

<b>APPLICATION NO.</b>	<a href="#">P20/S1367/FUL</a>
<b>APPLICATION TYPE</b>	FULL APPLICATION
<b>REGISTERED</b>	17.4.2020
<b>PARISH</b>	BRIGHTWELLCUMSOTWELL
<b>WARD MEMBER(S)</b>	Anne-Marie Simpson Jane Murphy
<b>APPLICANT</b>	Fairfield Properties (Bucks) Ltd
<b>SITE</b>	The Rodings High Road Brightwell-Cum-Sotwell, OX10 0PS
<b>PROPOSAL</b>	Variation of condition 2 (approved plans) of application P18/S0050/FUL to allow for internal and external amendments to the two approved dwellings and to allow for amendments to access and parking arrangements. (As amplified by Nature Space licensing information received 1 June 2020).
<b>OFFICER</b>	(Demolition of existing dwelling house and erection of two detached dwellings). Paul Bowers

**1.0 INTRODUCTION AND PROPOSAL**

- 1.1 This report sets out the officer’s recommendation of approval and how that has been reached with regard to the relevant material planning considerations and the development plan.
- 1.2 The application is referred to planning committee at the discretion of the Development Manager because the application was registered before 23 March 2020 and the recommendation that planning permission is granted conflicts with the Parish Council’s views.
- 1.3 The application site originally comprised a single storey, detached dwelling accessed via High Road by a driveway also serving the two properties at Moat Fall. The building which has now been demolished was not listed and not located within a designated area.
- A plan identifying the location of the site can be found at **Appendix 1**.
- 1.4 Planning permission was granted under application P18/S0050/FUL to replace the demolished single storey dwelling with two detached 1.5 storey four bedroom dwellings with associated parking and garden areas.
- The approved plans can be found at **Appendix 2**.
- 1.5 An application was made and approved under Section 73 of the Town and Country Planning Act for the variation of condition 7 that related to an ecology licence.
- 1.6 This is also an application being made under Section 73 of the Town and Country Planning Act for the variation of condition 2 – the approved plans condition and seeks planning permission for the following changes to the approved development;
- A new independent access on High Road for the two approved dwellings.

- Closure of the existing access on to the driveway serving properties at Moat Fall.
- Addition of two car ports.
- Increase in the height of Plot 1 by 850mm
- Increasing the number of bedrooms to Plot 1 from 4 to 5.

1.7 Reduced copies of the plans accompanying the application are attached as **Appendix 3** 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.

## 2.0 **SUMMARY OF CONSULTATIONS & REPRESENTATIONS**

2.1 **Brightwell-cum-Sotwell Parish Council** – Object to the development for the following reasons;

- Increase in the number of bedrooms.
- Object to the increase in the ridge height.
- Concern that the new access would override benefits from the changes to the speed limit outside of the site.
- The development will have an adverse effect on the setting of the village.

### **Neighbour Responses –**

6 x letters of objection covering the following issues;

- Concern that the height of the dwellings are not restricted to the height of the adjoining dwellings.
- Concern over the addition of a new access on to High Road increasing safety hazard.
- An alternative new access would be preferable and safer.
- Only one dwelling should be permitted on this site.
- The new dwelling on Plot 1 will be overbearing and oppressive to Greenhow.
- Over development of the site.
- Concern over surface water drainage.

**County Archaeological Services** – No objection.

**Countryside Officer** – No objection subject to a revised planning condition on the basis of the information submitted with the application.

**Drainage** – No objection subject to a surface water condition.

**Highways Liaison Officer** – No objection subject to new planning conditions

**Contaminated Land** – No objection.

## 3.0 **RELEVANT PLANNING HISTORY**

3.1 [P19/S0003/FUL](#) - Approved (14/02/2019)

Variation of condition 7 (Ecology Licence) of application P18/S0050/FUL

[P18/S0050/FUL](#) - Approved (07/11/2018)

Demolition of existing dwellinghouse and erection of two detached dwellings.

