
APPLICATION NO.	P06/E0855/RET
APPLICATION TYPE	RETROSPECTIVE
REGISTERED	16.08.2006
PARISH	ASTON ROWANT
WARD MEMBER(S)	Mrs Dorothy Brown
APPLICANT	Mr C M S Ostwald
SITE	Woodside, Aston Hill Aston Rowant
PROPOSAL	Erection of one two storey dwelling with terraced balconies and basement entrance and WC as clarified by drawing number 559/P9/C1 and further amended by drawing numbers 599/P2/E,P3/D,P4/C,P5/D,P6/F,P7/D,P8/E,P9/C1/B, P11/B,P12 and P13/A.
AMENDMENTS	Drawing numbers 599/P2/E,P3/D,P4/C,P5/D,P6/F,P7/D,P8/E,P9/C1/B, P11/B,P12 and P13/C.
GRID REFERENCE	473234/197125
OFFICER	Ms P A Fox

SECTION TWO – THE PLANNING APPLICATION AND MATERIAL PLANNING ISSUES

1.0 THE SITE

1.1 The application site is shown on the O.S. extract **attached** as Appendix A. As will be seen at the Committee's site visit the site extends to 0.45 ha and is accessed by way of an unmade track leading off Aston Hill. The site slopes up steeply from the A40 in a southerly direction and is heavily wooded. A public footpath runs along the southern boundary of the site. It lies within the Chilterns Area of Outstanding Natural Beauty.

2.0 THE APPLICATION

2.1 The application seeks retrospective planning permission to retain the substantially complete dwelling as constructed on site and proposes some new work. Two sets of amended plans have been submitted, the later of which show a recently created path and earth bank and some proposed landscaping works. In addition a further plan showing three sections through the earth bank was received on 16th January 2008. In summary the proposed additional work, which is yet to be carried out, comprises;

- i) decking at the front, side and rear of the dwelling
- ii) walkways to the upper garden and the utility area; and
- iii) the planting of shrubs in lieu of semi mature trees along the recently created earth bank.
- iv) the intention to raise the existing ground levels by a maximum of 450 mm on the west side of the bank in the vicinity of the basement entrance.

2.2 There was previously a single storey dwelling on the site that it is understood to have dated from the early 1900s and had fallen into disrepair. The applicant has stated that 'most of the existing building collapsed' in 2000 and 'the remains were cleared to make it safe'. The current development started in early 2006.

2.3 In April 2006 the Council received complaints that the work being conducted on site was not proceeding in accordance with approved plans. Following an investigation by

an Enforcement Officer, Monson were commissioned to undertake a survey of the partially built dwelling to help establish whether it was at variance with the approved plans and this included its relationship to the adjacent dwelling Wildwood. The dwelling was found to differ, most notably in terms of its height, from both the scheme that was the subject of planning permission P03/E0584 and from a minor amendment that had been subsequently approved in May 2005.

- 2.4 The dwelling as built is a timber framed kit property. The walls have been finished in timber boarding that has been stained in a light orangey/brown colour, and the roof has been finished with a brown clay tile. The dwelling is set into the hillside and the main entrance is to be provided at a basement level. Above this is a level, referred to by the applicant's architect as "the main level", where the intention is to provide a living room, kitchen, utility and bedroom. The main level would be surrounded on three sides with timber decking. On the third or upper level there would be two bedrooms and a second bathroom and this would be connected to the upper garden by a walkway. As previously referred to in paragraph 2.1, the plans submitted with this application also show some proposed work which involves the installation of additional decking and walkways to the upper garden and the utility area. Extracts from the original plans are **attached** as Appendix B and the architect's supporting letter is **attached** as Appendix C. The two set of amended plans, which include sections through the recently created bank, provide details of proposed planting on the bank and clarify the access arrangements to the utility room door in the east elevation. Following a survey of the earth bank by Monson in December 2007 revised sections (shown on drawing no P13/A) were supplied on 16th January 2008. Extracts from the amended plans are **attached** as Appendix D.
- 2.5 For the purposes of clarification, since Members of the former Planning Committee visited the site in October 2006, the following work has been carried out:
- glazing has been installed which includes obscure glazing in the windows in east elevation
 - the timber boarding has been completed and stained
 - galvanized steel rainwater goods have been installed

