
From: David Wetherill <david@etplanning.co.uk>
Sent: 07 June 2021 12:50
To: West1
Cc: Sam Peacock
Subject: Re: EXTERNAL Planning Inspectorate APP/C3105/W/21/3270400: Land NE of Fringford Study Centre,, OX27 8DD
Attachments: 20210602 Fringford Final Comments Combined.pdf

Dear sir/madam

Thank you for your letter dated 27 May 2021 requesting final comments.

In advance of the deadline of 9 June 2021, please see the enclosed response from the appellant. You have requested 2 copies however I trust that this electronic version is suffice. Should you require any further information please don't hesitate to get in touch.

We'd be grateful for your confirmation of receipt of this email.

Kind Regards,

David Wetherill

Associate | ET Planning



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Date: Thursday, 27 May 2021 at 16:33
To: "Office @ ET Planning" <office@etplanning.co.uk>
Subject: EXTERNAL Planning Inspectorate APP/C3105/W/21/3270400: Land NE of Fringford Study Centre,, OX27 8DD

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DPC:76616c646f72



FINAL COMMENTS ON BEHALF OF THE APPELLANT

**Land NE of Fringford Study Centre
Adjoining Rectory Lane, Fringford,
OX27 8DD**

Reference APP/C3105/W/21/3270400

**Proposed erection of a 4 bedroom
detached dwelling with garage and
access**

On Behalf of: Mr A Bradbury

Report Prepared By: David Wetherill MRTPI Associate Planner

1. Final Comments on behalf of the Appellant

1.1 This Statement constitutes the Final Comments of the Appellant in response to the Local Planning Authority's Statement of Case, dated May 2021. As a consequence, this Statement forms an addendum to the primary contents of the Appellant's Appeal Statement dated 5 March 2021. It relates to Planning Appeal Reference APP/C3105/W/21/3270400.

Refusal Reason 1

1.2 Relating to paragraph 2.5 of the Councils Statement, we disagree that the proposal is for a 'suburban' dwelling that would 'fundamentally alter the character of the site'. The applicant has gone through an iterative design process (see below for extracts from the Planning Design and Access Statement, which was submitted alongside the planning application). This iterative process culminated in a cottage style design, including features which are considered to constitute the best components of the surrounding character.

1.3 Relating to paragraph 2.6 of the Councils Statement, we are unsure of the point that the Council wishes to make on density. The Appellant wishes to make a simple point that the density is approx. 17dph, and that this is considered to be an appropriate density for this location. Whether Policy BSC2 can be applied to this site is largely irrelevant. The 30dph reference taken from BSC2 was merely used as a yardstick in demonstrating that the proposed development has a lower density than this threshold (there are no other such thresholds contained within the Development Plan), and we consider 17dph on this site to be appropriate density in respect of the sites context. The Proposed Development cannot be considered to represent 'overdevelopment'.

1.4 Related to the density plan produced at 5.21 of the Appellants Statement of Case we have increased the sample area as suggested by the Council. However this revised sample area (fig 1) includes very large plots more

