character is preserved.
- 7.6. The proposed single storey addition to the cottage is considered to have a greater impact on the significance of the Listed Buildings. It is accepted that the cottage has been extended to the rear in the past; however, the proposed extension is considered to be incongruous. The existing protrusion to the north east is in a form that is common on historic buildings as it creates an L shaped layout. The proposed extension would alter this plan form and unacceptably change the appearance of the building. The design of the proposed extension is not traditional and the gable and the hipped roof results in an unbalanced appearance. The form and design of the extension does not draw upon the character of the existing building and furthermore the historic plan form of the building is considered to be detrimentally altered by the proposed extension.

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)

- ESD15 - The Character of the Built and Historic Environment

CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- C21 – Proposals for re-use of a listed building
- C28 – Layout, design and external appearance of new development
- C30 – Design of new residential development

8.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- Cherwell Residential Design Guide (2018)
- Cherwell Council Home Extensions and Alterations Design Guide (2007)
- 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”)

9. APPRAISAL

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

- Heritage impact, Design, and impact on the character of the area
- Residential amenity

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

Legislative and policy context

- 9.2. 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.*
- 9.3. 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.

- 9.4. 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 ESD15 of the CLP 2031 Part 1 echoes this guidance.
- 9.5. Paragraph 124 of the NPPF states that: *'Good design is a key aspect of sustainable development'* and that it *'creates better places in which to live and work'*. This is reflected in Policy ESD15 of the CLP 2031 Part 1, which states that new development proposals should: *be designed to improve the quality and appearance of an area and the way it functions...contribute positively to an area's character and identity by creating or reinforcing local distinctiveness...(and) respect the traditional pattern of routes, spaces, blocks, plots, enclosures and the form, scale and massing of buildings.*
- 9.6. Saved Policies C28 and C30 of the CLP 1996 reinforce this, with Policy C30(ii) stating: *that any proposal to extend an existing dwelling (should be) compatible with the scale of the existing dwelling, its curtilage and the character of the street scene.*

Assessment

- 9.7. The building has been extended to the rear in the past. However, the existing extension to the north western side of the rear elevation is of a form that is not uncommon on historic buildings (an extension to create an L shaped Building). Whereas the proposed extension would compete with this simple layout, would significantly alter the historic plan form of the building and would result in a large proportion of the rear elevation being covered by modern extensions, overwhelming the form and character of the original building.
- 9.8. The proposed design of the extension would be at odds with the existing simple character of the listed building. The plans show a mixed roof type with a gable end to the south eastern elevation, and a hipped roof to the north western elevation. This would be at odds with the current form of the dwelling which has a strong gable character. The form and design of the extension does not draw upon the character of the existing building and would unbalance the form of the building.
- 9.9. The proposal would therefore be out of keeping with the form and character of the listed building and would be demonstrably harmful to its significance. There are objections to the principle of a single storey addition to the main cottage.
- 9.10. The conversion of the existing outbuilding is considered to be acceptable in principle. It appears from the plans submitted that additional openings would be kept to a minimum and this is welcomed. It also appears that the existing layout at ground floor would be retained. The roof is of modern construction and therefore raising the roof would not result in a loss of historic fabric. Overall there are no objections to the proposed works to convert the outbuilding to a habitable space subject to the use of appropriate materials and care should be taken to preserve the character of the structure as an outbuilding.
- 9.11. Due to its setting in close proximity to two listed buildings it would be necessary to complete the proposed works to the outbuildings in materials which match and that

are sympathetic to its surroundings. This would include any remedial stonework being completed in natural weathered ironstone of the same type, colour, texture, and appearance as the stone on the existing building and the roof should be completed in natural welsh slate. The submitted plans detail that the raising of the wall level would be completed in stonework to match and this is considered appropriate.

- 9.12. By reason of its scale and siting, as well as the mature vegetation to the boundary of the site, the proposed garden room would not have a significant or adverse impact on the character and appearance of the wider area or that of the Area of Outstanding Natural Beauty.