In addition, in June 2007, the applicant conducted some landscaping work around the new dwelling which comprises:

- a path through part of the wooded rear garden
- an earth bank which has been created along the eastern side of the new dwelling on top of which some semi mature trees have been planted

The creation of the bank is considered to amount to an engineering operation that requires the benefit of planning permission. This work therefore represents a breach of planning control. Through the submission of additional plans the application was amended to include this work. Hence permission is being sought for the retention of the dwelling and the bank.

3.0 **CONSULTATIONS & REPRESENTATIONS**

One additional plan and four sets of amended plans have been submitted

The original plans were received on 4th August 2006 **(O)**

A replacement plan, drawing no 559/P9/C1 (superseding 559/P9/C), was received on 7th March 2007.

A set of amended plans were received on 16th August 2007 **(A1)**

A second set of amended plans including sections through the bank were received on 9th and 26th October **(A2)**

A revised plan showing the three sections through the earth bank (drawing no P13/A) was received on 16th January 2008.

- With the exception of the final sections plan (P13/A) each set of plans have been the subject of formal consultation with the Parish Council and directly adjoining neighbours
- 3.1 **Aston Rowant Parish Council** - No objection. The retrospective application should be approved subject to the following conditions:-

 1. The dividing wall/fence should be extended the length of the boundary.
 2. Mature trees and shrubs should be planted on the Woodside property.
 3. Opaque glass must be used on all windows to the east elevation. They should not be the stick on pattern.
- Drawing number 559P9/C We stand by our original views re partition but as we have not been party to all the information we feel unable to give our views
- A1 No strong views
A2 No strong views
- Natural England**
A2 The works are unlikely to have a significant effect on the natural interest features of the SAC and the SSSI is unlikely to be adversely effected
- Monson** (as Drainage Consultants) - No objection.
- Environmental Health** - No observations.
- Forestry Officer** - The works have caused some damage to the rooting area of two large spruce trees. A replacement tree planting condition should be imposed on any planning permission. It may be possible to provide some screening on the eastern boundary with the planting of hedging plants. There is insufficient space to enable tree species of a significant size to establish on this boundary.
- A1 The semi mature trees that have been recently planted are not appropriate for this location, creating future compatibility and management issues. Native hedgerow species are suggested as being more appropriate.
- A2 The proposed planting on the bank is appropriate.
- 1 letter of support from the owner of The Three Gables** - The new house blends well with the area, is of a pleasing design and adds to visual character of the area.

4 Letters of objection from the owners of Wildwood, Hillside Cottage and Warren Lodge to the original plans

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- A summary of the relevant planning objections are provided below and letters from the occupiers of Wildwood are **attached** as Appendix E to the report.
 1. Overdevelopment of the site.
 2. Out of keeping with the area.
 3. Intrusive and unneighbourly resulting in an overbearing impact and a loss of privacy and general amenity value.
 4. Sets a precedent for other large dwellings.
 5. Detracts from the Chilterns Area of Outstanding Natural Beauty.
 6. Planting along the boundary with Wildwood does not address the impact of the development on the amenities of Wildwood and concern is expressed about the enforceability of landscaping conditions.
 7. Contrary to the Council's policies particularly H12.
The devaluation of adjacent properties is also raised but this is not a planning issue

A1

Further objections made of behalf of the owner of Wildwood are **attached** as Appendix F

A2

Further objections made of behalf of the owner of Wildwood are **attached** as Appendix G

