

<b>APPLICATION NO.</b>	<a href="#">P17/S3715/FUL</a>
<b>APPLICATION TYPE</b>	FULL APPLICATION
<b>REGISTERED</b>	18.10.2017
<b>PARISH</b>	Holton
<b>WARD MEMBER(S)</b>	John Walsh
<b>APPLICANT</b>	Pierre Vivant
<b>SITE</b>	Terence House Road Passing Wheatley Park School Holton, OX33 1PS
<b>PROPOSAL</b>	Variation of Condition 2 of Planning Permission P14/S3212/FUL (amplified by GCN licence and amended plans and planning statement received 19th December 2017)
<b>OFFICER</b>	Amendments to approved pool/garage building under planning permission P14/S0338/FUL. (Erection of a four bedroom dwelling with ancillary pool/garage) (As amended by amended Design and Access Statement received 22 November 2015) Luke Veillet

1.0 **INTRODUCTION**

1.1 The application is referred to planning committee because the views of the Holton Parish Council differ from the officer's recommendation.

The application site forms an area of land behind (north west) of three dwellings. These are Holton Cottage, Diamond Cottage and Jubilee Cottage. Either side of the land are two more dwellings, Ashleigh House to the north east and Shielings to the north west. The land used to form part of Holton Cottage, forming part of garden grounds and residential curtilage. The land slopes upwards from south to north, meaning parts of the site are at a higher ground level than the three cottages.

1.2 Planning permission was granted 16<sup>th</sup> May 2014 (P14/S0338/FUL) for two buildings on the land. These are known as **buildings A & B**. **Building A** is a subterranean 2-storey dwelling on the north east of the land and **building B** is single storey pool and garage building on the north west. This planning permission has been partially implemented by separating the land from Holton cottage by building a boundary wall and implementing the access road/entrance to the new site. The land is now a distinctly separate planning unit from Holton Cottage.

1.3 On 17<sup>th</sup> December 2014, planning permission was granted for amendments to the approved scheme (P14/S3212/FUL) for **Building B only** (pool/garage building). As such, **Building A** remained the same as in the previously approved permission.

1.4 The application site is subject to a number of constraints. It is located with the designated Oxford Green Belt, an area of archaeological interest and there is evidence that ponds just to the south of the site form a habitat for Great Crested Newts, which are protected species. A plan identifying the site can be found at **Appendix 1** to this report

2.0 **PROPOSAL**

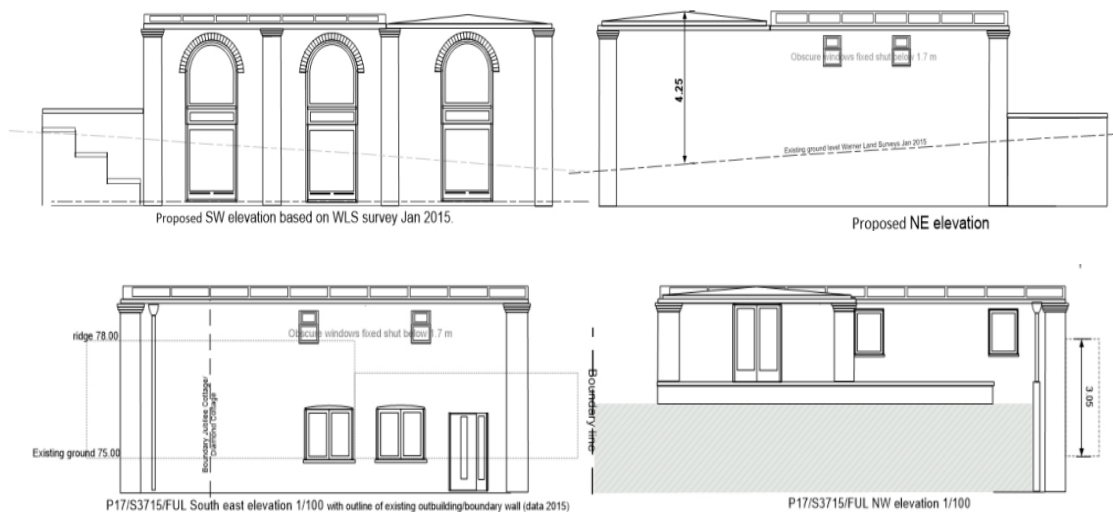
2.1 This is an application under Section 73 of the Town and Country Planning Act for the variation of condition 2 (approved plans) of P14/3212/FUL. Condition 2 of P14/S3212/FUL required development to be carried out in accordance with the approved plans.

