
SUBJECT DEVELOPMENT APPLICATION REPORTS ITEM 8

REPORT OF Head of Planning & Building Control

APPLICATION NO.	P12/S1232/FUL
APPLICATION TYPE	FULL APPLICATION
REGISTERED	2.7.2012
PARISH	IPSDEN
WARD MEMBER(S)	Ms Kristina Crabbe
APPLICANT	Mr Liam Nugent
SITE	Airlie Fir Close Ipsden, OX10 6AH
PROPOSAL	Construction of 3 Bedroom House and garage
AMENDMENTS	(as clarified by additional access information accompanying Applicants letter dated 08/08/12 and plan showing service routes accompanying Agents letter dated 10/08/12).
GRID REFERENCE	463747/185321
OFFICER	Emma Bowerman

1.0 INTRODUCTION

- 1.1 This application is referred to the Planning Committee as the Officer's recommendation differs from the views of Ipsden Parish Council.

- 1.2 The application site (which is shown on the OS extract **attached** as Appendix A) was formerly part of the garden of Airlie and is now separated by boundary fencing. The site is positioned between Airlie and Fir Close and contains an area of hard standing which provides vehicular access and parking for Airlie. There are level differences on site and the land slopes down from the road to Airlie. The site is located in a predominantly residential area within a rural setting. Dwellings in the vicinity are relatively modern in age and design, with Fir Close constructed in the 1950's, much of Crabtree Corner added in the 1970's and the neighbouring property Spring Field granted planning consent in the early 1990's. The village hall is located to the west of the site.

- 1.3 The trees on the west side of the site are protected by a Tree Preservation Order (TPO). Ipsden Footpath 1, known locally as 'The Quickset' runs to the south of Airlie. The site falls within the Chilterns Area of Outstanding Natural beauty (AONB).

2.0 PROPOSAL

- 2.1 The application seeks full planning permission for the erection of a new dwelling which would be located on the fenced off plot of land between Airlie and Fir Close. The main body of the proposed dwelling would be L shaped and the dwelling would be gable fronted. The two storey element would measure 9.6 metres x 8.7 metres. The design of the house has taken account of the level differences on site and would measure between 7 metres and 8 metres in height. The materials proposed are red brick and brown roof tiles.

- 2.2 The proposed dwelling would block the existing vehicular access to Airlie from Fir Close. There are existing access gates and hard standing leading into the Airlie from the south from the footpath known as The Quickset. During the application process, the applicant submitted additional information to try to demonstrate that he has a private vehicular right of access over the footpath.
- 2.3 A copy of the proposed plans is **attached** as Appendix B. The application is accompanied by a Design and Access Statement, Sustainability Statement, Tree Survey and Arboricultural Statement which can be viewed online at www.southoxon.gov.uk.
- 3.0 **SUMMARY OF CONSULTATIONS & REPRESENTATIONS**
- 3.1 Ipsden Parish Council – Object to the application. Raised the following concerns:
- Conflict with planning policies
 - Site would be constrained and crowded
 - Lack of parking for Airlie – potential for additional cars parked on Fir Close
 - Use of The Quickset to gain access to Airlie and the legal position of driving over the footpath
 - Potential for the road to be blocked when the septic tank is emptied
- 3.2 Oxfordshire County Council Countryside Access (footpaths) – No objection
- 3.3 Oxfordshire County Council Highways – No objection subject to a condition requiring the parking space to be provided and retained.
- 3.4 Forestry Officer – No objection subject to the tree protection measures being provided on site and for details of the location of rain water drains and soak ways to be agreed.
- 3.5 Campaign to Protect Rural England – Object to the application as it would constitute overdevelopment and would be out of keeping with the area. Raised concern regarding lack of parking and potential unlawful use of The Quickset.
- 3.6 The Chiltern Society – Object to the application due to conflict with planning policies, that the development represents growth by accretion and the impact on The Quickset.
- 3.7 The Open Spaces Society – Object due to the use of The Quickset for vehicular traffic as this would be an inconvenience to walkers.
- 3.8 Neighbour Representations – 22 Letter of objection received. Issues of concern raised are:
- Impact on trees
 - Conflict with planning policies
 - There is no legal right of access over the footpath to Airlie - driving over The Quickset would be a safety hazard and erode the footpath and character of the area
 - Potential for additional on street parking on Fir Close
 - Impact on neighbours – Overlooking
 - Impact on birds and bats
 - Overdevelopment of site – cramped and contrived development
 - Infrastructure not capable of supporting more housing
 - New dwelling would be prominent in streetscene
 - Lack of amenity space for the new dwelling
 - Noise and disturbance during construction

