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<b>APPLICATION NO.</b>	<a href="#">P11/E0545</a>
<b>APPLICATION TYPE</b>	FULL
<b>REGISTERED</b>	15.07.2011
<b>PARISH</b>	HENLEY-ON-THAMES
<b>WARD MEMBER(S)</b>	Ms Joan Bland Ms Elizabeth Hodgkin
<b>APPLICANT</b>	Montague Estates Ltd
<b>SITE</b>	Land adjacent to 23 Haywards Close Henley-on-Thames
<b>PROPOSAL AMENDMENTS</b>	Construction of one detached house and garage As amended by drawing 8135-PL-1 Rev C, 8135-PL-02 Rev B, 8135-PL-03 Rev D, 8135-PL-05 Rev D, 8135-PL-06 Rev D, 8135-PL-07 Rev D, 8135-PL-08 Rev D, 8135-PL-09 Rev B, 8135-PL-10 Rev B, 8135-PL-11 Rev B and 8135-0-PL-04 Rev A accompanying Agents email dated 27/08/11
<b>GRID REFERENCE OFFICER</b>	475586/182114 Miss Emma Bowerman

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**1.0 INTRODUCTION**

- 1.1 This application is referred to Committee as the officer's recommendations conflict with the views of the Town Council.
- 1.2 The application site (which is shown on the OS extract **attached** as Appendix A) is a plot of land at the end of Haywards Close, adjacent to number 23. The site borders the rear garden of 63 Gainsborough Hill to the south and the rear garden of 18 Harcourt Drive to the north. Makins recreation ground borders the east of the site. There are no buildings on the land, which slopes steeply upwards from north to south. There is a path running through the site from the end of Haywards Close to the recreation ground, with roughly cut stairs into the slope. There are a number of trees around the boundaries of the plot and until recently, there were further trees within the site which have now been felled. The site does not fall within any areas of special designation.

**2.0 PROPOSAL**

- 2.1 The application proposes the erection of a detached dwelling and garage. The dwelling would contain four/ five bedrooms and has been designed in split levels to take into account the level differences on the site. The proposed dwelling would be L shaped, with the garage projecting forward of the main body of the dwelling. The proposed dwelling would have a maximum width of 12 metres and length of 17 metres and would be the same height as the dwellings in Haywards Close, with dormer windows in the rear roof slope. The materials proposed are yellow stock brickwork and brown plain tiles.
- 2.2 Revised plans were received during the application process and these plans amended the site area as the application site boundary shown on the original submission slightly overlapped neighbouring land. Further revised plans were received in response to the comments made by the Thames Valley Police Crime Prevention Design Officer. These increased the width of the footpath around the corner, removed the gate from the rear of the site to the recreation ground and altered the type of fencing around the footpath. A dormer window has also been removed from the plans to simplify the design of the

front elevation.