4.0 RELEVANT PLANNING HISTORY

- 4.1 P90/N0146 Demolition of existing bungalow and construction of replacement residential dwelling. Approved July 1990. The plans showed a two storey split level property located on the east side of the site. This permission was not implemented and expired in July 1995.
- P02/N0246 Demolition of existing bungalow and construction of replacement dwelling. Approved May 2002. This application sought permission for a dwelling on the part of the site on which the bungalow, which had been substantially demolished in 2000, had stood. This permission was not implemented and expired in May 2007.
- P03/E0584 Erection of one 2 storey dwelling with terraced balconies. Approved October 2003. This application remains extant until 29 October 2008. A minor amendment seeking various modifications to this permission was approved in May 2005. Following the grant of this permission and the approval of the amendment the applicant started work on a dwelling in early 2006.

5.0 POLICY GUIDANCE

5.1 Oxfordshire Structure Plan Policies:

- G2 – Design and scale appropriate to its location
- EN1 – Landscape character
- H1 – Housing

5.2 Adopted South Oxfordshire Local Plan 2011 Policies:

- G2 – Protection of the environment
- G4 – Development in the countryside and on the edge of settlements
- G6 – Design and scale
- C2 – Development in the Chilterns Area of Outstanding Natural Beauty
- C7 – Protection of designated sites
- D1 – Design
- D2 – Parking
- D3 – Private garden area
- D4 – Privacy
- D8 – Energy conservation
- H12 – Replacement dwellings

Government Guidance

PPS1

PPS7

PPG18

The South Oxfordshire Design Guide

6.0 **PLANNING ISSUES**

6.1 The main issues to consider in the determination of this application are as follows:-

- (a) Whether the principle of the erection of a new dwelling on the site is acceptable and accords with the requirements of Policy H12.
- (b) Whether the new dwelling is unneighbourly in its relationship with nearby properties.

(a) Whether the principle of a new dwelling on the site is acceptable and accords with the requirements of Policy H12 (replacement dwelling policy)

6.2 As the planning history reveals planning permission was originally granted in 1990 for the replacement of the former bungalow with a dwelling. This permission was not implemented and expired in July 1995. Planning permission was granted in May 2002 for a replacement dwelling and in November 2003 a two storey dwelling with terraced balconies was approved. The 2002 permission expired on 21 May 2007 but the 2003 permission remains extant until 29 October 2008. The recently expired permission and the extant approval for a dwelling are material considerations which should be given weight.

6.3 Since those approvals the Council adopted a new Local Plan in January 2006 and Policy H12 refers to the provision of replacement dwellings outside built-up limits of settlements. Whilst it is a fact that the previous bungalow was substantially demolished in 2000 Officers are of the opinion that it is appropriate for the current proposal to be considered against the requirements of Policy H12, taking into account the site's long and relatively recent residential use, its recent planning history and ensuring consistency in applying the replacement dwelling policy. Policy H12 stipulates that proposals for the replacement of a dwelling outside the built up limits of those settlements listed at paragraph 5.17 of the plan will be permitted provided that:

- (i) The existing use has not been abandoned;
- (ii) The existing dwelling is not listed, or of historic, visual or architectural interest
- (iii) The proposed dwelling is not materially greater in volume than the existing dwelling (taking into account permitted development rights)

- (iv) The overall impact would not be any greater than the existing dwelling on the character and appearance of the site and the surrounding area which lies within the Chilterns Area of Outstanding Natural Beauty
- (v) The siting, design and materials are in keeping with the locality

(i) The existing use has not been abandoned

6.4 Historically there was a single storey dwelling on the site which is understood to have dated from the early 1900s. The applicant's agent has stated that around 1996 new foundations were constructed on the old dwelling's footprint to allow for some renovation work but such work was not undertaken. Whilst it is clear that the previous dwelling was not habitable for a number of years and was substantially demolished in around 2000, the site's use for residential purposes is not considered to have been abandoned. In reaching this opinion your officers have taken into account that the foundations of the original dwelling were clearly retained and, whilst the demolition work took place approximately eight years ago, the applicant's intentions to build on the site were obvious from his on going dialogue with the Council and the granting of two planning permissions for dwellings within the four years prior to the submission of this application.