2.2 The changes reflected in the plans have been submitted to rectify some long standing issues regarding incorrect surveyed data in the original application, as well as some relatively minor changes to the actual built form. These include;

- Moving the footprint of dwelling further away from the south-east boundary (3.1m in contrast to the approved 1.3 to 1.6m)
- Reduction of approximately 1.6 in width of the dwelling to accommodate moving the dwelling, leaving the approximate distance from the north-west boundary the same. This has led to a reduction in volume.
- Increase in height of building above ground level (4.25m in contrast to the 4m approved)
- Reduction of overall height of dwelling by approximately 250mm (5.3m in contrast to 5.55m), to accommodate raising of lowest ground level by 500mm
- Change in roof design to include modular skylights
- Obscured bathroom windows on south west and north east elevations first floor elevations
- Changes to internal layout
- Removal and re-planting of the walnut tree

Reduced copies of the plans accompanying the application can be found at **Appendix 2** to this report. All the plans and representations can be viewed on the council's website [www.southoxon.gov.uk](http://www.southoxon.gov.uk) under the planning application reference number

2.3 **Proposed**



**Extant**



3.0 **SUMMARY OF CONSULTATIONS & REPRESENTATIONS**

3.1 **Holton Parish Council** – Objection

- The extant plan is misrepresented on latest plans
- The building is higher than the extant scheme having a materially greater impact on neighbouring properties.
- The 250mm increase is over and above the misrepresented building
- Introduction of fenestrations on elevations
- Lack of detail provided for modular skylights on the roof

**County Archaeological Services (SODC)** - No strong views

No archaeological constraints.

**Forestry Officer (South Oxfordshire District Council)** - No strong views

Walnut tree is in poor condition and no objection to its removal. A replacement tree should be sought.

**Countryside Officer(South Oxfordshire & Vale of White Horse)** - No strong views

Natural England appear to have now issued a licence for the development approved under P14/S3212/FUL. As such, the statutory body considers that the previously approved development will not have an adverse impact on the favourable conservation status of great crested newts. The currently proposed scheme, is not significantly ecologically different from the previously approved scheme - albeit the currently proposed development has a slightly larger footprint closer to the boundary. I still consider that the proposed development is not in accordance with policies C6 and C8 of the SOLP, and policy CSB1 of the SOCS, but note that there are insufficient grounds to maintain an objection to this application on based on a licence being issued from Natural England

### **Neighbour Objections (7)**

- Oppressive and overbearing on Jubilee Cottage and Ashleigh House, in comparison to what has been approved.
- 60cm higher than the approved building
- No different to previously refused schemes
- Additional glazing will cause light pollution and be intrusive
- Applicants plans are always inconsistent and change from application to application
- Inappropriate in the Green Belt
- Set an unwelcome precedent in the Green Belt

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

4.1 The site has a convoluted and complex history, with many previously proposed amendments and variations to approved schemes. As such, the site history and plans related to **Building A** have been attached at **Appendix 3**

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

##### **5.1 South Oxfordshire Core Strategy (SOCS) Policies**

CS1 - Presumption in favour of sustainable development

CSB1 - Conservation and improvement of biodiversity

CSEN2 - Green Belt protection

CSQ3 - Design

CSR1 - Housing in villages

CSS1 - The Overall Strategy

##### **5.2 South Oxfordshire Local Plan 2011 (SOLP 2011) policies;**

C6 - Maintain & enhance biodiversity

C8 - Adverse affect on protected species

C9 - Loss of landscape features

CON11 - Protection of archaeological remains

D1 - Principles of good design

D2 - Safe and secure parking for vehicles and cycles

D3 - Outdoor amenity area

D4 - Reasonable level of privacy for occupiers

EP1 – Adverse impact on people and the environment

EP6 - Sustainable drainage

G2 - Protect district from adverse development

GB4 - Openness of Green Belt maintained

H4 - Housing sites in towns and larger villages outside Green Belt

T1 - Safe, convenient and adequate highway network for all users

T2 - Unloading, turning and parking for all highway users

##### **5.3 Neighbourhood Plan policies;**

None proposed

##### **5.4 Supplementary Planning Guidance/Documents**

South Oxfordshire Design Guide 2016 (SODG 2016)

5.5 **National Planning Policy Framework (NPPF)**

National Planning Practice Guidance (NPPG)

6.0 **PLANNING CONSIDERATIONS**

6.1 It is not intended to go through all of the planning issues that were assessed in connection with the principle of development site given that this has been considered and determined to be acceptable. Furthermore, implementation of the approved scheme has begun. The proposal is fundamentally only changes to the design, appearance and form of the dwelling (**Building A**).