- 2.3 A copy of the application plans are **attached** as Appendix B. The Design and Access Statement and all other documents associated with the application can be viewed on the council's website at [www.southoxon.gov.uk](http://www.southoxon.gov.uk).
- 3.0 **CONSULTATIONS & REPRESENTATIONS**
- 3.1 **Henley-on-Thames Town Council** – Considers the application should be refused as the proposed construction of a detached house and garage is considered to be both overdevelopment and intrusive representing as it does a shoe horning in of a further dwelling having regard to the size of the plot. The committee would also like to express its concern about the nature of the land which is understood to be contaminated and Public Rights of Way issues.
- 3.2 **Oxfordshire County Council Rights of Way Field Officer** – No objection.
- 3.3 **Campaign to Protect Rural England (Rights of Way Convenor)** – No objection to the application on public rights of way grounds provided that the dedication agreement is completed before development commences.
- 3.4 **Countryside Officer** – No objection subject to a condition requiring details of a scheme to eradicate Japanese Knotweed.
- 3.5 **Health & Housing - Environmental Protection Team** – No objection subject to a condition requiring a contaminated land investigation and remediation if necessary.
- 3.6 **Forestry Officer** – No objection subject to a tree protection and landscaping condition
- 3.7 **OCC Highways Officer** – No objection subject to a condition requiring the parking and manoeuvring areas to be provided and retained.
- 3.8 **Waste Management Officer** - Provided guidance on the size of bins required
- 3.9 **The Henley Society** – Commented that if this plot were suitable for a house, one would have been built at the time that Haywards Close was developed. It is unsuitable, especially for a house of the size proposed, for various reasons including the steepness of the site and its proximity to public access land, and because it would represent an over-development of the close.
- 3.10 **Thames Valley Police Crime Prevention Design Officer** – No objection to the proposals but recommended a number of opportunities to design out crime and / or the fear of crime and to promote community safety. In response to these comments the applicant has amended the boundary between the footpath and the site to 1.4 metre close boarded fencing topped with trellis to deter burglars and to allow surveillance of the footpath. The rear garden gate has also been omitted and the width of the footpath has been increased where it turns the corner to allow its users the ability to look along the path before deciding to continue their journey along it.
- 3.11 **Neighbour Representations** – Nine letters received. Five raised objections to the application and four commented on the proposal. The majority of comments referred to the route running through the site. This matters raised are, in summary:
- Children use the footpath to go to school
  - The proposed alternative route of the footpath would have reduced visibility and could create problems in terms of safety (crime and fear of crime)

- The Rights of Way issue has not been adequately resolved and there is no guarantee in place that the alternative route will be provided before construction and maintained in perpetuity
- Residents should have an opportunity to comment on the diversion of the Public Right of Way
- The site is a mess and has become a dumping ground since the trees were removed
- Disruption caused by construction vehicles
- The area of land left between the application site and 23 Haywards Close would become a dumping ground
- The design is inappropriate, would have an overbearing appearance and would not be in keeping with the existing houses in Haywards Close
- That previous applications were refused at the site and the reasons for refusal have not been overcome

#### 4.0 **RELEVANT PLANNING HISTORY**

- 4.1 Planning application P10/E1307 for a similar proposal was withdrawn prior to determination in November 2010. The dwelling proposed under this application was similar to the current proposal but there was no alternative footpath provision shown on the plans. The application was withdrawn to resolve the footpath issue.
- 4.2 There were a number of planning applications for dwellings on the site in the 1970's and 1990's. In 1995 planning applications P95/S0422 and P94/S0584, for a block of six flats, were considered to be unacceptable because the development would have resulted in a loss of trees. These proposals were also considered to result in an over-intensive and obtrusive form of development. In 1973 application P73/H0666 for three houses (two on the application site) was refused as the development was considered to be detrimental to the general character and residential amenity of the area. The applicant appealed against this decision and in dismissing the appeal, the Inspector commented that the site is a visual asset in the high density area of housing and that any further inroad into this area would be an overdevelopment.
- 4.3 Officers note that there is a current application for one dwelling in the side garden of 18 Harcourt Close. At the time of writing, a decision had not been made on this application.

#### 5.0 **POLICY & GUIDANCE**

- 5.1 Policies of the Adopted South Oxfordshire Local Plan 2011 (SOLP):  
- G2, G5, G6, C9, EP6, EP8, D1, D2, D3, D4, D8, D10, H4, T1, T2
- 5.2 Supplementary Planning Guidance:  
- South Oxfordshire Design Guide 2008 (SODG)
- 5.3 Government Guidance:  
- PPS1, PPS3, PPG13, PPS23

#### 6.0 **PLANNING CONSIDERATIONS**

- 6.1 The proposed development would be located within the built-up area of Henley-on-Thames and consequently the proposal falls to be assessed against the criteria of Policy H4. The planning issues that are relevant to this application are whether the proposed development would:
- result in the loss of an open space or view of public, environmental or ecological value;

