

**CHERWELL DISTRICT COUNCIL**

**TOWN AND COUNTRY PLANNING ACT 1990**

**STATEMENT ON BEHALF OF THE LOCAL PLANNING AUTHORITY**

Appeal by Mr T Catling against the decision by Cherwell District Council to refuse full planning permission for the demolition of the existing chapel and erection of 1 dwelling.

Appellant : Mr Tim Catling  
Appeal Site : St George Catholic Church  
Road Close Road  
Adderbury  
LPA Reference : 17/02131/F  
Planning Inspectorate : APP/C3105/W/18/3204214  
Reference

**1. Site Description and Proposed Development**

1.1 Information regarding the site description and the proposed development can be found in the officer's report submitted with the Council's appeal questionnaire and thus shall not be repeated in this Statement of Case.

**2. Relevant Planning History Relating to the Appeal Site**

2.1 The relevant planning history for the site is outlined in the officer's report.

**3 Reasons for Refusal**

3.1 Planning permission for the erection of the dwelling was refused on 8<sup>th</sup> January 2018, for the following reason:

1. *The proposed development, by virtue of its layout, form and design would result in an incongruous form of development that is not in keeping with the traditional pattern of development and would fail to sympathetically integrate into the built environment or reinforce local distinctiveness. The proposals are thus*

*considered to cause less than substantial harm to the character and appearance of the Adderbury Conservation Area and would fail to preserve and enhance this heritage asset. The public benefits arising from the scheme are not considered to outweigh this harm. As a result the proposal fails to comply with Saved Policy C28 of the Cherwell Local Plan 1996; Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.*

2. *The proposal, by virtue of its layout, form and scale, would detrimentally impact on the outlook to the widows on the western side elevation of 15 and 13 Round Close Road. The relationship of the proposed garden with these windows would also result in an unacceptable level of overlooking and loss of privacy to these properties and would fail to provide a good standard of outdoor amenity space for the future occupier of the proposed dwelling. The proposal is therefore considered contrary to Saved Policy C30 of the Cherwell Local Plan 1996; Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1; and Government guidance contained within the National Planning Policy Framework.*
3. *The application is supported by inadequate information in relation to the ordinary watercourse which runs through the site. The Local Planning Authority has therefore been unable to make an informed decision as to whether the proposed development can be carried out without undue harm caused to the flow of the existing watercourse and the potential for increased flooding within the local area. Therefore, the proposal fails to comply with Policy ESD6 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.*

The full decision notice and the case officer's delegated report were sent with the Council's Questionnaire.

#### **4 Relevant National and Local Planning Policy and Guidance**

- 4.1 Below are the policies referred to in the Council's reasons for refusal as well as others that were relevant to the overall consideration of the original application.

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

- PSD1: Presumption in Favour of Sustainable Development

- BSC2: The Effective and Efficient use of land
- ESD6: Sustainable Flood Risk Management
- ESD7: Sustainable Drainage Systems (SuDS)
- ESD10: Protection and Enhancement of Biodiversity and the Natural Environment
- ESD15 - The Character of the Built and Historic Environment
- Policy Villages 1: Village Categorisation (Adderbury Category A)

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 over new development

7.1. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)

4.2 The Council's saved development plan policies are dated, having been adopted in 1996. However those listed above are considered to carry significant weight insofar as they are consistent with guidance contained within the NPPF.

4.3 Since the Council's decision was issued the Adderbury Neighbourhood Plan has been adopted and forms part of the Development Plan. The most relevant policies in this document are:

- AD1: Adderbury Settlement Boundary

4.5 Furthermore the Cherwell Residential Design Guide Supplementary Planning Document has also been formally adopted by the Council since the decision which is a material consideration in the determination of any application and is considered to carry significant weight particularly in light of the guidance in the revised NPPF particularly paragraph 126 and 130.

**5 THE COUNCIL'S CASE**

5.1 This appeal statement solely focuses on the reason for refusal and does not cover the aspects of the development which the Council considers to be acceptable as these matters are common ground between the parties.

5.2 The Council's case in this appeal is principally as set out within the officer's report for the planning application, a copy of which was sent to the Inspectorate with the appeal

questionnaire. This Statement of Case does not intend to repeat or duplicate the arguments set out in those reports, but instead focuses on responding to and clarifying the key issues that arise from the appellant's grounds of appeal and material changes since the decision was issued.