6.2 The main issues to consider in this case are the amendments to the approved scheme in terms of:

- **Fall-back position**
- **Impact on the Green Belt**
- **Policy H4 Criteria for new dwellings**
  - An important open space of public, environmental or ecological value is not lost, nor an important public view spoilt
  - The design, height, scale and materials of the proposed development are out of keeping with its surrounding
  - Character of the area is not adversely affected
  - There are no overriding amenity environmental or highway objections
  - If the proposal constitutes backland development, it would create problems of privacy and access and would not extend the built-up limits of the settlement.
- **Protected species**
- **Other matters**

6.3 **Fall-back position**

The application site has been the subject of many applications submitted over the years and other more recent applications to vary condition 2 for Building A. Before looking at the planning policy merits of this proposal, it is first important to outline the applicant's "fall-back" position. Fall-back positions are material planning considerations and are deemed to be the extent the land can be developed without express planning permission from the council or via extant lawful planning permissions. Case law notes that they must have a realistic possibility of implementation and must be weighed in the balance with all other material considerations.

6.4 This is important and relevant in this case as the applicant often refers back to lawful development certificates that were issued on the site as being the baseline to which the site can be developed and subsequent applications should be compared.

6.5 In 2012 a Lawful Development Certificate was granted for the erection of an outbuilding for ancillary residential use to Holton Cottage and the relocation of the drive under ref P12/S2160/LDP. Subsequently planning permission was granted in 2012 for the erection of an outbuilding for ancillary residential use (P12/S2161/HH). Then, in 2013 a further Lawful Development Certificate was granted under ref P12/S2835/LDP for a proposal to move the pool, gym and garage approved in the previous Lawful Development Certificate. These planning decisions partially formed a basis and "fall-back" position in justification for the extant planning permission for Building A & B.

6.6 However, in my opinion, these lawful development certificates are no longer relevant and do not form part of the applicant's fall-back position. This is on the basis, the application site is now an entirely separate planning unit and the application site is no longer within the residential curtilage of Holton Cottage. Development is deemed to

have commenced in respect of the extant planning permission, as such the incidental buildings proposed under lawful development proposals cannot be built. As such they no longer form a genuine fall-back as the context of the site and land use has changed.

- 6.7 As a result, the extant planning permissions, (P14/S0338/FUL & P14/S3212/FUL) which this application seeks to vary, are the only genuine fall-back positions for development on the site and what the variations proposed should be weighed in balance against.

6.8 **Impact on the Green Belt**

The principle of new buildings in the Green Belt on the site has been established by the extant planning permission. In my view, the proposal will have no further material impact on the open character of the Green Belt than the approved scheme. The variations in height, design and siting, will cause no more harm than what can already be achieved. The site is located within the built limits of the settlement and will be surrounded by other buildings that are higher. The changes proposed will not have a material impact in this respect.

6.9 **Policy H4 Criteria**

Notwithstanding the principle of development is accepted, it is noted since the approval of the planning permission, the council can no longer demonstrate a 5-year housing land supply. As such, SOCS and SOLP policies in relation to housing strategy carry less weight and the presumption in favour of sustainable development under paragraph 14 of the NPPF applies. This means, sustainable development that accords with the development plan should be approved without delay. Also, where relevant policies are out of date, planning permission should be granted, unless specific policies in the Framework (noted under footnote 9 to include designated Green Belt land) indicate development should be restricted. However, in my view, given the proposed variations to the scheme ultimately incorporate design and form changes to approved dwelling, SOLP policy H4 is useful in assessing the impact of the proposal. This policy details that new dwellings within settlements will be permitted subject to certain criteria. The relevant policy criteria are looked at in more detail below.

