

COMMENTS ON REPRESENTATIONS MADE BY THE COUNCIL AND THIRD PARTIES ON BEHALF OF THE APPELLANT

1. Representations by Cherwell District Council

The comments below are set out in paragraph numbers which relate to the text of the Council's statement.

Paragraph 1.3. The report which was attached to the Statement is not relevant to the submitted application. As the Council states, the application to which it refers was withdrawn. The appeal application was submitted following the withdrawal and following revisions to the proposed replacement house. These had been discussed and agreed with the Council's officers.

Following the revisions and discussions, which continued following the application submission, the officers recommended that the appeal proposal be APPROVED CONDITIONALLY. A copy of the report which relates to the appeal application is attached as Appendix 2 of the Appellant's Statement of Case and has been provided by the Council as one of the documents attached the appeal questionnaire.

In this respect, attention is drawn to the comments made by the Council's Design and Conservation Officer and the Landscape Architect which form part of the Consultation Responses section of the appeal questionnaire. Both officers raised no objection to the development subject to conditions.

Paragraph 3.2. The site is not "bounded" by the county boundary or the AONB, both of which lie to the west some distance from the appeal site. Interestingly, the Landscape Character Assessment of that part of the AONB west of the site reflects that included for Cherwell District in the submitted LVIA. It notes that "A significant number of individual buildings are also scattered throughout the Ironstone Hills and Valleys, mainly on the valley sides, although they also occur on the hill crests and ridges." For character area 6A (the area west of the site in the AONB) it notes that "there are numerous isolated farms and dwellings".

Paragraph 4.3. The application was recommended for approval by the Council's officers but was refused by the Committee by 8 votes to 5 in favour. It should be noted that the reasons for refusal does NOT suggest that there is any impact on the AONB or its setting.

Paragraphs 5.1. to 5.4 Relevant policies are set out in the appellant's Statement of Case.

Paragraph 6.3. Whilst applications are considered on their individual merits against a number of criteria, there are important threads which can be drawn in respect of the approaches taken by the Council which should be consistently applied. In relation to Bradshaw Bungalow, it is important to note that the officer's report makes clear that the purposes of the policy is to protect the character of the countryside and to prevent dwellings which would be more conspicuous in the landscape such that harm would be caused. The development was judged to accord with the general principles of sustainable development. These are clearly factors which will need to be considered in this case and are those in relation to which the Council's officers recommended that the application be approved. The Inspector's attention is drawn to the officer's comments in the report.

Insofar as floor areas are concerned, when considering the impact of buildings in the landscape, it is relevant to take into account both the existing building, the potential size of the existing dwelling (having regard to the ability to extend without the need for planning permission from the Council), and the overall size and scale of buildings to be removed. These are set out in the appellant's statement of case.

Paragraph 6.4. In the case of Manor Farm Bungalow, Hornton, The proposed house was to be outside the curtilage of the existing, a criteria which the Council's statement implies in paragraph 6.3 is important. The officer's report notes the purposes of the policy (at paragraph 5.8 of the officer's report) and that an overall judgement, including taking into account the removal of existing farm buildings, has to be made. This is similar to the appeal proposal. The officer's report makes clear that the proposed house at Hornton would be "considerably larger" occupying "a greater footprint" and "not within the same curtilage". In the case of the appeal proposal, the Council's Design and Conservation Officer sought to have the house relocated in the position proposed and outside the current curtilage of the existing. The officer was adamant that a new house should run along the field lines (and be parallel to the New Barn Farm buildings) whereas the existing house is at an angle of approximately 45 degrees.

Not only was the higher standard of design sought and recommended but the officers also sought a different location for the house to render it an improvement on the existing and an enhancement of the site. The advice of the officers has been followed and it is extraordinary to find criticism of the proposed location in the circumstances.

Paragraph 6.5. and 6.6. The comments miss the point. To put it in a neutral way, new buildings which do not require the benefit of planning permission from the Council are able to be added within the curtilage of and related to the dwelling. These extend to some 299 sq.m. as shown in the lawful proposed development certificate and prior approval. It is noted that the Council believes that more could be added (26 sq.m.) as no doubt could other buildings within Class E of Part 1 of the GPDO.

Paragraph 6.7. Noted.

Paragraph 6.8. The existing house and the buildings to be demolished have low visual and architectural qualities. The removal of these buildings would be beneficial, to be replaced by a new house to which the Council's design and conservation officer considered that the existing buildings to be removed were of "low quality" whilst the proposed replacement dwelling was high quality architecture. The NPPF makes clear that one should plan positively to achieve high quality design (paragraph 57), that development should be undertaken in a manner which seeks to integrate new development into the natural built and historic environment (Paragraph 61), and that poor design that fails to take opportunities for improving the character and quality of an area should be rejected (paragraph 64). It is in these contexts that the removal of buildings of low visual and architectural quality should be taken into account: the development would achieve better quality design, better integration into the landscape and would improve the character and quality of the area, which the Council's policies also seek.