- 5.3 As set out in the officer's report the appeal proposal is considered to be contrary to development plan policies and guidance in the NPPF which seek to ensure that new development positively contributes to an areas character and appearance, reinforces local distinctiveness and results in high quality responsive development. The updated NPPF advises high quality buildings are fundamental to what the planning process should achieve (para 124) and that good design is a key aspect of sustainable development.
- 5.4 Paragraph 126 supports the development of Supplementary Planning Documents as tools to provide a framework for creating distinctive places and the new Cherwell Residential Design Guide SPD (July 2018) provides such guidance which is material to the determination of the application and given the NPPF's encouragement for such tools should be given significant weight. Paragraph 127 states development should be sympathetic to local character and history and paragraph 130 goes onto state that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area.
- 5.5 The site also located in the Adderbury Conservation Area where the NPPF advises that such assets are irreplaceable resources and should be conserved in a manner appropriate to their significance. It goes onto advise that any harm should require clear and convincing justification and where proposals will lead to less than substantial harm, this harm should be weighed against the benefits of the scheme.
- 5.6 For the reasons outlined in the officer's report the proposed dwelling is considered to be harmful to the significance and character and appearance of the Conservation Area and is not considered to take the opportunities to improve the quality of the built environment have been taken. As noted the traditional properties in the locality which positively contribute to the distinctiveness of the area generally have a more linear form with stronger building lines closer to the road creating strong road frontages. Whilst the proposal is located in an area identified as 'modern infill' in the Conservation Area Appraisal it is still considered important that the development is appropriate to the area

and reinforces local distinctiveness and positively responds to the attributes of the location. The proposed L shape arrangement of the dwelling, with large forward projecting gable element and car parking area dominating much of the frontage and hipped roof, would all result in a suburban form of dwelling inappropriate to its context. It would not respect the traditional siting and form of dwellings which characterise the area which have flat simple frontages with a strong relationship to the street creating a sense of enclosure which contribute positive to the historic growth and significance of the Conservation Area. The presence of strong building lines are noted throughout the Conservation Area Appraisal as being important characteristic of the area including section 8.1 relating to land use and street pattern.

- 5.7 The proposal would rather follow the style and form of more modern infill development which does not respect the historic form of development and would fail to positively reinforce local distinctiveness resulting in a weak frontage dominated by a parking area.
- 5.8 The forward projecting gable and hipped nature of the roofs are also not traditional forms in the Conservation Area. This results in the property appearing like a modern 'estate like' property rather than following the local vernacular. Generally in the instances where properties do have gables ends facing onto the road, the whole or main element of the building is perpendicular to the road. Furthermore in the few instance where hipped roofs exist they are part of the ancillary elements to the buildings like on the adjacent building where the main element of the building faces Tanners Lane and the roof form is seen in that context. The appeal scheme however forms a detached dwelling in its own right with hipped roof and projecting gable which would out of character with the traditional form of buildings in the Conservation Area the locally distinctive building form consists of steeply pitched gable ended roofs running parallel to the highway. As noted at paragraph 6.4 and page 95 of the Cherwell Residential Design Guide SPD hipped roofs should generally be avoided as they create a suburban form uncommon to the Cherwell vernacular and page 94 indicated that front façades of buildings should be kept flat and avoid projecting elements. This is based on an analysis of the local vernacular.
- 5.9 The remainder of the concerns regarding the design of the building are outlined in the officer's report and will not be repeated in this statement however overall it is considered that the proposal would result in an incongruous form of development which is not in keeping with the traditional pattern of development and would fail to reinforce local distinctiveness. It would result in less than substantial harm to the Conservation Area

which carries significant weight in light of the statutory requirements. This harm would not be outweighed by any of the modest social or economic benefits arising from the development, which could likely be equally achieved by a more appropriately designed dwelling. The proposal is therefore contrary to Policy ESD15 of the Cherwell Local Plan and advice in the NPPF in this respect.