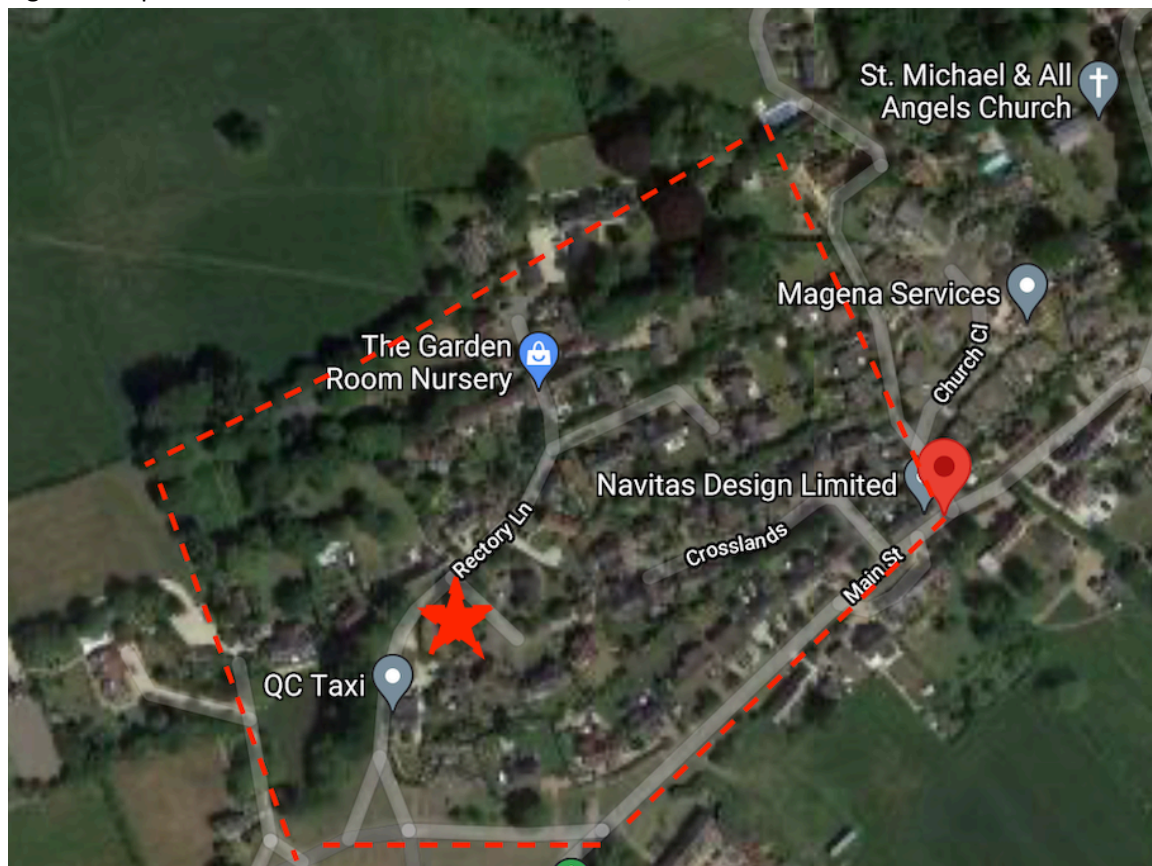
characteristic of sites at the periphery of the settlement rather than the village core that the site is located within.

1.5 This point is amplified in the original PDAS

1.01 Around the outskirts of the village the dwellings are larger detached mature houses in larger plots whilst closer to the centre smaller houses have been constructed on smaller plots mainly detached but with some semi-detached properties.

1.6 Therefore the revised sample area of fig 1 is not a true reflection of the immediate surroundings. In any case, the average density of the revised sample area is circa 8.75dph compared to 12.2dph which is not a substantial change, and still demonstrates that the proposed density is appropriate.

Fig 1 – Sample area of circa 5.6ha shown in red dash, with site shown with a red star.



- 1.7 In summary, it is the appellants case that the density of 17dph is appropriate for the sites immediate context and would not suggest overdevelopment of the site, as set out in the Appellants Statement of Case (paragraphs 5.19-5.24).
- 1.8 Relating to paragraph 2.10 of the Councils Statement, we dispute that the appellant has not defended the scale and design of the appeal proposal.
- 1.9 The Inspector is firstly directed to paragraphs 2.9, 5.11, 5.17 and 5.25 of the Appellants Statement of Case.
- 1.10 As discussed within the Appellants Statement, the original Planning Design and Access Statement (PDAS) is supporting information already within evidence (and therefore not repeated in the Appellants Statement). The PDAS therefore also forms part of the appellants case in respect of design. It demonstrates a contextual appreciation and sensitivity in formulating the scheme proposal.
- 1.11 The PDAS should be read in full however to further assist the Inspector, the following paragraphs from the PDAS are amplified in respect of the appellants case that the scale and design of the proposal is appropriate.
- 1.12 Firstly the PDAS provided a contextual analysis of the site, summarised below:

1.01 Around the outskirts of the village the dwellings are larger detached mature houses in larger plots whilst closer to the centre smaller houses have been constructed on smaller plots mainly detached but with some semi-detached properties.