(ii) The existing dwelling is not listed, or of historic, visual or architectural interest

6.5 The previous dwelling on the site was not listed and the building was not considered to be of any historic, visual or architectural interest.

(iii) The proposed dwelling is not materially greater in volume than the existing dwelling (taking into account permitted development rights)

6.6 The dwelling as built on site is considerably greater in volume than the single storey property that it has replaced. Whilst the Council does not have any plans of the previous bungalow photographs dating from the 1990's reveal that it was a modest structure. In the absence of any plans of that building its exact volume can not be calculated but it is estimated to be in the region of 180 cubic metres. The planning permissions granted in 2002 and 2003 gave consent for a dwelling with a volume of 351 and 370 cubic metres respectively and these permissions are material considerations. The volume of the as-built dwelling is 387.5 cubic metres which represents an increase of just less than 5% of the volume of the dwelling approved in 2003. Hence the development is materially greater in volume than the original bungalow but the increase in volume is considered acceptable in the context that it is less than 5% greater than the extant consent. The overall impact of this increase in volume is considered below.

(iv) The overall impact would not be any greater than the existing dwelling on the character and appearance of the site and area which in this case lies within the Chilterns Area of Outstanding Natural Beauty.

6.7 The dwelling as built is significantly greater in mass and height than the previous single storey building and as such has a greater impact on the character and appearance of the site and the surrounding area. However it is also the case that the 2002 and 2003 permissions granted approval for buildings which, by virtue of their height and massing, would have had a greater impact on the character and appearance of the site and immediate area. In summer months the dwelling as built is very well screened but in winter months it can be seen in short and several longer range views. Vantage points of the dwelling include the A40 (photograph **attached** as Appendix H) and local footpaths from where the building is seen as one of a small group of buildings set in the hillside. Whilst it has a more vertical emphasis than its immediate neighbours, officers consider that it does not appear overly prominent or intrusive due to the fact that its overall size and proportions are relatively modest. The

building is of a traditional form and design and is constructed out of natural materials which will weather in due course. This will help to assimilate the building into its setting and further reduce its impact on the character and appearance of the wider area. When the building can be seen it is viewed in the context of a small group of properties on the hillside and Officers do not consider that the building causes harm to the natural beauty or distinctiveness of this part of the Chiltern's Area of Outstanding Natural Beauty. As such, whilst the building's greater impact on the character and appearance of the site and surrounding area are acknowledged, the impact is not considered unacceptable having regard to the character of this particular site, the surrounding dwellings and its wooded hillside setting. In this context officers are of the opinion that approval of this development would not set an unacceptable precedent.

6.8 v) The siting, design and materials are in keeping with the locality

The building's relatively simple form and design, with its narrow span, steeply pitched roofs and vertical emphasis, generally follows advice in the Council's Design Guide. The external materials comprise timber cladding (which has been stained a light orangey brown colour) and brown plain clay tiles. Officers consider these materials to be appropriate and in keeping with the general character of the area. The siting of the building on the plot is essentially the same as the previous bungalow and, whilst not central, the dwelling lies a minimum of 4.4 metres from the east boundary, such that it does not appear cramped relative to Wildwood or result in an overdevelopment of the site. The small cluster of buildings in the immediate locality is quite varied in their design and materials. Set in this context the dwelling's siting, design and materials are considered to be in keeping with the established appearance of the locality and hence accord with this criterion of the policy.

(b) Whether the new dwelling is unneighbourly in its relationship with nearby properties.