- be in keeping with the character and appearance of the surrounding area;
- compromise the living conditions of neighbouring residential occupiers and would provide suitable living conditions for future occupiers;
- result in an unacceptable deficiency of off-street parking spaces for the resultant dwelling or other conditions prejudicial to highway safety;
- incorporate sufficient sustainability measures;
- adequately address the issues surrounding the pedestrian access between Haywards Close and the recreation ground, and
- satisfy all other material planning considerations

#### Loss of Open Space

- 6.2 Criterion (i) of Policy H4 of the SOLP requires that an important open space of public, environmental or ecological value is not lost, nor an important public view spoilt. The plot is an open parcel of land, bordered on three sides by residential properties. There are a number of tree stumps on the site, which is currently overgrown with vegetation. With the exception of the issue surrounding the path (which is discussed later in the report) the site is not available for public use. A number of trees have been cut down recently. Officers note that these trees were not protected by a Tree Preservation Order and they appear to have been multiple self set sycamores of little arboricultural value and so would not have been considered as a constraint to the development. There is no evidence that the site has any particular environmental or ecological value and the council's countryside officer has not raised any concerns regarding protected species.
- 6.3 The site is set on a hillside and can be seen from the roads to the north of the application site. The site is visible and officers note that the Inspector who considered the appeal for two houses on the site in 1973 referred to it as one of the few remaining open spaces in a densely built up area and that the site was an important visual asset. This view was expressed 38 years ago in the context of different planning policies and was not expressed in the refusal of the 1990's applications where the key issue was the loss of trees. The site is within the limit of the gardens to the north and south and would not extend this established line of development. The proposal would represent a continuation of the existing row of development with a backdrop of the houses in Gainsborough Hill. Officers therefore consider that the loss of this open space would not be harmful as the development would be contained within the existing line of the dwellings to the front and rear of the site. The above criterion would therefore be satisfied.

#### Character and Appearance

- 6.4 Criteria (ii) and (iii) of Policy H4 of the SOLP requires the design, height, scale and materials of the proposed development to be in keeping with its surroundings and that the character of the area is not adversely affected. The existing dwellings in Haywards Close are three storey town houses cut into the slope. The proposed dwelling would be of a very different design to the existing dwellings in Haywards Close. Officers do not consider that the change in design would be harmful to the character of the area as it would add some variety to the streetscene. The design of the dwelling would be slightly unusual and this is partly because it has been designed to take into account the changes in levels on the site.
- 6.5 The proposed dwelling would incorporate a garage that projects forward of the main body of the dwelling and this is not a design feature that is encouraged in the SODG and is often not acceptable. However, in this case, the dwelling is at the very end of

the road and the proposed garage would create a stop point at the bottom of the close. The design of the dormer window would also not always be appropriate, with the rear dormer incorporating a double pitch with no break between. In this case, given that a contrasting style of house is being proposed, officers consider that this feature is acceptable. The different ridge lines would help to break up the bulk of the proposed building and suitable materials could be required by condition. In light of this assessment, officers consider that the development would have an acceptable impact on the character and appearance of the area and the proposal would comply with the above criteria.

#### Living Conditions

- 6.6 Criterion (iv) of Policy H4 of the SOLP requires that there are no overriding amenity objections. The main body of the proposed dwelling would be located alongside No.23 Haywards Close and would be positioned a distance of 6 metres from the side elevation of this neighbour. Given this gap, officers consider that the development would not be overbearing or result in a loss of light to this neighbour. The proposed dwelling would have a bathroom window facing No.23 and officers have recommended a condition requiring this to be obscure glazed to protect the privacy of the neighbours. Officers consider that the distance to all other neighbouring properties would be sufficient to ensure that the development would not impact on any other neighbouring occupiers in terms of light, outlook and privacy.
- 6.7 The neighbour at No.64 Gainsborough Hill has requested that a fence be erected along the boundary between the properties. Given that some of the boundaries are not currently defined, officers consider that it would be reasonable to attach a condition requiring details of boundary treatments to be agreed to ensure that the boundaries of the site are appropriately marked. This condition would also ensure that appropriate fencing is used for the footpath.
- 6.8 Although the garden space provided for the new dwelling would be rather limited, the size of the garden would still exceed some of the neighbouring properties and as the recreation ground adjoins the site, the occupiers would benefit from very easy access to open space. Officers therefore consider that the internal and external space would provide satisfactory living conditions for future occupiers. On the basis of this assessment, the proposed development would meet the above criterion.