1.02 Most buildings within the village are two storeys although a cul-de-sac of bungalows, Church Close has been constructed in the late

twentieth century. The two storey dwellings are a mixture of styles although most of the older historic buildings are of a cottage style constructed in local stone with either a plain clay tile roof or natural slate with white timber casement windows.

2.11 The adjacent dwellings along the road frontage of Rectory Lane are constructed of stone with either a plain dark clay tile or natural slate further along the road face brick dwellings have been constructed. The colour of the brickwork is like stone although some sporadic red brick dwellings are featured.

The adjacent Farriers Close development has four two storey dwellings three of which are constructed in stone whilst the fourth directly behind the proposed site is in red facing bricks with clay tile roof.

1.13 The PDAS then considered how this contextual analysis feeds into the design process and formulation of the scheme proposal. Firstly, commentary related to appearance is summarised below:

2.11 Having taken careful consideration of the context of the area and the proposed low-key cottage style design the dwelling is to be constructed in a quality yellow stock facing brick with front gable of natural stone. The first floor will be constructed within part of the roof space giving a low eaves cottage appearance. The roof construction will be a forty-five-degree pitched roof similar to dwellings within the locality and finished in a natural grey slate. The windows are to be a white cottage style casement window with stone cills and stone lintels throughout. The roof is to be traditional quality plain clay tiles with bonnet hip tiles. The dwelling although masked by the existing hedge will make a positive and sympathetic contribution to the street scene and character of the area.

1.14 Secondly, commentary related to scale is summarised below:

2.09 The proposed single detached cottage is to be a one and a half storey dwelling with pitched roof with a maximum ridge height of 7.500 metres from dpc. The eaves height of the main gable front and rear of the dwelling is 3.700 metres with side element being 4.450 metres in height.

The scale of all the development is in context with the street scene and character of the area and meets the requirements of Cherwell District Council village policies.

- 1.15 The NPPF is now reinforced by the National Design Guide, the latter emphasises the importance of contextual appreciation and sensitivity and collectively both the NPPF and the NDG strengthen the importance of design in decision making. The government's increasing emphasis on design quality is further reinforced by proposed changes to the NPPF and the publication of the National Model Design Code. The appellant considers that they have successfully demonstrated a contextual appreciation and sensitivity in formulating the scheme proposal.
- 1.16 Finally, we note at paragraph 2.8 that the Council raise points in relation to the arboricultural impact of the scheme (in respect of refusal reason 1).
- 1.17 A response to points raised on arboriculture is enclosed at **Appendix 1**. This response concludes that the presence of TPO's should not be a reason to withhold planning permission.

Refusal Reason 2

- 1.18 We note at paragraphs 2.11-13 that the Council raise concerns in respect of archaeology (in respect of refusal reason 2).

1.19 A response to points raised on archaeology is enclosed in **Appendix 2**. This response concludes that there should be no reasons related to archaeology to withhold planning permission.

Refusal Reason 3

1.20 We note and support the Council's removal of refusal reason 3 (ecology).

Conditions

1.21 We would question why all PD rights are proposed to be removed as part of condition 9. We would comment as follows in respect to the six conditions tests set out in the NPPG:

- Class A - Side extensions are restricted due to fronting a highway and therefore this removes the ability to extend to these areas in any case.
- Class B - There are already dormers within the eaves space. There would be no harm from overlooking from any potential future dormers.
- Class C - Rooflights would not cause harm for similar reasons and should not be restricted in this way.
- Class D - a porch would be modest in scale given the area restriction provided by Class D, and should not be restricted in this way.

Summary

1.22 It is maintained that the Council's reason for refusing the proposed development is unjustified, and it is respectfully requested that the appeal be allowed.

