



ET Planning

Appeal Statement

Client:

Mr A Bradbury

Land NE of Fringford Study Centre

Adjoining Rectory Lane, Fringford, OX27 8DD

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

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01 Introduction

1.1 This statement is submitted following the decision to refuse planning permission for the erection of a 4-bedroom detached dwelling with garage and access. The application was registered on the 15/07/2020 and considered under reference 20/01891/F. The application was refused under delegated powers on the 18/09/2020. A copy of the officer's report and decision notice are included within the appeal documents.

02 Site Location & Description

2.1 The village of Fringford is situated approximately six kilometres to the north of Bicester town centre and is a rural village set adjacent to a tributary of the Little Ouse river and mature and established farmland.

2.2 Fringford is an established, mature and attractive village set within an historical and sylvan countryside. The village contains a historic church, village pub, cricket field, village hall, parish C of E Primary School and Nursery. Fringford village provides these facilities and is also within travel distance of Bicester where full shopping facilities, main schools, medical facilities as well as recreational and workplace facilities are located.

2.3 Within the village there is a bus stop in main street which is for all local services and access into Bicester for main bus and rail services to towns further afield. A short walk to the main A 4421 provides access to a bus stop on the junction with Stratton Audley Road giving direct access to Bicester and Buckingham.

2.4 Therefore, the facilities provided within Fringford alongside the suitable transport links to Bicester ensures that this location is suitable for residential development.

2.5 Fringford village has a mixture of architecture with no specific vernacular; although, the majority 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.

Most buildings within the village are two storeys.

- 2.6 Rectory Lane serves a few properties including two other cul-de-sacs of Farriers Close and Little Paddocks. Farriers Close is a development of four two storey detached houses, approved under reference 95/00702/OUT.
- 2.7 The site is on the corner of Rectory Lane and Farriers Close and is a small open area of land some 0.06 hectares in area. On the northern boundary with Farriers Close stand a line of mature trees covered by a Tree Preservation Order (TPO) with mature hedging under. These trees are covered by TPO 11/97.
- 2.8 The land is slightly raised above the level of Rectory Lane but is fairly level with a 3-metre-high mixed species hedge fronting the road behind a timber post and rail fence and curving round in front of the old property known as The Study Centre. The site is considered to be a suitable infill site for a well-designed dwelling, which will be in keeping with surrounding properties on Rectory Lane.
- 2.9 Further detail regarding the design rationale is covered within the Planning Design and Access Statement, which accompanied the planning application. However in summary, the design and materials of the proposal are intended to reflect the design and materials of some of the more traditional properties in Rectory Lane, that provide a more cottagey and rural appearance.
- 2.10 The application site is not located within the Green Belt, a Conservation Area or an Area of Outstanding Natural Beauty.

03 Planning History

3.1 An application was submitted in 2010 for the erection of a new dwelling on the appeal site (application reference 10/01220/F). The application was refused due to the following reasons:

- The absence of a satisfactory archaeological field evaluation being conducted;
- The proposed development would prejudice the life of the existing and proposed trees.

3.2 The application was not refused based on the impact on the character of the area / inappropriate infilling, as per the current scheme (despite the similarity of the proposals).

3.3 Application reference 10/01220/F was dismissed at appeal on the 1st February 2011.

3.4 The current proposals seek to respond to the refusal of application 10/01220/F. The 2010 proposal included an access located off Farriers Close, which were deemed to unacceptably affect TPO'd trees on the eastern boundary. In response, the proposed access in this scheme has been moved to Rectory Lane.

3.5 The proposal is for 6 out of 7 of the TPO trees to be retained with the sycamore tree proposed for removal. A supplementary report is submitted alongside this appeal. Further information about the acceptability of the current scheme is provided in the arboriculture chapter.

3.6 The current proposals also seek to respond to archaeological refusal reason of application 10/01220/F. A supplementary report is submitted alongside this appeal.

Further information about the acceptability of the current scheme is provided in the chapter related to arboriculture.

04 Planning Policy Context

National Planning Policy (NPPF)

- 4.1 The National Planning Policy Framework (NPPF) was published on 24 July 2018 and revised in February 2019.
- 4.2 A '*Presumption in Favour of Sustainable Development*' is central to the NPPF. Paragraph 11 of the NPPF sets out how this should be applied in both a decision making and plan making scenario.
- 4.3 The following sections of the NPPF are considered most relevant to this application:
- Section 5 – Delivering a sufficient supply of homes.
 - Section 8 – Promoting healthy and safe communities.
 - Section 11 – Making effective use of land.
 - Section 12 – Achieving well-designed places.
 - Section 15 – Conserving and enhancing the natural environment.
 - Section 16 - Conserving and enhancing the historic environment.