Paragraph 6.9. to 6.13. A number of the issues raised in these paragraphs are dealt with in the appellant's statement of case and are not repeated here. The Inspector's attention is drawn to the purposes of policy H17 and to that of the NPPF to achieve sustainable development.

There is already an unrestricted dwelling on the site and the appeal proposal is for a one-for-one replacement. Policy H18 and paragraph 55 of the NPPF are a part of the spatial suite of policies which seek to avoid “new” dwellings in the countryside where one doesn’t exist. In those cases, special justification is required such as the need for a farm worker to live on site or (in the case of the NPPF) that the design is of exceptional quality or innovative nature. Neither is claimed in respect of the appeal proposal as neither are relevant.

However, alongside the planning officer, Design and Conservation officer, Landscape Architect, and neighbours (but unlike the Planning Committee), we take the view that the development does reflect high standards of architecture, would significantly enhance the setting of the site and would be sensitive to the defining characteristics of the area (the last three points of paragraph 55 of the NPPF. The reason for this are set out in the documents which accompanied the application, are shown in the landscaping scheme, are confirmed in the LVIA, and are commented on in the appellant’s statement of case.

Paragraph 6.15. to 6.18. The comments of the Landscape Officer are included in the appeal questionnaire (see comments on paragraph 1.3 above). The comments included in the paragraph relate to the earlier application which was withdrawn. The Council’s Landscape Architect raised no objection (and “reaffirmed” no objection) to the proposed development subject to conditions.

The appellant’s statement of case is accompanied by a detailed LVIA prepared by Colvin and Moggridge in accordance with the publication “Assessment Guidelines for Landscape and Visual Impact Assessment” (Third Edition) IEMA/LI 2013. The LVIA concludes that the proposed development would “ultimately (have) a positive effect on landscape character, biodiversity and visual amenity” (see Page 9 of appellant’s statement of case). The Council has provided evidence that its Landscape Architect has no objection to the development but has not provided any evidence to support its view that harm would be caused, which is the overriding purpose of its policy H17.

At paragraph 6.18. the Council suggest that the proposed development would “have a significant and demonstrable impact on the setting of the Cotswold AONB”. This is NOT a matter which is included in the Council’s refusal reason and is of such significance that if it was regarded as an issue it would not have been excluded by those officers and the Chairman

of the Planning Committee who decided on the reason for refusal (following non acceptance of the recommendation of approval). The comment is not supported by the detailed analysis undertaken by Colvin and Moggridge, is not supported by the Council's Landscape Architect, is not supported by the Council's Design and Conservation Officer, and is not supported by any substantial new evidence presented by the Council in its appeal statement.

The Inspector is asked to prefer the detailed evidence provided by the appellant's Landscape Consultant and the Council's Landscape Architect.

Paragraphs 6.19 to 6.22. These issues are considered above in the appellant's statement of case.

Paragraphs 6.23 to 6.27. In these paragraphs the Council seeks to turn around the clear conclusions of the LVIA prepared on behalf of the appellant. The Council does not offer any other detailed evidence to support a view that the proposal would cause demonstrable harm. The comments include superficial remarks which indicate that the new house would be able to be seen but does not demonstrate that any harm would be caused taking into account all aspects of the proposal. Overall the development would protect and enhance the site and surroundings and would lead to an enhanced appearance of the site. The design of the house proposed is of a high standard to which no objection is made by the Council and its professional advisers, whilst buildings of low visual and architectural qualities would be removed. Improvements to the landscaping of the site would be undertaken.

When the planning balance is undertaken, the appellant submits that this is a sustainable development which should be supported.

Section 7. The Section includes the Council's conclusions and no further comments are necessary.

Conditions: The conditions include a number which relate to landscaping and could be combined. Condition 19 relates to badger surveys required if the development does not commence by July 2016, a date long gone.

Third Party Letters

John Wass: Mr Wass is a neighbour and supports the proposal.

George and Kate Philip: Mr and Mrs Philip support the proposal

Sibford Gower Parish Council: The Parish Council do not support the proposal. Some of the comments relate to matters before the decision of the Council to refuse planning permission. In relation to Landscape Issues, the Parish Council provide a number of comments but none justifies the reasons for refusal. Whilst the Parish Council criticises the Council's Landscape Architect and the LVIA, it does not provide separate or substantial evidence. Whilst the historical comments are noted, they do not justify the rejection of this well-conceived development for the reasons set out in the appellant's statement of case and the above comments.