- 6.9 The properties that are most directly affected by the development are Wildwood, to the east, and Hillside Cottage which lies at a lower level and slightly further to the north east. The property to the west, known as Three Gables Cottage, is less directly affected due to its siting and greater distance from the development (over 22 metres away).
- 6.10 Wildwood is a relatively small bungalow which has a lean-to style conservatory on its western side closest to the development. The nearest part of the lean-to lies within 1.3 metres of the boundary with Woodside.
- 6.11 The development has been built at an angle relative to the eastern boundary of the site, such that the gap to Wildwood's boundary tapers from 6.0 metres at its maximum to 4.4 metres at the minimum. The dwelling as built is 3.5 metres higher than Wildwood. It is clearly visible from the front and rear gardens of Wildwood and, as a result of the increase in its height, relative to the drawings submitted with the 2003 approved plans and the minor amendment, it appears more overbearing and has the potential to cause a greater loss of privacy. In assessing the degree of this impact, officers have taken into account that Wildwood's principal windows face to the north (down the garden) and to the east (far side). From within Wildwood the new development can only be seen from the lean-to conservatory and a high level bedroom window (that is not the main source of light) when looking up in a westerly direction over an existing boundary fence. The impact on parts of Wildwood's garden is more significant, particularly in respect of some views from the steeply sloping front garden, which is arranged in three terraces and comprises the main amenity space. Taking into account that the distance between the dwellings is over five metres and that they are set into a hillside it is your officer's judgement that the development does not appear unduly overbearing from the majority of Wildwood's front garden.

- 6.12 There are three windows and a door in the east elevation of the new dwelling which would, if clear glazed, allow some views into Wildwood's garden. A new solid door has recently been installed and the windows have been fitted with obscure glazed panels and limited opening mechanisms. When in use and left open the door in this elevation would inevitably result in some loss of privacy to Wildwood. However the impact arising from its use would be intermittent and would not be as directly intrusive as a clear glazed window. On the second set of amended plans the applicant has indicated his intention to erect a solid panel immediately outside the door to limit any views both from the door when left open and the access walkway to it. Hence with conditions on the windows and a requirement to install a solid panel along the raised access route to the east facing door any overlooking and potential loss of privacy to Wildwood can be minimised to a level that officers consider acceptable.
- 6.13 The original plans showed that a small balcony serving bedroom 2 was proposed on the north (front) elevation. The applicant has subsequently agreed to delete this feature which was shown with a dotted line on the first set of amended plans. Whilst relatively small such a structure would allow future occupiers to step out and enjoy uninterrupted views over Wildwood's front garden. Hence a condition (number 5) is recommended that prevents such a feature from being installed. The condition is considered to comply with advice contained within paragraph 84 of Circular 11/95. The size of the terraced areas to both the front and rear of the dwelling have been reduced in size on the latest set of drawings. Any views that would be afforded from the proposed terraces and elevated walkway to the rear would be limited by existing boundary screening and/or the staggered relationship of the application property relative to Wildwood. Woodside is set on a north facing slope and as a result of its height, it casts some shade over Wildwood's lean-to conservatory and part of its garden in the late afternoon and early evening. However given the setting of the properties in a hillside and a minimum distance of 5.7 metres between them officers do not consider the loss of sunlight to be significant or unreasonable.
- 6.14 Discussions have taken place with the Council's Forestry Officer regarding the potential treatment of the common boundary and planting on the newly created bank. He has advised that the trees that were planted on the bank last summer are not suitable as there is insufficient space for them to establish in the gap between the two properties. However he has commented that the planting shown on the latest set of amended plans, which comprises blackthorn, hazel and hawthorn, would be appropriate. It is noted that the owners of Wildwood are totally opposed to the retention of the existing earth bank and any planting on it. It is understood that the main concern is that the bank increases the opportunity for overlooking towards Wildwood's garden and the planting on top of the bank would make the overall development on the site feel more overbearing. It is your officer's view that a densely planted bank with relatively low growing shrubs would not be an inappropriate treatment of this part of the site. The native planting now proposed would help to assimilate the new dwelling into its setting and would be likely to deter future residents from using the bank as an area for sitting out or as an access route. Woodside enjoys a large plot and there are other more private and usable areas of the garden that would form the main amenity spaces. As such the bank and the planting now proposed are not considered to adversely impact on the amenities of Wildwood. The applicant has indicated his agreement to removing the semi mature trees and to conducting the proposed native hedgerow planting within two months of the approval of the application.
- 6.15 A Site of Special Scientific Interest (SSSI) and Special Area of Conservation (SAC) lie to the south of the site and the Council's Countryside Officer and Natural England