Local Planning Policy Context

- 4.4 The Development Plan for Cherwell District Council ('CDC') currently comprises:
- Cherwell Local Plan 1996, Saved Policies, (CLP, 1996)
 - Cherwell Local Plan 2011 – 2031 Part 1 (CLP 2031)
- 4.5 Both Development Plan documents pre-date the latest iteration of the NPPF 2019. Due weight should be given to the policies contained within the Development Plan, according to their degree of consistency with the NPPF. We consider that very limited weight

should be attributed to the Saved Policies of the CLP 1996 as it plans for a very different housing context to the present day.

4.6 Cherwell District did adopt a Local Plan Part 1 Partial Review, which proposed additional housing allocations in the Green Belt, however this is the subject of a judicial review. It was confirmed in February 2021 that CDWAs application for a judicial review of the Local Plan Partial Review can proceed to a full court hearing. Therefore reduced weight can be applied to the Local Plan Part 1 Partial Review.

4.7 Cherwell District are progressing a Local Plan Part 1 Full Review. An Issues Paper was consulted upon in Autumn 2020 with an Options Paper due for consultation in the late spring/early summer 2021. Therefore limited weight can be applied to the Local Plan Part 1 Full Review.

4.8 A list of the relevant policies are stated below which are referred to throughout this appeal.

- CLP 2031: PSD1: Presumption in Favour of Sustainable Development
- CLP 2031: ESD 1: Mitigating and Adapting to Climate Change
- CLP 2031: ESD 3: Sustainable Construction
- CLP 2031: ESD 7: Sustainable Drainage Systems (SuDS)
- CLP 2031: ESD10: Protection and Enhancement of Biodiversity and the Natural Environment
- CLP 2031: ESD15: The Character of the Built and Historic Environment
- CLP 2031: Villages 1: Village Categorisation
- CLP 1996: C28: Layout, design and external appearance of new development
- CLP 1996: C30: Design control
- CLP 1996: C33: Important local gaps

05 The Appellant's Case

5.1 The Council's refusal reason reads as follows:

- 1 *By virtue of its scale, design and siting on a parcel of land designed for retention and which holds 7 trees designated under a Tree Protection Order, the proposed new dwelling would result in an incongruous and wholly inappropriate development that would prejudice the life of the existing and proposed trees, would be to the detriment of the open, rural character of this part of the lane, would fail to sympathetically integrate into the built environment or surrounding pattern of development and would cause significant and demonstrable harm to the existing loose-knit character of the area. The proposal therefore also results in unacceptable infilling within the built-up limits of Fringford. The proposal is, therefore, contrary to the provisions and aims of Policies ESD15 and Villages 1 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policies C28, C30 and C33 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.*
- 2 *The site lies within an area of known archaeological importance. In the absence of a satisfactory archaeological field evaluation having been conducted and the results assessed, the proposal is unacceptable as it is likely to cause damage to feature of acknowledged archaeological significance. The proposal is, therefore, contrary to Government guidance contained within the National Planning Policy Framework, in particular paragraph 189.*
- 3 *The site is likely to be home to important ecological habitats. The applicant has failed to demonstrate that the proposal would not result in harm to biodiversity or wildlife on the site. The proposal is therefore contrary to Policy ESD10 of the Cherwell Local Plan 2011 – 2031 Part 1 and Government guidance contained within the National Planning Policy Framework, in particular paragraph 170.*

- 5.2 The appeal proposal is assessed below against the relevant policies identified by the Council in the refusal reasons, and with reference to national guidance in the form of the National Planning Policy Framework (the Framework).

5.3 **Principle of Development (Refusal Reason 1):**

5.4 *Locational principles:* The principle of residential development in Fringford is assessed against Policy Villages 1 in the Cherwell Local (2031). Fringford is recognised as a Category A village in the CLP 2031.

5.5 Category A villages are recognised as the most sustainable rural settlement in the district which can accommodate infill development. In addition, the council projects within Policy BSC1 that most of the council’s targeted windfall provision of housing is to be located outside of Bicester and Banbury as these settlements are currently at capacity. Therefore, to meet these targets housing must be provided in Category A villages as the subsequent and most suitable locations.