- Potential conflict of uses between new house and the neighbouring hall
- Urbanisation of the Chilterns and precedent for more housing in Ipsden

A signed statement from 17 residents was also submitted and this raised concerns with the use of The Quickset for vehicular traffic and the impact that this would have in terms of the safety of footpath and highway users.

4.0 RELEVANT PLANNING HISTORY

4.1 Planning application [P11/E0431](#) for an identical dwelling was refused planning permission in 2011 and was dismissed at appeal in 2012. This previous proposal was positioned closer to trees which are protected by a TPO towards the west of this site. This allowed for two additional parking spaces close to the eastern boundary of the site to provide parking for Airlie. The Inspector's decision and the block plan for this previous application are **attached** as Appendix C. The application was refused for the following reasons:

1. The proposed development would threaten the health and longevity of trees on site that have significant amenity value and are also the subject of a Tree Preservation Order. Furthermore, the erection of a dwelling in close proximity to the trees could result in pressure to remove the trees in the future. The harm to the trees would be detrimental to the character and appearance of the site and surrounding area and as such, the development would be contrary to the South Oxfordshire Local Plan 2011 Policies G2, G6, C1, C2, C9, H4 and H5 and advice contained in the South Oxfordshire Design Guide 2008 and the supporting Trees and Development best practice guidance.

2. Having regard to the size and position of the dwelling in relation to other properties and the other constraints of the site, including the protected trees and the need to retain parking for Airlie, the proposal would result in a cramped and contrived form of development, with limited private and usable amenity space available for future residents of the dwelling. Furthermore, the projection of the dwelling forward of the adjoining properties would be out of keeping with the grain of development and would result in a prominent addition to the streetscene. As such, the proposal would detract from the character and appearance of the site and this part of the Area of Outstanding Natural Beauty, contrary to the South Oxfordshire Local Plan 2011 Policies G2, G6, D1, C2, H4 and H5 and advice contained within the South Oxfordshire Design Guide 2008 and PPS1, PPS3 and PPS7.

4.2 Planning application [P11/E1693](#) for the demolition of the existing garage and its replacement with a new garage was granted planning permission in 2011 but this has not yet been built. The doors on this garage opened towards The Quickset and the garage would only be able to be accessed from the footpath. As there are already access gates leading from The Quickset and there is already hard standing in the western corner of Airlie, the application for the garage did not include any development which involved the creation of an access. In addition, planning permission is not required for an access from a footpath. The application was purely for the building. The granting of this planning permission did not infer or grant any rights of access over the footpath.

5.0 POLICY & GUIDANCE

5.1 National Planning Policy Framework

None of the policies within the South Oxfordshire Local Plan of relevance to this application are considered to be inconsistent with, or contradictory to, the provisions of the framework.

5.2 South Oxfordshire Submission Core Strategy (SOCS) 2027

The Inspector has just submitted his formal comments on the Core Strategy and the key relevant policies are:

CSS1 - The overall strategy
CSR1 – Housing in villages
CSEN1 - Landscape
CSQ2 - Sustainable Design and Construction
CSQ3 - Design

5.3 South Oxfordshire Local Plan (SOLP) 2011 saved policies

C2 - Harm to the AONB
C8 - Adverse affect on protected species
C9 - Loss of landscape features
D1 - Principles of good design
D10 - Waste Management
D2 - Safe and secure parking for vehicles and cycles
D3 - Outdoor amenity area
D4 - Reasonable level of privacy for occupiers
D6 - Community safety
D7 - Access for all
D8 - Conservation and efficient use of energy
EP6 - Sustainable drainage
EP8 - Contaminated land
G2 - Protect district from adverse development
G6 - Appropriateness of development to its site & surroundings
H4 - Housing sites in towns and larger villages outside Green Belt
H5 - Housing sites in larger villages in the Green Belt
R8 - Protection of existing public right of way
T1 - Safe, convenient and adequate highway network for all users
T2 - Unloading, turning and parking for all highway users