were consulted in respect of the recently created path and earth works. Natural England advised that the works are unlikely to have a significant effect on the natural interest features of the SAC and the SSSI is unlikely to be adversely effected. Some conditions are recommended but as they relate to land outside the application site area and the applicant's control they have not been included in the list of recommended conditions. As such there is no conflict with the requirements of Policy C7 which seeks to protect locally designated sites of nature conservation importance.

7.0 ENFORCEMENT ISSUES

- 7.1 Government advice in PPG18 indicates that enforcement action should only be taken where planning harm is identified and where action is necessary in the public interest. Any such action should be proportionate to the breach of planning control, balancing the right of the owner to peacefully enjoy the property with the general public interest to prevent development that is harmful to other legitimate interests.
- 7.2 Officers have to consider whether the development can be made acceptable by the imposition of planning conditions. In this case, conditions relating to the fenestration in the east elevation, the removal of the balcony feature to bedroom two and the removal of all permitted development rights would limit the planning harm that could otherwise be caused to the amenities of the owners of Wildwood.

8.0 CONCLUSION

- 8.1 The application seeks retrospective approval for a dwelling that does not accord with two of the criteria within Policy H12. The building has a significantly greater volume than the original bungalow that stood on the site and, as a result of its greater massing and overall height, the dwelling has a greater impact on the character and appearance of the site and the surrounding area. In assessing the merits of the application your officers have had regard to the planning history of the site and, in particular, the existence of an extant consent for a building with a volume which would have been just under 5% smaller in volume. Having regard to this history and the building setting's in a small group of properties on a wooded hillside the impact arising from the increase in the building's volume and height are considered to be relatively limited.
- 8.2 In terms of its impact of the amenities of the most directly affected neighbour, Wildwood, it is acknowledged that the dwelling has a greater visual impact than the scheme that was approved in 2003. The building results in some loss of late afternoon sunlight to a lean-to conservatory and parts of Wildwood's main garden. Subject to conditions requiring the door in the east (side) elevation to remain solid and the windows in the same elevation to be retained with obscure glazing and restrictive openings there would not be any substantial loss of privacy. A condition is also recommended that requires the current semi mature trees to be replaced with native hedgerow species as shown on the latest set of amended plans. Taking into account the setting of the dwellings in a hillside, their slightly staggered relationship and the distance between them, it is your officers' conclusion that the impact of the development on the amenities of Wildwood is not so significant that a refusal of planning permission is justified.
- 8.3 Therefore, whilst the dwelling as built on site does not comply with all the criteria set out in Policy H12, the development is not considered to detract from the established character and appearance of Aston Hill and this part of the Chilterns AONB. Subject to conditions, it would not result in significant harm to the amenity of the most directly affected neighbour. Taking this and the history of the site in account your officers have, on balance, concluded that the development is acceptable and the recommendation is for approval.

9.0 RECOMMENDATION

9.1 That planning permission is granted subject to the following conditions:

- 1) Exclude all permitted development rights**
- 2) Landscaping scheme to be implemented - to include the removal of the inappropriate tree planting along the earth bank, the carrying out of replacement shrub planting and replacement tree planting for two damaged spruce trees**
- 3) Obscure glazing and limited opening mechanisms to be retained on all windows in east elevation**
- 4) Solid door in east elevation to be retained as such**
- 5) No first floor balcony on north elevation serving Bedroom 2**
- 6) Solid timber panel to be erected opposite the utility room door in the east elevation prior to first occupation of the dwelling**

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