Policy BSC 1: District Wide Housing Distribution

Cherwell District will deliver a wide choice of high quality homes by providing for 22,840 additional dwellings between 1 April 2011 and 31 March 2031. 1,106 completions were recorded between 2011 and 2014 leaving 21,734 homes to be provided between 2014 and 2031. Housing will be delivered in accordance with the requirements set out below:

	Bicester	Banbury	Rest of District	Totals
Completions	365	213	528	1,106
Permissions (10+)	1,934	2,346	1,760	6,040
Allocations	7,726	4,344	2,350	14,420
Windfalls (<10)	104	416	754	1,274
Totals	10,129	7,319	5,392	22,840

5.6 To reduce the spread of Category A villages and to ensure that the openness of the countryside is retained, the council does not support development on the edge of these settlements. In addition, the officer report highlights the CLP (2031) where paragraph C.264 states:

“Not all infill gaps will be suitable for development. Many spaces in villages’ streets are important and cannot be filled without detriment to their character. Such gaps may afford views out to the landscape or help to impact a spacious rural atmosphere to the village. This is particularly important in a loose knit village pattern where the spaces may be as important as the buildings”.

5.7 However, this appeal statement argues that as Category A villages are appropriate locations for housing and edge of settlement provision is not desired; infill sites such as this should be prioritised for development.

5.8 **Unacceptable Infilling:** Therefore, it has been established above that infill locations within Category A villages can be suitable forms of development which can contribute towards meeting the Districts housing need. This following section seeks to establish whether the proposal within application 20/01891/F is a suitable infill location. The Council in their refusal of application 20/01891/F referred to the CLP Policy Villages 1 and paragraph C.264 (the supporting text); this is now considered in further detail.

5.9 Firstly, C.264 states that *“many spaces in villages’ streets are important”, “such gaps may afford views out to the landscape or help to impact a spacious rural atmosphere” (emphasis added).* The area of land is fenced off and screened by mature vegetation. Therefore, the land cannot be concluded to be *“important”* in terms of amenity or open space as the land cannot be utilised physically or even appreciated visually.

5.10 In addition, this area of land currently lies between Rectory Lane and Farriers Close. The land currently lies between multiple houses and is not edge of settlement; ensuring that the existing site does not serve a purpose in terms of *“views”* out to the landscape. This is important as the site itself is well screened along its boundaries.

5.11 Finally, as mentioned below within the character section of this appeal statement the erection of a dwelling in this location is not inappropriate with regards to density, size or materials; thus, the provision of a dwelling in this location should not be found to have an adverse impact on the “*spacious rural atmosphere*” of the area.

5.12 Therefore, it is concluded that the appeal site should amount to an acceptable location for infill development as per the policy test set out in Policy Villages 1 of the CLP 2031.

5.13 **Character (Refusal Reason 1):**

5.14 *Design:* Within paragraph 8.22 of the Officer Report the Officer states that the size of the dwelling would “*not assimilate well into the street scene or reflect the character of the neighbouring dwellings, where dwellings are either of a more simple, linear historic form, or (where dwellings are of a similar scale to that proposed here) are afforded larger plots*”.