- 6.10 i.) An important open space of public, environmental or ecological value is not lost, nor an important public view spoilt

The proposal will not impact upon this criterion. See para 6.15 in respect of ecology.

- 6.11 ii.) The design, height, scale and materials of the proposed development are out of keeping with its surrounding

The application site is surrounded by generally traditional dwellings of various size and design. The approved scheme is a contemporary, subterranean design with a ridge height of approximately 4m above the existing ground level. The majority of the previously refused schemes have shown the proposal to be taken entirely above ground level which has resulted in harmful and excessive increases in height. For example, the last refused scheme (P17/S1524/FUL) took the ridge height to around 4.9m above existing ground levels, which is significantly higher than what had been approved. Much of the justification of the approved schemes 4m height in this sensitive location was reliant on the permitted development fall back position at the time and mitigated by the subterranean design. Previous refused schemes went well beyond this.

In contrast, the latest proposal presents much more modest changes. It is virtually the same design (U-shape footprint) including a subterranean single storey element and

the 2-storey storey southern section. It has been moved further away from the south-east boundary to address previous concerns, and reduced in width so as not to extend any further to north west than what is proposed. There has been an overall decrease in height of the building by approximately 250mm from the lowest ground level, however, the lowest ground level has been raised by 500mm. This has resulted in the additional 250mm of additional height above ground level, bringing it up to 4.25m as opposed to the approved 4m above existing ground level. In my view, this relatively minimal increase in height, in combination with a slightly reduced footprint, causes little adverse impact to the character of the site or surrounding area, over or above the impact of the extant scheme. In addition, additional fenestration details, changes to openings make little material difference.

There are some slightly more significant changes to the roof design that have been proposed. A roof plan has been included to show the entire roof of the 2-storey element to be panelled in what has been specified as “modular skylights”, with the ground floor element maintaining the zinc roof. The plan does not specify how exactly this will be set out, however the applicant has indicated that southern elevation panels will be photovoltaic to produce energy, with the rest finished in an obscured glazed and electronically controlled black out blinded openings. Final details of this element can be agreed prior to the start of the development being implemented to ensure the roof is finished appropriately to the site. However, in principle, this appears acceptable given the contemporary design of the building and seeking to secure sustainable features to the home.

6.12 Character of the area is not adversely affected

In my opinion, the wider character of the area will not be affected by the proposed variations. The variations in design and height is unlikely to have any more impact on the general rural character of the village, for from a street scene perspective than what can be achieved under the extant scheme. The additional height would largely be screened by the surrounding buildings.

6.13 There is no overriding amenity environmental or highway objection

The proposal does not alter or change any impact on the highway and environmental impact is considered under the protected species section below.

With regards to neighbour amenity, throughout the sites history, this has been a significant consideration. The quantity of applications, proposed changes and amendments have caused considerable confusion. As such, all neighbouring objections have been carefully considered.

It is clear concerns have been exacerbated by inaccuracies in the plans for previously approved schemes. In previous refused schemes, the applicant identified that the plans were based off un-surveyed data and inaccurately showed the existing ground level, relationship to surrounding dwellings and dimensions of the outbuilding. Of particular significance is the fact that on the approved plans, Jubilee Cottages' outbuilding to the south east of the site (which sits outside the red of the site on the boundary) is shown to be larger and taller than it is in reality.

This has led to the perception that the approved scheme building has a ridge height that is not significantly higher than the ridge of the outbuilding, thus would largely be screened from Jubilee's neighbouring perspective. Notwithstanding, the outbuilding is still a valid reference point when assessing the height proposal on the site.

The difficulty this has caused, is that if the building was built as approved, in context to this outbuilding, it's relationship would not appear as it is shown as on the plans. The 4m 2-storey element would appear to be around 300 to 400mm higher than the outbuilding ridge height than was indicated. To further the confusion to the public, the applicant has often (and in this application) reflected what the extant building would appear like in "reality" if it were to be built, compared to new proposals.

However, in my view, (and after seeking informal consultation with the council's legal team), this would not render the approved permission null and void. In the absence of any ground levels submitted with the approved scheme, if the building were to be built, it would have to be measured in context of ground levels on site and not in context of outbuilding that falls outside the red edge of the site. This would mean if the 2-storey element was built 4m above the current ground level as shown in the approved plan, it would comply with the plans. However, it would appear slightly taller in context as explained.