#### Highways and Parking

- 6.9 Criterion (iv) of Policy H4 of the SOLP also requires that there are no overriding highway objections. The council's highways liaison officer has commented that the access to the site would be adequate and has raised no objections to the scheme provided that a condition is imposed requiring the parking spaces to be provided in accordance with the plans and retained except for the parking of vehicles. The proposed development would therefore satisfy the above criterion.

#### Sustainability Measures

- 6.10 Policy D8 of the adopted SOLP 2011 requires proposals to incorporate sustainability measures in terms of energy, water and materials efficient design. The SODG recommends that single dwellings reach a three star Code rating under the Code for Sustainable Homes. A Code for Sustainable Homes pre assessment was submitted with the application and this advised that the new dwelling would meet Code 3 and so would comply with the council's guidance. A condition is recommended to ensure that the proposed dwelling would be constructed to achieve this level of sustainability.

Pedestrian access between Haywards Close and the Recreation Ground

- 6.11 There is an existing route which runs diagonally across the site and provides access from the end of Haywards Close to the recreation ground adjoining the southeast corner of the site. A number of the local residents use the route and the majority of the objections raised by local residents relate to the use of this route. The path is not currently recorded on the Definitive Map of Public Rights of Way. However, local residents have claimed that the path has been available for the public to use for a period in excess of 20 years and evidence has been submitted to Oxfordshire County Council (OCC) as the Highways Authority requesting that the Definitive Map of Public Rights of Way be modified to show a Public Footpath running through the application site. There is a waiting list of ten years to process requests to modify the Definitive Map and the applicant could choose to close off the route during this period.
- 6.12 Following negotiations with the Rights of Way team at OCC the applicant is currently in the process of dedicating the claimed route as a Public Footpath. If planning permission is then subsequently granted and development commenced the route of the dedicated Footpath would be obstructed and the applicant has therefore indicated an alternative route that would be provided as part of the development to maintain the useful pedestrian link between Haywards Close and the recreation ground. This route is shown on the application plans and the Design and Access Statement accompanying the application advises that the alternative route would be hard surfaced with steps, handrail and lit after dark. If planning permission is granted then South Oxfordshire District Council would deal with an application to legally divert the path, using the powers available under s.257 of the Town and Country Planning Act 1990, to allow the alternative route shown on the application plans to become a Public Footpath.
- 6.13 The specification of the diverted route would need to be agreed with OCC and suitably constructed before any works that affect the dedicated route commence. As Public Footpaths are protected by other legislation, it would not be necessary for this to be controlled by a planning condition. However, officers have recommended a condition requiring details of the lighting to be agreed to ensure that an appropriate form of lighting is used which would not be intrusive to the occupants in the neighbouring properties adjoining the site.
- 6.14 Some local residents have commented that the legal process surrounding the dedication and diversion of the footpath should take place before the grant of planning permission. However, it is noted that, for a footpath diversion to be undertaken through s.257 it requires planning permission to have been granted for the diversion process to take place. If the existing footpath was dedicated as a Public Footpath and the process of diverting the footpath to the alternative route was unsuccessful, the planning permission would not be able to be implemented.
- 6.15 Some residents have also commented that the new route of the path could be intimidating and result in a potentially unsafe environment as it would be enclosed and would have a blind corner. The Thames Valley Police Crime Prevention Design Officer has not raised any objections to the scheme and the applicant has made changes to the scheme to take into account the recommendations made by the Crime Prevention Design Officer. Officers appreciate the concerns raised by local residents and acknowledge that the existing situation does have the advantage of a clear line of sight. However, the proposed alternative route would have a number of benefits, including lighting. In addition, the existing footpath can become muddy and has uneven and steep steps cut into the slope. The proposed footpath would be hard

surfaced and would allow easier access. Taking all of these factors into account, Officers consider that the route of the proposed footpath would be an acceptable alternative to the existing route.