Appendix 1 – Arboricultural response

28 May 2021

Mr D Wetherill
ET PLanning
200 Dukes Ride
Crowthorne
RG45 6DS

Ref:20.0111

Dear Mr Wetherill,

Re: APP/C3105/W/21/3270400 Fringford appeal.

Many thanks for sending through the council's response to my submitted appeal statement. I have reviewed it and provide the following in response and rebuttal.

Firstly, the comments regarding soil type and foundation depths are inconsequential with regard to determining this appeal. The proposed new dwelling will accord with current NHBC (or similar) standards with all foundations calculated to tolerate potential indirect impact from trees and vegetation. Typically they are also approved by Building Control in relation to adjacent trees.

Therefore, the only pertinent point from the council's response is the second issue; the potential for future direct damage to the dwelling from the trees. The current proposal has been designed to provide a dwelling that is not under the tree crowns. It may well be that the ash tree #04 will increase in spread to the south, and in time encroach over the single storey garage. I struggled to see why having a tree overhanging a garage is sufficient reason to refuse a planning application. Especially as this tree is to the north, casts no direct shade over the dwelling and can be protected throughout the construction process.

Arboriculture Research Note 84/90/ARB *The Ultimate Size and Spread of Trees Commonly Grown in Towns* provide some data in relation to expected heights and spreads of some trees. Ash is cited as having an ultimate height of 17m and a spread of 18m (which is taken to be 9m radius). Tree #04 has a current spread of about 5m. If extended to 9m it would overhang the two-storey element by 1m. This does not factor in any likely impact on the tree's growth and vitality from ash dieback that may occur, regardless as to whether or not the tree needs to be removed as a result.

I have worked in this field for many years and am entirely comfortable that the proposed dwelling is sustainable in relation to the protected trees.

Yours sincerely,



Mark Welby DipArb(RFS), TechCert(ArborA), FArborA,
Arboricultural Association Registered Consultant



June 21
Appeal Final Comments

Appendix 2 – Archaeology response

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Our Reference: 00063
Your Reference: 20/01891/F

28/05/2021

Mr David Wetherill
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APP/C3105/W/21/3270400 Land North East of Fringford Study Centre Adjoining, Rectory Lane, Fringford, OX27 8DD – Archaeology

Dear David,

Many thanks for sending through the local planning authority (LPA) statement of case and the associated Appendix 3 (letter from the Archaeological Officer). I have reviewed these carefully and provide the following in response.

I have covered Refusal Reason 2 (Sections 2.11, 2.12 and 2.13) below.

Refusal Reason 2, Section 2.11

Explains that an archaeological field evaluation has not been conducted, and that, therefore, the proposal was considered likely to damage features of archaeological significance. It explains that the planning application was refused on these grounds. Section 2.11 notes that the appellant has submitted an Archaeological Desk Based Assessment.

Section 2.11 explains some of the ways in which the County Council's Archaeological Officer believes the Assessment is deficient. It refers to the letter (Appendix 3 or the Council's Appeal Statement) which contains a longer critique of the Assessment. The points picked out within the appeal statement are as follows:

Bullet Point 1:

- *There is a lack of evidence that a 19th century building occupied the site, contrary to assertions in the desk-based assessment.*

The reason that the suggestion of a 19th century building on the site is experienced as a negative (by the Archaeological Officer) is only understood by reading the letter at Appendix 3. On paragraph 2, Page 3 of the letter the Officer has written “*The assessment states that the site has been subject to some disturbance from a 19th C building on the site*”. The key words here are *states* and *disturbance*. To an archaeologist disturbance is generally understood as a negative, something which causes harm/loss. In this case it could mean earlier archaeology may have been removed. I did not state that, and I did not infer that. At no point in the Assessment is the potential existence of a 19th C structure relied upon to suggest disturbance, harm or loss of earlier remains.

Instead, the assessment was suggesting that a map recorded an interesting change when viewed as part of a series of maps. These were all looked at during a map regression exercise (Section 6.10). Doing this is a conventional part of a desk-based assessment. Ironically, it was meant in a positive way, to suggest that remains of 19th C date may also occur on the site. It was a case of adding potential, rather than removing it. The specific points where this matter is dealt with by the assessment was section 6.9.2. The term *perhaps* structural remains was used deliberately.

