

**Case Officer:** Shona King

**Recommendation:** Approve

**Applicant:** Mr and Mrs Pasteur

**Proposal:** Construction of swimming pool with associated works

**Expiry Date:** 18 April 2023

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## **1. Application Site and Locality**

- 1.1. Cedar Lodge is a detached Grade II listed dwelling situated to the north of the village of Steeple Aston, in the designated conservation area. Other Grade II listed buildings are situated to the north and west of the site.

## **2. Description of Proposed Development**

Planning permission is sought for the construction of an outdoor swimming pool within the garden. It is to be located immediately to the southern boundary of Cedar Cottage and adjacent to a public right of way that runs north/south along the western boundary of the site.

The application has been amended during its course with the submission of a general planning application form and additional fee of £28, to reflect the fact that the application relates to land that is not within the residential curtilage (see later in this report for further discussion on this point).

## **3. Relevant Planning History and Pre-Application Discussions**

There is no Planning History or Pre-Application discussions that are considered relevant to the current proposal.

## **4. Response to Publicity**

This application has been publicised by way of a Site Notice displayed near the site, expiring **14 April 2023**, by advertisement in the local newspaper expiring **23 March 2023** and by letters sent to properties adjoining the application site that the Council has been able to identify from its records. The overall final date for comments was **14 April 2023**.

The comments raised by third parties are summarised as follows:

- Proximity to the garden of Cedar Cottage and the impact on the neighbouring property from the noise from construction of the swimming pool and ongoing noise from the use of the pool.
- Will ruin the quiet atmosphere currently enjoyed and limit the use of Cedar Cottage garden

## 5. Response to Consultation

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.

STEEPLE ASTON PARISH COUNCIL: No comment to date

MID-CHERWELL NEIGHBOURHOOD PLAN FORUM – no comments to date

## 6. Relevant Policy and Guidance

Cherwell Local Plan 2011-2031 Part 1 - (CLP 2015)

- ESD10 – Protection and Enhancement of Biodiversity and the Natural Environment  
Requires relevant habitat and species surveys to accompany applications which may affect a site, habitat or species of known or potential ecological value, seeking net gains in biodiversity, the protection of existing trees and the protection, management, enhancement and extension of existing resources along with the creation of new ones. *See page 106 of the CLP 2015 for full details*
- ESD15 - The Character of the Built and Historic Environment.  
New development will be expected to complement and enhance the character of its context through sensitive siting, layout and high-quality design. Where development is in the vicinity of the District's distinctive natural or historic assets, delivering high quality design that compliments the asset will be essential. *See page 117 of the CLP 2015 for full details.*

Cherwell Local Plan 1996 (saved policies) – (CLP 1996)

- C28 – Layout, Design and External Appearance of New Development  
New development required to have standards of layout, design and external appearance sympathetic to the character of the urban or rural context of that development. *See page 120 of the CLP 1996 for full details.*

Mid-Cherwell Neighbourhood Development Plan 2018-3031 Policies:

- PD4 – Protection of Important Views and Vistas  
Development should not harm to the Conservation Area and its setting, other heritage assets or historic street and village views and longer distance vistas. (See page 33)
- PD5 – Building and Site Design  
New development should be designed to a high standard which responds to the distinctive character of the settlement and reflects the guidelines and principles set out within the Heritage and Character Assessment. Further, proposals should wherever possible include appropriate landscape mitigation measures to reduce the impact of the built form and ensure that development is in keeping with the existing rural character of the village and development affecting existing traditional stone walls should identify them on proposals drawings, and wherever possible retain and/or repair them using traditional techniques and materials. (See page 35)

Other Material Planning Considerations

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

## **7. Appraisal**

### **Design and impact on character of the area and heritage assets**

The application seeks planning permission for the erection of an outdoor swimming pool on land belonging to Cedar Lodge, a Grade II listed building. The site is within the Steeple Aston Conservation Area.

A flat 'terrace' would be created for the pool with retaining walls to the north and south as the existing land slopes from its highest point adjacent to the northern boundary. The swimming pool would be set at the resultant ground level and would be surrounded by paving.

The site as defined by the red line on the location plan submitted with this application includes land that is not within the residential curtilage of Cedar Lodge. This includes the site of the proposed swimming pool, as well as all of the land east/south-east of that and south of the lawn and tennis court. The extent of the residential curtilage to Cedar Lodge is as per the site subject of planning permission ref. 19/00531/F and 19/01124/F.

Approval of the planning application as originally submitted would have resulted in consent for the change of use of the wider area to residential use. This would have a significant adverse impact on the character and appearance of the area and that of the Conservation Area and would not be acceptable.

With the submission of a new application form and additional fee, the application is now simply for the construction of the swimming pool and associated hardstanding, and does not include any change of use of land.

The site of the proposed swimming pool is small in extent and it is noted that the land immediately to the north is residential garden. Due to the location of the pool and the existing boundary treatments the development would not be readily visible in public views.

It is considered that due to the location and land levels the proposed swimming pool and terrace would not result in harm to the visual amenities of the wider area, or the historic significance of the designated Conservation Areas, the listed building, its setting, or those in the vicinity of the site.

It is therefore considered to accord with Policies ESD13 and ESD15 of the CLP 2015 and saved Policies C28 and C30 of the CLP 1996 and the relevant paragraphs in the NPPF and CDC's residential design guide.

### **Residential amenity**

The swimming pool terrace would be located approximately 2m from the shared garden boundary with Cedar Cottage to the north. There is an existing 1.8m high close boarded fence along this shared boundary and this would be retained. The finished level of the terrace would be approximately 1.6m lower than the ground level along the shared boundary. A hedge would also be planted along the northern boundary to screen the existing fence.