- 5.10 The second reason for refusal relates to the Council's concerns regarding both the residential amenity of the proposed dwelling and also the amenity of the existing dwellings adjacent to the site. As outlined in the report the neighbouring properties to the east have habitable ground floor windows facing directly onto the application site immediately on the eastern boundary of the site. The Council considers that given the location of the existing windows on the neighbouring properties, alongside the proximity and scale of the proposed dwelling, that it would unacceptably impact on the outlook and appear overbearing from the ground floor windows on the neighbouring properties.
- 5.11 The change of use of the land to a private residential garden would also result in the land immediately outside these existing windows being used for garden land associated with the development. This would result in future residents being able to view directly into these private habitable spaces of the neighbouring properties when using their garden to the significant detrimental of the amenity of the existing residents. Whilst it is accepted that such overlooking can already occur from within the grounds of the church, the change of use to residential garden would significantly increase the periods of usage of the outdoor space and hence the increase the occurrences when such overlooking and loss of privacy would happen. Likewise the garden which would serve future residents would be significantly overlooked by these existing windows with the private amenity space of the proposed dwelling being significantly overlooked and failing to provide a good standard of amenity for future occupiers of the dwelling. Overall the proposal is therefore considered to be contrary to Policy ESD15 of the CLP 2031 Part 1 and advice in the NPPF in this respect.
- 5.12 The final reason for refusal relates to lack of information which has been submitted in order to allow the Council to fully understand the impacts of the development on the ordinary water course which passes through the site and then east into the rear garden of number 13 Round Close Road. Policy ESD6 of the CLP 2031 Part 1 seeks to secure the management and reduction of flood risk. This policy requires a site specific flood risk assessment to support the application because it is within 9 metres of a watercourse. No

such report has been submitted to support either the original application or this appeal.

5.13 Whilst the previous applications sought to culvert the drainage channel, the appeal proposal now seeks to leave it open. Whilst this may be a more acceptable solution, in the absence of any site specific flood risk assessment it is not possible to make an informed assessment. This information has been consistently requested from the applicant's and in the absence of this information, it is not possible to determine whether the proposed dwelling would be at risk from flooding or whether the proposed development would increase flood risk elsewhere (e.g. by displacing flood water which previously existed on the undeveloped site to neighbouring land). Furthermore the depth of the watercourse appears quite close to the surface and it has not been demonstrated that the building will not affect the watercourse flow during the construction work. As can be seen for the Environment Agency surface water flood maps (figure 1) the proposal is known to have surface water flooding issues.

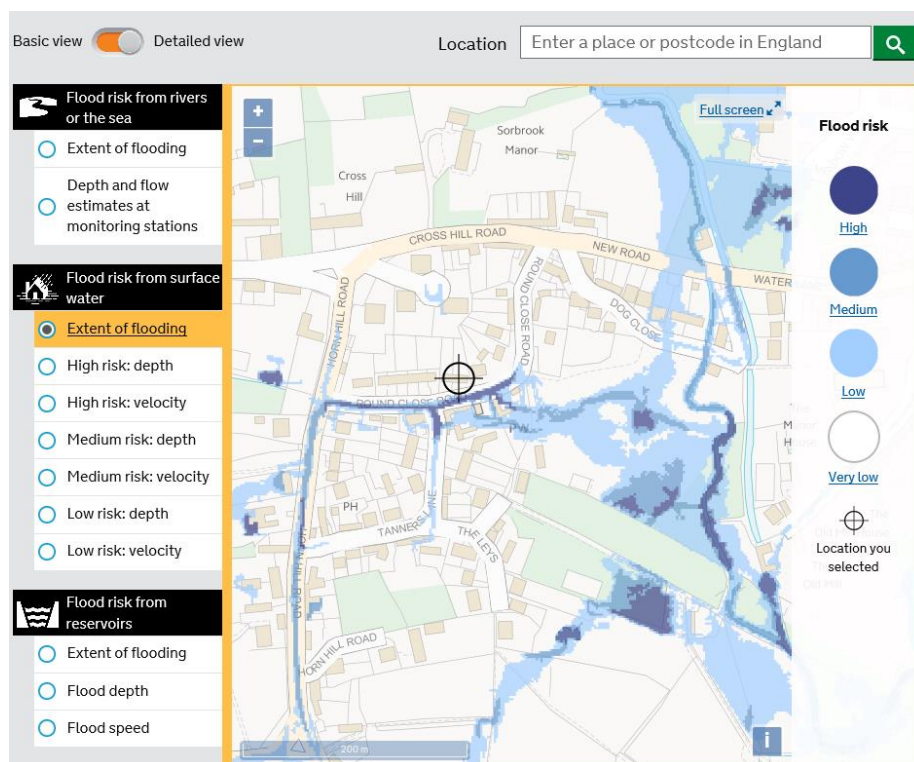


Figure 1: <https://flood-warning-information.service.gov.uk/long-term-flood-risk/map?eastings=446729&northing=235379&address=100120769733&map=SurfaceWater>