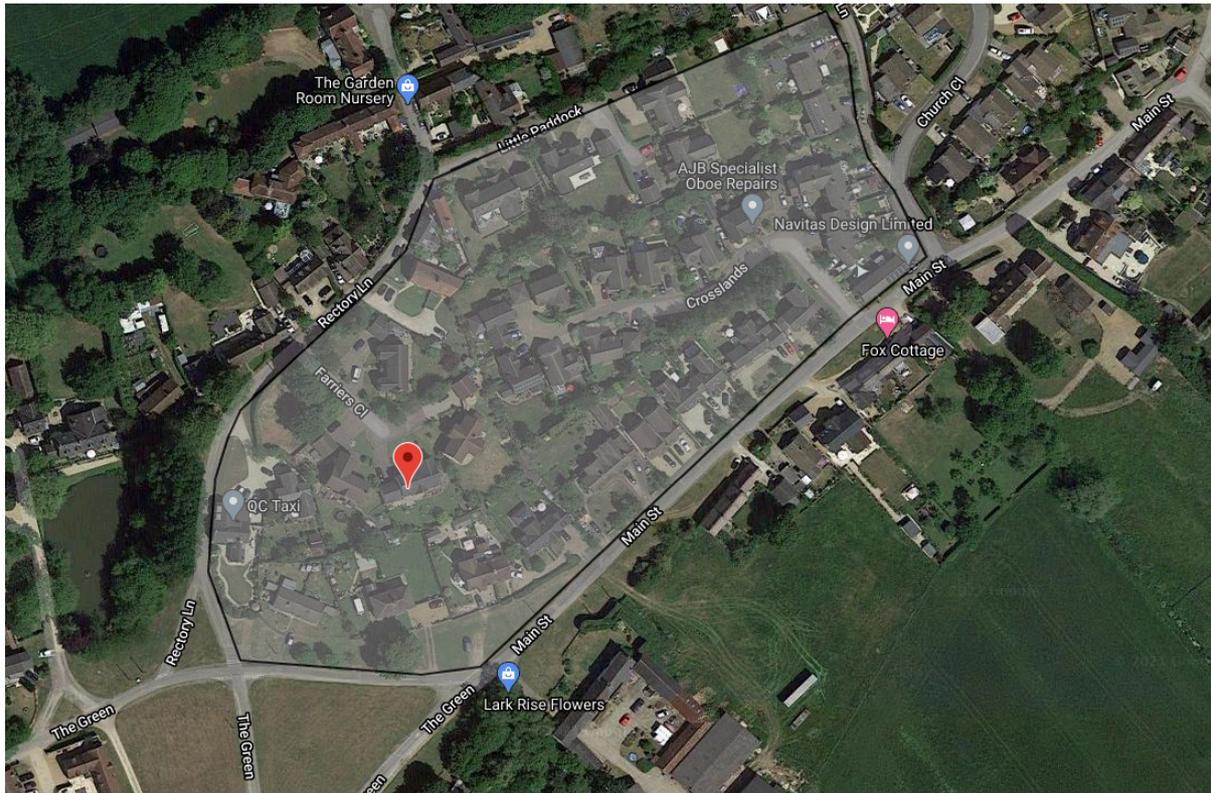
5.15 Contrary to the council’s justification for refusal, i.e. paragraph C.264 of the CLP, we consider that this area of land does not consist of “important” land which is accessible or utilised and does not contribute to “views” or a “spacious rural atmosphere” due to its location surrounded by residential development, within a Category A village.

5.16 The Officer Report states that the proposal is detrimental to the “sense of openness” within the village. Surrounding dwellings along Crosslands, Little Paddock and Main Street have no large open spaces between dwellings and built form. Whilst vegetation and trees located between houses is characteristic of the area, the majority of trees are proposed to be retained within this application and therefore the proposals will not be out of character with the surrounding area.

5.17 The Officer Report also states that the proposal impacts the “loose-knit character” of the village. However, as the trees and vegetation surrounding the site will be largely

retained, the rural character of the plot will be retained. In addition, the proposed dwelling has been designed to match the style of property found along Rectory Lane. The materials and scale of the proposed dwelling reflects the character of the area and the scale of surrounding dwellings. The proposal represents a continuation of the neighbouring development to the south (95/00702/OUT), in terms of its loose, sporadic grain. In this way, the proposal cannot be considered to be harmful to the "loose-knit" character of the area.

- 5.18 Therefore, the proposed development has taken account of the design guidance contained within Policy ESD15 of the CLP (2031), Saved Policies C28 and C30 of the CLP (1996) and the Cherwell Residential Design Guide (2018).
- 5.19 *Density/Overdevelopment:* Policy BSC2 of the CLP (2031) states that new housing should be provided at a density of at least 30 dwellings per hectare but should reflect the surrounding locality.
- 5.20 The appeal proposal is for 1no. dwelling on a site of approximately 0.06 hectares, thus resulting in a density of 17 dwellings per hectare (approx.). The neighbouring development approved at appeal, under application reference 95/00702/OUT, proposed 4 dwellings within a 0.4 hectare site. Therefore, the approved provision of 4 dwellings totalled circa 10 dwellings per hectare (approx.).
- 5.21 The density of the immediate locality (which we consider broadly falls within the same character area) is circa 12.2 dwellings per hectare (calculate based on circa 35 dwellings being located within 2.865 hectares of land (as shown in the aerial photo below). Therefore, this area of land, as shown below, has a density of circa 12.2 dwellings per hectare.



5.22 Whilst this is a rather crude comparative, it does illustrate that the density of the proposed development is not uncharacteristic in relation to the density of the surrounding area, and therefore should not be considered to be a disproportionate addition to the surrounding context.