It is considered that the swimming pool would not result in any overlooking of the rear garden of Cedar Cottage due to the land levels and intervening fence.

Concerns have been expressed by the occupier of Cedar Cottage regarding the impact of the development on the enjoyment of their property due to the noise

arising from the construction of the pool and its subsequent use. Whilst it would have been more neighbourly to site the pool away from the shared boundary within the extensive curtilage of Cedar Lodge, it is not considered that the level of noise arising from the use of the pool would be so significant to enable a recommendation of refusal to be made or for a reason for refusal to be substantiated at appeal. The garden area immediately adjacent to the shared boundary can be used for any purpose incidental to the enjoyment of the dwelling now and this could be for playing games etc., which could be noisy. The noise during construction of the pool would be temporary.

Further, separate planning permission would be required if the pool were to be used on a commercial basis.

### **Ecological impact**

The applicant is using the District Licencing system in relation to Great Crested Newts as there is a possibility they may be present on the site. They have submitted the relevant certification from Nature Space and the conditions they recommend are necessary to impose on any planning permission given (with no alteration). In this respect the proposal is considered acceptable.

## **8. Planning Balance and Conclusion**

The appraisal above, which is informed by the policy and guidance set out in section 6, does not identify any material planning issues which compromise the acceptability of this application. The proposal is therefore considered to be sustainable development and, in accordance with Paragraph 11 of the NPPF, planning permission should therefore be granted.

## **9. RECOMMENDATION**

That permission is granted, subject to the following conditions:

1. The development to which this permission relates shall be begun not later than the expiration of three years beginning with the date of this permission.

Reason - To comply with the provisions of Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the information contained within the application form and drawings numbered 'SLP1', 'Pasteur.ND.22.6.02 rev F', 'Pasteur.NLGD.22.6.03 rev F' and 'Pasteur.NLGD.22.0.04 rev C'

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

3. No development hereby permitted shall take place except in accordance with the terms and conditions of the Council's Organisational Licence (WML-OR112, or a 'Further Licence') and with the proposals detailed on plan "Cedar Lodge: Impact Plan for great crested newt District Licencing (Version 1)", dated 15th March 2023.

Reason: In order to ensure that adverse impacts on great crested newts are adequately mitigated and to ensure that site works are delivered in full compliance with the organisational licence (WML-OR112, or a 'Further Licence'), section 15 of the National Planning Policy Framework, Circular 06/2005 and the Natural Environment and Rural Communities Act 2006.

4. No development hereby permitted shall take place except in accordance with Part 1 of the Great Crested Newt Mitigation Principles, as set out in the District Licence (WML-OR112 or a 'Further Licence'), and in addition in compliance with the following: - Works which will affect likely newt hibernacula may only be undertaken during the active period for amphibians.

Reason: In order to ensure that adverse impacts on great crested newts are adequately mitigated and to ensure that site works are delivered in full compliance with the Organisational Licence (WML-OR112, or a 'Further Licence'), section 15 of the National Planning Policy Framework, Circular 06/2005 and the Natural Environment and Rural Communities Act 2006.

5. No change of use of land is hereby approved.

Reason: For the avoidance of doubt, to clarify the planning permission and to safeguard the character and appearance of the area and the significance of heritage assets and to accord with Policy ESD15 of the Cherwell Local Plan 2011-2031, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance in the National Planning Policy Framework.

## **PLANNING NOTES**

1. It is recommended that the NatureSpace Best Practice Principles are taken into account and implemented where possible and appropriate.
2. It is essential to note that any works or activities whatsoever undertaken on site (including ground investigations, site preparatory works or ground clearance) prior to receipt of the written authorisation from the planning authority (which permits the development to proceed under the District Licence WML-OR112, or a 'Further Licence') are not licensed under the great crested newt District Licence. Any such works or activities have no legal protection under the great crested newt District Licence and if offences against great crested newt are thereby committed then criminal investigation and prosecution by the police may follow.
3. It is essential to note that any ground investigations, site preparatory works and ground / vegetation clearance works / activities (where not constituting development under the Town and Country Planning Act 1990) in a red zone site authorised under the District Licence but which fail to respect controls equivalent to those in the condition above (relating to the use of best practice and measures outline in the Great Crested Newt Mitigation Principles) would give rise to separate criminal liability under District Licence condition 12 (requiring authorised developers to comply with the District Licence) and condition 17 (which requires all authorised developers to comply with the Great Crested Newt Mitigation Principles) (for which Natural England is the enforcing authority); and may also give rise to criminal liability under the Wildlife & Countryside Act 1981 (as amended) and/or the Conservation of Habitats and Species Regulations 2017 (for

which the Police would be the enforcing authority).

Formal Authorisation for the site to act under the Council's District Licence can then be issued at determination or shortly after.

4. The applicant's and/or the developer's attention is drawn to the requirements of the Control of Pollution Act 1974, the Environmental Protection Act 1990 and the Clean Air Act 1993, which relate to the control of any nuisance arising from construction sites. The applicant/developer is encouraged to undertake the proposed building operations in such a manner as to avoid causing any undue nuisance or disturbance to neighbouring residents. Under Section 61 of the Control of Pollution Act 1974, contractors may apply to the Council for 'prior consent' to carry out works, which would establish hours of operation, noise levels and methods of working. Please contact the Council's Environmental Protection Team Leader for further advice on this matter.

Case Officer: Shona King

DATE: 17 April 2023 (amended  
May 2023)

Checked By: Nathanael Stock

DATE: 31.05.2023

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