5.14 Whilst the Lead Local Flood Authority does not provide detailed advice on minor applications, the case officer did seek advice from them on earlier applications at the site and they were also of the view that further information should be provided (see appendix

2). Whilst it is no longer proposed to culvert the open part of the watercourse, it is still considered that further information is required to fully understand the impacts of the development in relation to flood risk given the risks highlighted above.

5.15 Overall in considering the planning balance the proposed development would lead to some modest social and economic benefits associated with the provision of a new dwelling in a geographically sustainable location. However the proposed development would lead to environmental harm and represent poor design resulting in harm to the character and appearance of the Conservation Area and fail to reinforce local distinctiveness. Further environmental harm would be caused by the poor levels of amenity for both the proposed dwelling and the existing neighbouring dwellings. There is also insufficient information to fully understand the flood risk impacts of the development. The proposal would therefore not constitute a sustainable form of development and would be contrary to Policies ESD6 and ESD15 of the Cherwell Local Plan 2011-2031 Part 1, Saved Policies C28 and C30 of the Cherwell Local Plan (1996), advice in the Cherwell Residential Design Guide (2018) and also design policies in the NPPF. Therefore the Inspector is respectfully requested to dismiss the appeal.

Appendix 1: Suggested draft conditions

**Officer:** James Kirkham

**Dated:** 29<sup>th</sup> August 2018



## Appendix 1: Suggested draft conditions

1. The development hereby permitted shall be begun not later than the expiration of three years beginning with the date of this consent.

Reason - For the avoidance of doubt, to ensure that the development is carried out only as approved by the Local Planning Authority and to comply with Government guidance contained within the National Planning Policy Framework.

2. Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the following plans and documents: Application Form, Design and Access Statement and Drawing Nos: Location Plan and drawing number 1235/14.

Reason - For the avoidance of doubt, to ensure that the development is carried out only as approved by the Local Planning Authority and to comply with Government guidance contained within the National Planning Policy Framework.

3. Prior to any construction of the dwellings above slab level, a stone sample panel (minimum 1m<sup>2</sup> in size) shall be constructed on site in natural stone, and shall be inspected and approved in writing by the Local Planning Authority. Thereafter, the external walls of the dwellings shall be laid, dressed, coursed and pointed in strict accordance with the approved stone sample panel and shall be retained as such thereafter.

Reason - To ensure that the development is constructed and finished in materials which are in harmony with the building materials used in the locality and to comply with 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.

4. Prior to any construction of the dwellings above slab level a sample of the tile to be used in the construction roof shall be submitted and approved in writing by the Local Planning Authority. Thereafter, the roof of the dwellings shall be constructed in accordance with the approved details and shall be retained as such thereafter.

Reason - To ensure that the development is constructed and finished in materials which are in harmony with the building materials used in the locality and to comply with 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.

5. Notwithstanding the details on the approved plans, prior to any works above slab level, full details of the proposed doors and windows, at an appropriate scale including a cross section, cill, lintel and recess detail and colour/finish, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the doors and windows and their surrounds shall be installed within the building in accordance with the approved details and shall be retained as such thereafter.

Reason - To ensure the satisfactory appearance of the completed development and to comply with Policy ESD15 of the Cherwell Local Plan 2011 - 2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

6. Prior to any works above slab level, a landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme for landscaping the site shall include:-

- a) details of the proposed tree and shrub planting including their species, number, sizes and positions, together with grass seeded/turfed areas,

- b) details of the boundary treatments and hard surface areas including their materials, appearance and height

The development shall be carried out in accordance with the approved landscaping prior to the first occupation of the development and shall be retained as such thereafter.

Reason: In the interests of the visual amenities of the area, to ensure the creation of a pleasant environment for the development and to comply with 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.

7. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in accordance with BS 4428:1989 Code of Practice for general landscape operations (excluding hard surfaces), or the most up to date and current British Standard, in the first planting and seeding seasons following the occupation of the building(s) or on the completion of the development, whichever is the sooner. Any trees, herbaceous planting and shrubs which, within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the current/next planting season with others of similar size and species.