5.4 South Oxfordshire Design Guide (SODG) 2008

Sections 2, 3, 4 and 5

5.6 Chilterns Building Design Guide 2010

Chapter 3 – Designing new buildings

6.0 PLANNING CONSIDERATIONS

6.1 In addition to the principle of the development, the main issues to be considered are whether the development would:

1. result in the loss of an open space or view of public, environmental or ecological value;
2. be of an appropriate design, scale and height and be constructed from suitable materials
3. be in keeping with the character and appearance of the surrounding area;
4. compromise the living conditions of neighbouring residential occupiers;
5. provide an adequate level of off-street parking spaces or result in conditions prejudicial to highway safety;
6. harm any trees which are of amenity value
7. incorporate sufficient sustainability and waste management measures; and
8. have regard to any other material planning considerations

Principle of development:

- 6.2 Ipsden is classed as a category iv settlement in the SOLP and is therefore a location where infill is acceptable in principle, as advised by policy H5 of the SOLP. This is because the level of services and facilities can accommodate small scale development. It is noted that Ipsden was previously a category v settlement, where new housing is not acceptable, but moved up a category in 2010. The principle of new housing is therefore acceptable and should be assessed against the criteria in policy H4 of the SOLP.
- 6.3 Under the Core Strategy, Ipsden is classed as a 'smaller village' and is a location where infill housing development is acceptable in principle as advised by policies CSS1 and CSR1.

Loss of Open Space:

- 6.4 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. Although the site is open, it is residential in terms of its character. The grass is mowed, the boundary treatments are domestic in appearance and the access running through the site all contribute to the residential nature of the plot. The site is privately owned and is not open to the public. With the exception of the trees on site, which are considered separately in this appraisal, there is no evidence that the site has any particular environmental or ecological value. The site is positioned between Airlie and the road and in my opinion a dwelling on the plot would not spoil an important public view point. This criterion would therefore be satisfied.

Appearance of new dwelling:

- 6.5 Criterion (ii) of Policy H4 of the SOLP 2011 requires that the design, height, scale and materials of the proposed development are in keeping with its surroundings. The proposed dwelling would be gable fronted and based on an L shaped plan. It would be appropriately proportioned, of a simple form and would generally comply with the guidance in the Design Guide. The proposed house has been designed to take into account the level differences on site and would be of a similar height to Springfield, the neighbouring property to the east of the application site. The materials stated in the application form would be appropriate to the character of the area. As such, Officers consider that the proposed development would comply with the above criterion.

Character of the area:

- 6.6 Criterion (iii) of Policy H4 of the SOLP 2011 requires that the character of the area is not adversely affected. The council considered that the previous application (P11/E0431) detracted from the character of the area. The Inspector who determined the appeal disagreed with the council's view that the building would be prominent in the street scene (para.10 of the Inspector's report). He did agree that the site would be dominated by car parking (para.11) and would appear cramped due to the proximity to the trees (para.12) and concluded that this would detract from the character and appearance of the area (para.13).
- 6.7 The Inspector's decision on the previous application is a material planning consideration. The current application has moved the proposed dwelling to the east by around 2.8 metres and has omitted the additional parking for Airlie. The site would therefore not be dominated by parking and Officers consider that this has overcome one of the Inspector's concerns. Officers also consider that moving the proposed dwelling away from the trees at the western side of the site has overcome the issues raised by the Inspector regarding the close proximity to the trees. The Inspector did raise concerns regarding the quality of the amenity space provided for the new dwelling

in para.14 and 15 but concluded that this would be insufficient to warrant dismissal of the appeal. Moving the proposed house to the east has created a larger garden area, which would be well in excess of the 100 sq.m recommended garden area in the Design Guide and in Officers opinion, would provide sufficient amenity space for future occupants.