Other material planning considerations

- 6.17 There is Japanese Knotweed spreading into the site from its eastern boundary. Japanese Knotweed is a non-native, extremely invasive plant which, once established, is difficult to get rid of. Its ability to spread and out compete most other vegetation has implications for wildlife, amenity, and other land uses. The Wildlife and Countryside Act 1981 makes it an offence to spread Japanese Knotweed. All parts of the plant are considered contaminated waste under the Environmental Protection Act 1990. Soil contaminated with Japanese Knotweed may not be reused and must be disposed of at a licensed landfill site. Officers have therefore recommended that if planning permission is granted a suitable condition should be imposed to ensure the safe removal of the species from the site.
- 6.18 The application site may also be contaminated as a result of being adjacent to a former landfill area located at Makins recreational ground. The proposed residential development is also regarded in Planning Policy Statement 23 as a particularly sensitive use to any land contamination. For this reason, PPS23 requires a precautionary approach to be adopted and for the developer to conduct adequate contaminated land investigations to ensure that the land is safe and suitable for the intended use. As a minimum, this guidance requires a contaminated land desk study and site walkover. This research would establish if land contamination has the potential to be present at the development site. To ensure that any land contamination is addressed as part of any future planning permission, officers recommend that the application should be subject a condition which requires the applicant to investigate for contamination before the development commences and if necessary, to remediate the site before the development is occupied.
- 6.19 The trees on site are of varying quality but most can be retained and would help to soften any future development. The council's forestry officer has commented that the proposed development could be constructed without causing significant damage to the trees shown for retention, subject to the correct implementation of tree protection measures. Officers therefore have no objection to the scheme in terms of the impact on trees and also recommend that a landscaping condition is attached to any planning consent to further help assimilate the development into the area.

7.0 **CONCLUSION**

- 7.1 The application proposal would comply with the relevant Development Plan Policies, Supplementary Planning Guidance and Government Guidance and it is considered that, subject to the attached conditions, the proposed development would not materially harm the living conditions of nearby residents or the character and appearance of the area or result in conditions prejudicial to highway safety.

8.0 **RECOMMENDATIONS**

- 8.1 **That planning permission be granted, subject to the following conditions:**
1. **Commencement – 3 years**
  2. **Development to be carried out in accordance with the approved plans**
  3. **Samples of materials to be submitted and approved**
  4. **Bathroom window in southwest side elevation to be obscure glazed**
  5. **Details of existing and proposed ground levels, slab levels and ridge heights to be submitted and approved**

- 6. Details of contamination investigation and mitigation as necessary prior to commencement**
- 7. Details of landscaping to be submitted and approved**
- 8. Tree protection measures to be provided and retained during construction**
- 9. Details of boundary treatments to be submitted and approved**
- 10. Details of scheme to ensure the safe removal of Japanese Knotweed to be submitted and approved**
- 11. Parking and manoeuvring areas to be provided and retained**
- 12. New dwelling to achieve Level 3 of Code for Sustainable Homes**
- 13. Details of lighting to be submitted and approved**

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- 14. Details of a scheme to eradicate Japanese Knotweed to be submitted and approved**
- 15. Parking to be provided as on approved plans and retained**
- 16. Details of lighting for footpath to be submitted and approved**
- 17. Development to meet Code level 3 of Code for Sustainable Homes**

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