With this in mind, this brings back the question of neighbouring amenity and whether a 250mm increase in height will have any more harmful impact than what can be currently implemented? After very careful consideration, I am of the view it will not. In context, this a very minimal increase, and to a degree is mitigated by moving the south west elevation further from the boundary, increasing separation distance. This additional distance will help reduce the perception of additional height gained from Jubilee Cottage. In terms for Ashleigh House, the 2-storey element extends no further along the boundary than the approved scheme and ridge remains below their side elevation window (unlike the refused schemes), as such the increase will likely have limited impact. It is noticed that 4 small bathroom windows have been included at first floor level. Two of these will face Jubilee cottage, with a window to window relationship of approximately 18-20m. SODG generally recommends a distance of 25m for habitable rooms, but considering these are toilets/bathrooms and they are shown to be obscured, the harm is mitigated and will likely not impact on neighbouring privacy.

6.14 V.) If the proposal constitutes backland development, it would create problems of privacy and access and would not extend the built-up limits of the settlement

The proposal would constitute backland development as it would be sited behind both Holton Cottage and Jubilee House. The access has been established by the extant planning permission and already partially implemented. The proposal will have no further adverse impact on these matters than the extant scheme as described above.

6.15 **Protected Species**

SOCS policy CSB1 seeks to prevent the net loss of biodiversity on a proposed site, which is supported SOLP policy C6 and in addition policy C8 which notes development will not be permitted where it has an adverse impact on protected species.

Since the planning permission was granted on the site, it has been established that the site serves as potential habitat for Great Crested Newts (GCN). These were found to be using a pond in the adjacent Ashleigh House, around 10m from the developments closest point. The applicant has submitted surveys, including a mitigation strategy, however in consultation with the council's ecologist, the mitigation is thought to be inadequate. However, there are two matters that need to be weighed in balance when considering this issue. Firstly, a European Protected Species licence also needs to be obtained under separate legislation where works may damage a habitat. The licence has now been issued for the extant scheme. Secondly, the extant planning permission does not have restrictive conditions in relation to the GCN and the development could be implemented without further control on this matter from the council. As such, on



balance, it would not seem proportionate to restrict or refuse the application on the basis further mitigation should be explored. Given the fall-back position and separate legislative requirements, the proposal is unlikely to have any greater impact than the extant scheme.

6.16 **Other matters**

A walnut tree is proposed to be removed and a new tree planted. This has been secured by discharged condition application **P17/S3971/DIS**, however, this condition along with others will be transferred to any new permission and amended where necessary.

6.17 **Community Infrastructure Levy**

The council's CIL charging schedule has been adopted and will apply to relevant proposals from 1 April 2016. CIL is a planning charge that local authorities can implement to help deliver infrastructure and to support the development of their area, and is primarily calculated on the increase in footprint created as a result of the development. No CIL information has been submitted with this application and the approved scheme was approved prior to CIL being implemented. As this is a variation of condition, it is understood CIL is not applicable in this instance.

7.0 **CONCLUSION**

7.1 On balance, the variations to the approved plans are unlikely to have detrimental impact to neighbouring amenity or privacy, over and above the approved scheme. The relatively minor changes in design, form and fenestration detail are in keeping with contemporary character of the approved building and have little impact on the character of the site or the surrounding area. No harm is attributed to the open character of the Green Belt through the proposed changes, as such, subject to the attached conditions, the development accords with Development Plan policies.

8.0 **RECOMMENDATION**

8.1 **To grant planning permission subject to the conditions below:**

1. **Approved plans.**
2. **Full details of roof required (roof).**
3. **Obscure glazing .**
4. **Materials as on plan.**
5. **Restricted construction working hours.**
6. **Withdrawal of permitted development rights (Part 1 Class A) - no extensions etc.**
7. **Withdrawal of permitted development rights (Part 1 Class E) - no buildings etc.**
8. **Surface water details.**
9. **Foul drainage details.**
10. **Parking areas retained.**
11. **Landscaping Implementation.**

**Author:** Luke Veillet

**Contact No:** 01235 422600

**Email:** [planning@southoxon.gov.uk](mailto:planning@southoxon.gov.uk)

This page is intentionally left blank