- 6.8 Officers consider that the proposal has overcome the previous reason for refusal regarding the impact on the character of the area as the layout would no longer be cramped and would respect the spaciousness created by the land and trees around the village hall. In terms of its impact on the wider landscape character of the AONB, the proposed dwelling would be positioned amongst other buildings and Officers consider that it would not detract from the landscape setting of the village.

Living Conditions:

- 6.9 Criterion (iv) of Policy H4 of the SOLP requires that there are no overriding amenity objections. There are no windows in the side elevation of Springfield that would be affected by the development and given the relationship between the proposed dwelling and this neighbour, I consider that the proposal would have an acceptable impact on the front and rear windows in terms of light and outlook. With regards to overlooking, the proposed dwelling would not incorporate any first floor windows that would overlook Springfield and the roof light facing towards this neighbour would serve a bathroom and could therefore be conditioned to be obscure glazed or set at a high level to ensure that there would be no overlooking towards Springfield. Standard boundary treatment would block the view from the ground floor windows towards Springfield and in any case, they would only face the neighbours blank wall.
- 6.10 Airlie does have a number of windows in its rear elevation that would face the proposed dwelling. As these windows are secondary or serve bathrooms or a utility room, I consider that the development would not adversely affect any primary living areas and would have an acceptable impact upon Airlie in terms of light and outlook. The side elevation facing Airlie would have no first floor windows and so would not result in any unacceptable overlooking of Airlie. The proposed house would be further from the village hall than the existing house at Airlie and it is not unusual for village halls to be positioned close to residential properties. I do not consider that there would be any conflict between these uses. On the basis of this assessment, Officers consider that the proposed development would have an acceptable impact on neighbouring properties in accordance with this criterion.

Highways and Parking

- 6.11 Criterion (iv) of Policy H4 of the SOLP also requires that there are no overriding highway objections. The proposed new dwelling would be served by two parking spaces and this would meet the council's parking standards. Officers consider that the proposed parking and access arrangements for the new dwelling would be acceptable.
- 6.12 Although not part of the application site, the proposals would have consequences in terms of access and parking for Airlie. At present, Airlie has vehicular access from Fir Close, with parking on hard standing where the proposed house would be positioned. In addition, Airlie also has vehicular access gates and hard standing leading from The Quickset, which is the public footpath running to the south of Airlie. Tyre tracks in the footpath show that the owner of Airlie currently uses the footpath to access his property and the tyre marks in the footpath are also apparent in aerial photographs dating from 2009. It is therefore likely that the occupier of the property has been using both the access from Fir Close, and the access which involves driving down the footpath, for a number of years. The length of footpath involved is around 33 metres.