Conclusion

- 9.13. The proposed design is considered to be incongruous and at odds with the existing character of listed building. The design includes one gabled end and one hipped end leading to an unbalanced design which would detract from the relatively simple form and design of the grade II listed building. The proposed roof form would appear incongruous and contrived with varying roof slopes which would be out of keeping with the original dwelling.
- 9.14. The proposal therefore fails to preserve the significance of the heritage asset, and the proposal therefore fails to accord with Policy ESD15 of the CLP 2031 Part 1 and Government guidance within the National Planning Policy Framework.

Residential Amenity

- 9.15. Paragraph 127 of the NPPF includes, as a core planning principle, a requirement that planning should have *a high standard of amenity for all existing and future users*. This is reflected in Policy ESD15 of the CLP 2031 Part 1, which 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*.
- 9.16. The Council's Home Extensions and Alterations Design Guide (2007) provides informal guidance on how the Council will assess proposed extensions to houses, including guidance on assessing the impact on neighbours. This includes assessing whether a proposed extension would extend beyond a line drawn at a 45° angle, as measured horizontally from the mid-point of the nearest habitable room window.
- 9.17. The existing outbuilding sits quite centrally within The Square, Epwell and is visible from the other dwellings. Despite the proposed increase in roof height to accommodate the proposed habitable space within the roof of the building it is considered that the conversion of this outbuilding would not have an overall detrimental impact on the residential amenity of any of the surrounding dwellings.
- 9.18. The proposed works would see an increase in ridge height of around 0.6m from its current height. Given its relationship with surrounding properties the neighbouring residents would not be affected by a loss of light, loss of outlook or overbearing as a result of these works.
- 9.19. Due to the outbuilding's siting in the middle of The Square there would be a mutual overlooking of habitable rooms, mainly from the main dwelling at Manor Cottage. As a result of this it would be essential to restrict the occupancy of the outbuilding so that it remained ancillary to Manor Cottage.

- 9.20. It should be noted that a previous application, 04/02205/F, to convert the outbuilding into a separate cottage was withdrawn following officer concerns regarding the impact a new dwelling would have on residential amenity.
- 9.21. By virtue of its scale and siting it is considered that the proposed rear extension would not have any impact on the residential amenity of any surrounding dwellings or other buildings within the site either through loss of outlook, loss of light or overbearing to that dwelling.
- 9.22. The proposed openings on the rear elevation would not directly face any openings on any other buildings in the vicinity and would not impact on the levels of privacy at the site.
- 9.23. The development therefore accords with Policy ESD 15 of the Cherwell Local Plan 2011-2031 Part 1 in terms of residential amenity.

Ecology Impact

Legislative context

- 9.24. 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.
- 9.25. 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.
- 9.26. 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.
- 9.27. 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.

9.28. 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).

9.29. 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

9.30. 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.

9.31. 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.

9.32. 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.

9.33. 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.

9.34. 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.

9.35. 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 LPAs 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')

9.36. 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.

9.37. 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.

9.38. In order for the LPA 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.

9.39. 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.

Assessment

9.40. Officers are satisfied 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/Parking Provision

- 9.41. Policy ESD15 of the CLP 2031 Part 1 states, amongst other matters, that new development proposals should: *be designed to deliver high quality safe...places to live and work in*. This is consistent with Paragraph 110 of the NPPF which states that: *developments should create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles*.
- 9.42. The proposals are not considered to have an adverse effect on highway safety at the site.

10. 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 it would result in a visually incongruous and alien form of development that would fail to relate to the existing listed and curtilage listed buildings. As a result, the proposal would cause harm to the historic plan form of the cottage, and would result in harm to the significance of the heritage asset. There are no other material considerations that outweigh this conflict and the harm caused, and therefore permission should be refused.

11. RECOMMENDATION

RECOMMENDATION - REFUSAL FOR THE REASONS SET OUT BELOW

REASONS FOR REFUSAL

By virtue of its design, scale and form, the proposed extension to the dwellinghouse would result in a visually incongruous and alien form of development that would fail to relate to the existing listed and curtilage listed buildings. As a result the proposal would cause harm to the historic plan form of the cottage, and therefore detrimentally impact on the significance of the grade II listed Manor Cottage and the setting of the curtilage listed outbuilding. The identified harm would not be outweighed by any public benefits. The proposed development is therefore contrary to Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and saved Policies C28 and C30 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

CASE OFFICER: Lewis Knox

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