Section 6.9.2 (Page 26). The PDA is likely to have been an enclosed piece of land during this period and may contain the remains of property boundaries and perhaps structural remains of this date. There is considered to be a high potential for remains of this date within the PDA.

Then at Section 7.1.4 when running through possible research aims for the site (if it were to be investigated later) I pointed out that 19th C structural remains may be considered of interest. This was used in a positive way; not to say there was archaeological destruction but instead to say such remains may also be of interest. Our research aims include even modern remains at times, depending upon the type of remains that is. It was particularly of note as it matched up, approximately with the proposed building footprint, hence I inserted a semi-transparent image to be helpful to the reader.

Had I wanted to suggest there was destruction of Medieval remains on the site. I would have placed that opinion at Section 8.6.3. which deals with the potential for survival of such remains on the site. Instead, I used that section to emphasise how the plot is a highly unusual survival of a relatively un-damaged plot of land.

Section 8.6.3 (Page 32). Past development impacts are anticipated to have been very light for this part of southern England and the land may preserve sub-surface archaeological remains. The character and depth of these remains is very well understood due to the quality of publication on the investigations in the immediate vicinity of the site. Notably, Blinkhorn, P, Bloor, C and Thomason, D. 2000. Excavations at The Paddock, Rectory Lane, Fringford 1997 is of great use in helping to understand the likely depth and character of remains in this locality. Groundworks for the construction of a house and associated utilities is likely to impact these shallow remains.

The Officer suggests the image may instead record the location of a tree. The observation is welcomed. This process is meant to lead to an exchange of views (which is why I contacted the Officer and other members of his team on several occasions). The conclusions of the assessment

still stand. There is a high potential for 19th C remains on the plot of land. They may comprise structural remains or property boundaries.

Bullet Point 2:

- *The assessment concludes that there is medium to low potential for archaeological deposits relating to the early medieval period. However, the County Council Archaeologist considers the potential to be high due to the deposits from this period on the land immediately adjacent to the site.*

This is a matter of professional judgement. My own judgement is made on the basis of the data held in Appendix 1 of the assessment, which is mapped on Figures 2 (Designated assets) 3 (non-designated assets) and Figure 4 (Historic Landscape). The data was split in tabular form and shown on several Figures so as to allow the reader to easily recognise patterns in distribution. I then used sections 6.1 to 6.9 to break the text up into chronological periods.

The excavations on the adjacent site were referred to many times in the assessment, most notably at 6.3.5 and at 6.7.1. The medium to low potential for this period needs to be seen against that predicted for Medieval (Medium) and Post-Medieval (High). These express my professional opinion that remains of these dates are all potentially present. That potential differs by period. The Archaeological Officer has a different view to mine, neither view is an error, we simply have a different view.

Bullet Point 3:

- *With regard to medieval deposits, the assessment assigned a medium potential. However, the County Council Archaeologist advises that this potential is high, as it is a key location for a medieval dwelling or farmhouse, given the findings of a c.13th century barn type structure on land immediately adjacent. The site therefore has considerable potential to contain structural remains of medieval buildings which are likely to be well preserved. The assessment makes no reference to the high level of preservation on the adjacent parcel and as such the assessment of significance contained within the report cannot be agreed with.*

This bullet point flows from Bullet Point 2. The Archaeological Officer believes that the site has a High Potential for Medieval remains and that those remains will have a High Significance. I have written an assessment which expresses my considered view that the site has a Medium potential for remains of Medieval date and that the Significance of those remains is most likely to be of Medium-Low Significance. I have made my explanation for these terms clear within the assessment. They are based upon several sources. The Archaeological Officer does not agree with me. Neither of us need be in error, we have a different opinion.