- 6.13 The proposed new dwelling would block the existing access from Fir Close to Airlie. Airlie would therefore be left in a position where it would either not have any on site parking, or the owner would need to drive over the Quickset to access the existing hard standing in the south west corner of Airlie. Driving over a public footpath is an offence under the road traffic act unless the person has a private vehicular right of access over the footpath. The Applicant claims that he has a private right of access over the footpath and has submitted an affidavit from the previous owner stating that rights of way with vehicles have been exercised over the footpath without any interruption or complaint since 1954. Representations from neighbours state that the previous owner drove over the footpath a handful of times a year. Airlie and the adjoining hall are the oldest buildings in this part of the village and were constructed around 40 – 50 years before Fir Close. Given that Fir Close did not exist for a long period after Airlie was constructed, it is reasonable to assume that access to Airlie would originally have been from the south, especially given that the front of Airlie faces onto The Quickset.
- 6.14 The council's legal team have investigated the matter and have confirmed that it is possible to acquire a prescriptive easement (the acquisition of a right through long use or enjoyment) over a public footpath. However, the applicant has not made any attempt to formally register such a right and as such, the impact of the development on the right of way needs to be considered. The Rights of Way Officer at the County Council has considered the submitted documentation and although he has stated a preference for the primary access to remain from Fir Close, he has no objection to the application. Officers fully appreciate that gaining vehicular access over a public footpath is not ideal for footpath users. However, Officers do not consider that use of a 33 metre stretch of the footpath, to serve one dwelling, would have a significant impact on the enjoyment of the public footpath. The granting of planning permission for the proposed house would not alter the status of the footpath. It would remain as a public right of way, which would accord with Policy R10 of the SOLP, which requires the retention and protection of public rights of way.
- 6.15 It is recommended that an informative is attached to any planning consent advising that the rights of way matter is resolved before any development commences. The applicant has been advised that Airlie should not be left without any parking and that the grant of planning permission would not grant a right of way over the footpath. SODC cannot grant a right of way over a footpath or enforce against someone driving over a footpath. Officers do not consider that it would be reasonable to refuse the application due to the lack of clarity over the right of way issue as the footpath issue falls outside of the application site and footpaths are controlled by other legislation. In addition, the applicant could choose to sell the plot of land where the proposed house would be located (or just shut the access onto Fir Close) and would ultimately be in the same situation without any planning permission having been granted.
- Trees:
- 6.16 Policy C9 of the SOLP seeks to retain important landscape features. The beech trees to the west of the site are the subject of a Tree Preservation Order which includes a number of trees on adjoining land at the village hall. Two of the trees are of a high amenity value and are important landscape features. The council's forestry officer is of the opinion that the layout has positioned the dwelling a sufficient distance from these trees to not result in any unacceptable impact upon the trees. The proposed dwelling would be closer to a horse chestnut in the garden of the neighbouring property Springfield. This is not a high quality tree and should not be considered as a constraint to the development. Subject to conditions requiring the provision of tree protection and further details of rain water drains and soak aways, Officers consider that the development would have an acceptable impact on the trees on site which are of amenity value to the area and that the first reason for refusal of P11/E0431 has been

overcome.

Sustainability Measures and Waste Management:

- 6.17 Policy D8 of the adopted SOLP 2011 requires proposals to incorporate sustainability measures in terms of energy, water and materials efficient design. A sustainability statement was submitted with the application and this outlines the sustainability measures that would be incorporated into the development. A planning condition could secure these measures. There would be sufficient space on site for refuse and recycling storage and for composting facilities and as such, Officers consider that the proposal would meet the requirements of policy D10 of the SOLP.

Other material considerations:

- 6.18 Residential development is regarded as a particularly sensitive use to any land contamination. For this reason, a precautionary approach should be adopted and adequate contaminated land investigations should be carried out to ensure that the land is safe and suitable for the intended use. Accordingly, Officers have recommended that a suitable condition be imposed on any planning permission.
- 6.19 With regards to other conditions, officers have recommended that permitted development rights are removed for extensions and outbuildings. This is due to the close proximity of the proposed dwelling to the existing property Airlie and also because of the constraints caused by the trees on site.

7.0 CONCLUSION

- 7.1 Officers consider that the proposed dwelling is positioned a sufficient distance from the protected beech trees and that the first reason for refusal of P11/E0341 has been overcome. The proposal has removed the additional parking which was shown on the previous application and by positioning the proposed dwelling further from the protected trees on site, Officers consider that the development would not appear cramped and that the second reason for refusal of P11/E0341 has also been overcome. The proposal would have knock on effects for parking at Airlie and the applicant has been advised to formally resolve the right of way issues before development commences.

8.0 RECOMMENDATION

- 8.1 **That planning permission be granted for the development contained in planning application P12/S1232/FUL subject to the following conditions –**

- 1. Commencement 3 yrs - Full Planning Permission**
- 2. Planning condition listing the approved drawings**
- 3. Sample materials to be submitted and approved**
- 4. Parking area to be provided and retained**
- 5. No garage conversion into accommodation**
- 6. Tree protection to be provided**
- 7. Details of rain water drains and soak ways to be agreed**
- 8. Details of levels to be agreed**
- 9. Contamination investigation to be submitted**
- 10. Sustainable design features to be implemented**

- 11. Withdrawal of Permitted Development rights (Class A) - no extension/alteration**
- 12. Withdrawal of Permitted Development (Part 1 Class E) - no buildings/enclosures**
- 13. Rooflight in in east elevation to be high level or obscure glazed**

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