5.23 This is further evidenced in the fact that the proposed development would allow for adequate separation distances to neighbouring properties and private amenity space which is useable and of a size reflective of the surroundings. This indicates that the proposed development would sit comfortably within the plot.

5.24 The appeal proposals also provide an opportunity to make the most efficient use of the plot by delivering additional housing in line with the aims of the Framework.

5.25 It is therefore considered that the proposed development is of a size, density and type which is sympathetic and reflective of the existing built environment in line with Local

Plan Policy ESD15 of the CLP (2031), Policies C28 and C30 of the Saved CLP (1996) and the National Planning Policy Framework (NPPF).

5.26 **Technical Matters (Refusal Reasons 2 & 3):**

Archaeology: An Archaeological Desk Based Assessment by Abrams Archaeology accompanies this appeal, which should be referred to in the first instance. The report considers policy considerations within the NPPF and the Local Plan as well as legislation from the Archaeological Areas Act 1979. The Assessment provides a direct response to the second refusal reason.

5.27 The report makes clear that there is no evidence to suggest that remains at this site would be of National significance. The term High (Table 2) covers Scheduled Monuments and it would cover remains of equal importance (in line with Footnote 63). Such remains would be of National Significance.

5.28 In contrast, the Desk Based Assessment considers the Site as having potential to contain non-designated remains of Low or Low-Medium importance only (i.e. not of National significance). The report concludes that such remains are routinely investigated in the course of development work in many parts of the UK, and that the proposed development accords with the current legislation, the NPPF and Local Plan policies which relate to archaeology.

5.29 *Ecology:* A Preliminary Ecological Appraisal by Windrush Ecology accompanies this appeal, which should be referred to in the first instance. The report describes and evaluates the habitats present within the site and assesses the potential for the site to support protected and notable species. Given the findings of the report, no further surveys are recommended and it is considered that the proposals are in accordance with Policy ESD10 of the CLP.

- 5.30 The Report identifies measures to achieve a net gain in biodiversity at section 5.2. This measures are deemed most appropriate given the limited size of the site, the fact that there are no existing opportunities for roosting bats or nesting swifts/house sparrows and given the fact that the existing ruderal vegetation is species-poor. The implementation of the recommended measures will ensure that the proposal is in accordance with Policy ESD10 of the CLP.
- 5.31 *Arboriculture:* An Arboricultural Appeal Statement by MWAC accompanies this appeal, removal to assess the impact of the proposal on the existing trees. A TPO (ref 11/97) covers 7 no trees on the site. Only one tree is to be removed within the build. This is confirmed to be a Category C tree (low quality), proposed for removal to facilitate development, any loss that may be felt as a result of its removal can be mitigated through new planting on site.
- 5.32 With regards to existing trees on site, the report disputes the Councils claim that the proposed dwellings impact on the existing trees is 'very likely'. During construction, tree protection barriers will be used to protect the RPA's of the trees alongside the use of ground projection. There is a small encroachment into the RPA (1.4% of the total RPA). This level of encroachment will have no impact on the existing trees in line with the British standards. As measures are taken to suitably retain and utilise the trees within the design with supplementary planting, the proposal should be found to accord with Policy ESD10 of the CLP.

06 Conclusion

- 6.1 For reasons set out in this Statement it is considered that the appeal proposal adheres to relevant development plan policies and gains further support from national guidance in the form of the Framework.
- 6.2 In summary, the site falls within a Category A village where infill locations are permitted to support housing growth. For the reasons set out in this Statement, the Site represents an appropriate infill location and therefore should be considered appropriate in principle, and to have an acceptable impact on the surrounding character.
- 6.3 The Statement considers that the new location of the access has overcome previous concerns in relation to trees, and supplementary technical reports submitted in support of this appeal demonstrate in a robust way that there should be no technical reasons to preclude development of this site.
- 6.4 Therefore, the inspector is respectfully requested to allow the appeal.

Appendix 1: Statement by Mark Welby (Arboriculture)

Appendix 2: Statement by Windrush Ecology (Ecology)

Appendix 3: Statement by Abrams Archaeology (Archaeology)



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Contact

Address

200 Dukes Ride RG45 6DS
One St Aldates OX1 1DE
32 London Road GU1 2AB
14 The Square SY1 1LH

Phone

01344 508048
01865 507265
01483 363950
01743 612043

Web & Mail

Email: office@etplanning.co.uk
ET Planning Ltd | 10646740
Web: www.etplanning.co.uk