My use of the terms Medium-Low, in relation to Significance is explained in the table below (this also appears in my assessment at Section 4.3). Please note, Medium Importance is potentially equivalent to "Conservation Areas, Grade II Registered Parks and Gardens, Grade II Listed Buildings, heritage assets on local lists and non-designated assets of equal importance". Whereas Low Importance covers non-designated heritage assets. I stand by that range, and I certainly don't think it underestimates the potential importance. What it does achieve is to allow for a certain range of importance, which is reasonable at this time.

Table 2: Criteria for Assessing the Importance of Heritage Assets

Importance of the asset	Criteria
Very high	World Heritage Sites and other assets of equal international importance
High	Grade I and II* Registered Parks and Gardens, Scheduled Monuments, Protected Wreck Sites, Registered Battlefields, Grade I and II* Listed Buildings, and undesignated heritage assets of equal importance
Medium	Conservation Areas, Grade II Registered Parks and Gardens, Grade II Listed Buildings, heritage assets on local lists and undesignated assets of equal importance
Low	Undesignated heritage assets of lesser importance

At paragraph 2, page 4 of the letter from the Archaeological Officer it says, “*The assessment states that part of the site has been evaluated, but this is not the case*” the letter then contradicts itself and says, “*although a very small part of the proposed development site was included on the north-western edge of the Geophysical Survey*”. These statements are in the same sentence. It is possible that the Archaeological Officer meant to say that the survey did not cover all of the proposed building footprint? Either way, Figure 5 of the assessment allows the reader to decide what portion of the application site has been surveyed. I have measured it, and discussed this point, with the Archaeological Officer over email and on the telephone. It equates to approximately 40% of the application site and, as I point out in the assessment, does not include all of the building footprint. There is no ambiguity over this point. Figure 5 was created specifically to allow easy understanding. Therefore, it is unfortunate to see it re-surface again now.

The Geophysical Survey report is publicly available and is referenced in the assessment. Sections 6.3.1, 6.3.2 and 6.3.3 of my assessment are used to describe the Geophysical Survey and to explain why excavations to the south are also relevant. It would be extraordinary not to use data gathered from an actual application site. It is very relevant and useful.

Errors:

Section 2.12 of the Statement of Case says that the desk based assessment contains numerous errors and omissions. I have been back through it, and I have read the letter at Appendix 3 carefully also. I have now found two errors in my assessment. Neither change the conclusions of it, but I point them out so as to avoid uncertainty over the difference between an error of fact, a typo and a difference of opinion.

Error 1 – Building or tree

I have been over this point above in relation to Bullet point 1. Does the map show a tree or a small structure? This does not change the conclusions or potential of the site. I suggested the idea to be helpful. I often suggest ideas based on maps, LIDAR data, documentary sources. Sometimes they are a small step towards a useful discussion and that can lead to realisation of useful points. Not always. I would be happy to amend the assessment.

Error 2 – Asterisk left in at Section 9.1.5.

There is an extraneous piece of text at 9.1.5 and it reads “*In this case the * is relevant and se.*” This can be deleted, and the paragraph is complete without it. This was a typo left in during final

editing. This does not change the conclusions or potential of the site. I would be happy to amend the assessment.

I cannot find any other errors and I don't see them identified in the Appendix 3 letter. I can find several points where there remains a difference of opinion.

Difference of opinion:

The fundamental difference of opinion is over the Medieval period and whether the Site has a Medium potential or a high potential for medium significance or high significance remains. I don't think it is unusual for professional archaeologists to hold a different view on such a matter. I have supported my view and am entitled to hold it.

Summary:

I graduated with a degree in Archaeology in 1995 and have worked continuously as a professional archaeologist for many years now. I am providing a useful service, to the best of my ability and I endeavour to give considered, well-intentioned views. I stand by the assessment and note that my work is always quality checked by an external MCIfA before being sent out to clients. We discussed this site in detail and this included discussion of the publications for the adjacent site and the likelihood of such remains continuing on to the site.

I am entirely comfortable standing by the content and quality of the assessment.

Yours Sincerely

JOE ABRAMS
DIRECTOR