Reason: In the interests of the visual amenities of the area, to ensure the creation of a pleasant environment for the development and to comply with 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.

8. Prior to the prior to the first occupation of the development, the access, parking, and manoeuvring areas shall be provided on the site in accordance with the approved details and shall be retained unobstructed except for the parking and manoeuvring of vehicles at all times thereafter.

Reason - In the interests of highway safety and to comply with Government guidance contained within the National Planning Policy Framework.

9. Prior to the prior to the first occupation of the development the windows on the west elevation above ground floor level shall be fitted with obscure glazing and shall be no opening unless the part to be opened is at least 1.7 metres above the finished floor level of the room in which it is installed. The windows shall not be altered from this specification.

Reason – To protect the amenity of the neighbouring properties in accordance with Policy ESD15 of the Cherwell Local Plan and advice in the National Planning Policy Framework.

## Appendix 2 – Correspondence with the Lead Local Flood Authority

**From:** Kelman, Gordon - E&E [mailto:Gordon.Kelman@Oxfordshire.gov.uk]  
**Sent:** 15 June 2016 16:11  
**To:** James Kirkham  
**Subject:** RE: Application No.: 16/00814/F

James,

We would need some evidence from them that the culverting of the watercourse wouldn't cause upstream or downstream problems. Simply making the statement is not proof.

It may well be that the open area of the water course offer volume relief for the drainage when the piped system is at capacity. Taking away that extra volume the open watercourse offers may cause upstream problems. At the very least the drainage proposal should be on the planning application drawings with calculations included. The original application didn't really give us much info at all hence the recommendation from us to refuse it.

Hope this helps,

Regards,

Gordon Kelman  
Senior Engineer (Drainage)

Oxfordshire County Council  
Highways and Transport  
Speedwell House  
Speedwell Street  
Oxford  
OX1 1NE

**From:** James Kirkham [mailto:James.Kirkham@Cherwell-DC.gov.uk]  
**Sent:** 14 June 2016 16:14  
**To:** Kelman, Gordon - E&E  
**Subject:** Application No.: 16/00814/F

Hi Gordon

**Application No.:** 16/00814/F  
**Applicant's Name:** Mr Tim Catling  
**Proposal (subject to change during validation process):**  
Demolition of existing chapel and erection of 4 no. dwellings - Re-submission of 15/01540/F  
**Location:** St Georges Catholic Church Round Close Road Adderbury

I consulted OCC Drainage on 16<sup>th</sup> May on the above application. As you may be aware there is a watercourse which crosses the site and would need to be culverted as the proposed building and

parking area goes straight over it. Emily Shaw dealt with an earlier application and refused it. Amongst the reasons were:

*The application is supported by inadequate information in relation to the ordinary watercourse which runs through the site. The Local Planning Authority has therefore been unable to make an informed decision as to whether the proposed development can be carried out without undue harm caused to the flow of the existing watercourse and the potential for flooding within the local area. Therefore, the proposal fails to comply with Policy ESD6 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.*

In short there were concerns there was insufficient information for the LPA to understand the feasibility of culverting the watercourse and its impacting of flood risk elsewhere. In relation to this matter the only additional information the applicant has provided is a statement stating: *Regarding the existing watercourse, this is culverted for most of its length with only a short section exposed. The intention, as shown on the drawings, is to join the two existing pipes together with a pipe of the same diameter. This would not hinder the flow and may well help it.*

I understand that land drainage consent will be required to undertake works to this watercourse but for the planning application I think we need to understand whether this is actually feasible or not without causing issues with flood risk.

I would appreciate your views on this matter? The applicant expires soon so I would appreciate if you could have a quick look at this by the end of the week,

Thanks

James Kirkham BA (Hons) MSc MRTPI  
Senior Planning Officer – Minor Developments  
Development Management  
Cherwell District Council  
Direct Line: 01295 221896  
Email: [james.kirkham@cherwell-dc.gov.uk](mailto:james.kirkham@cherwell-dc.gov.uk)

Details of applications are available to view through the Council's Online Planning Service at <http://www.publicaccess.cherwell.gov.uk/online-applications>  
Instructions on how to use the Public Access service to **view, comment on and keep track of applications** can be found at <http://www.cherwell.gov.uk/viewplanningapp>