## 4.0 **ENVIRONMENTAL IMPACT ASSESSMENT**

4.1 N/A

5.0 **POLICY & GUIDANCE**

5.1 **Development Plan Policies**

**South Oxfordshire Core Strategy (SOCS) Policies:**

- CSR1 - Housing in villages
- CS1 - Presumption in favour of sustainable development
- CSB1 - Conservation and improvement of biodiversity
- CSEN1 - Landscape protection
- CSQ3 - Design
- CSS1 - The Overall Strategy

**South Oxfordshire Local Plan 2011 (SOLP 2011) Policies:**

- C8 - Adverse affect on protected species
- EP8 - Contaminated land
- C9 - Loss of landscape features
- 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 affect on people and environment
- EP4 - Impact on water resources
- EP6 - Sustainable drainage
- G2 - Protect district from adverse development
- 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

**Brightwell cum Sotwell Neighbourhood Plan (BCSNDP) policies;**

- BCS1 – Brightwell cum Sotwell village boundary.
- BCS7 – Landscape character and the villages
- BCS9- Design principles

- 5.2 Paragraph 48 of the NPPF allows for weight to be given to relevant policies in emerging plans, unless other material considerations indicate otherwise, and only subject to the stage of preparation of the plan, the extent of unresolved objections and the degree of consistency of the relevant emerging policies with the NPPF.

**South Oxfordshire Emerging Local Plan 2034 Policies**

The council is currently progressing the emerging local plan through the examination stage. The plan currently carries limited weight. Relevant policies include;

- DES1E - Delivering high quality development
- DES2E - Enhancing local character
- DES5E - Outdoor amenity space
- DES6E - Residential amenity
- ENV1E - Landscape and countryside
- EP4E - Flood risk
- H16E - Infill development
- STRAT1E - The overall strategy
- STRAT5E - Residential densities for major residential development

5.3 **Supplementary Planning Guidance/Documents**

- South Oxfordshire Design Guide 2016 (SODG 2016)
- Developer Contributions SPD

5.4 **National Planning Policy Framework and Planning Practice Guidance**

5.5 **Other Relevant Legislation**

Human Rights Act 1998

The provisions of the Human Rights Act 1998 have been taken into account in the processing of the application and the preparation of this report.

Equality Act 2010

In determining this planning application the Council has regard to its equalities obligations including its obligations under Section 149 of the Equality Act 2010.

6.0 **PLANNING CONSIDERATIONS**

6.1 When assessing section 73 applications the Council can only consider the original condition and the reasons for applying the condition; new conditions can be attached but only in so far as they apply to the original condition. If the Council decides that planning permission should be granted subject to differing proposed conditions, planning permission should be granted. If permission is required to be granted subject to the same conditions as those to which the previous permission was granted, they should refuse the application

6.2 Paragraph 015 of NPPG notes where an application under section 73 is granted, the effect is the issue of a new planning permission, sitting alongside the original permission, which remains intact and un-amended. Furthermore, to assist with clarity decision notices for the grant of planning permission under section 73 should also repeat the relevant conditions from the original planning permission, unless they have already been discharged. A section 73 application cannot be used to vary the time limit for implementation, this condition must remain unchanged from the original permission.

6.3 It is not intended to go through all of the planning issues that were assessed in connection with the principle of development as that has been established through the grant of planning permission.

The permission remains extant and has been implemented in as much as the existing building has been demolished. The approved dwellings can be built at any point. This is a significant material planning consideration in the determination of this application and represents a very real and likely fall back position that the council has to weigh in the balance when considering this application.

Given the context of the changes, the condition being varied and the reasons for applying them, it is only necessary to consider the impact of the changes on the character and appearance of the site and surrounding area and the impact on neighbouring properties and highway safety.

6.4 The main issues to consider in relation to this proposal are;

- **Whether there has been any material change in site circumstances or planning policy in the intervening time between the grant of planning permission and now.**
- **Impact of the changes to the building on the amenities of the occupants of nearby properties.**
- **Impact of the changes to the buildings on the character and appearance of the area.**
- **Impact on highway safety.**
- **Ecology.**
- **Conditions.**
- **Community Infrastructure Levy (CIL).**

**6.5 Whether there has been any material change in site circumstances or planning policy in the intervening time between the grant of planning permission and now.**

Section 38 (6) of the Planning and Compulsory Purchase Act 2004 requires applications for planning permission be determined in accordance with the Development Plan unless material considerations indicate otherwise.

Section 70 (2) of the Town and Country Planning Act 1990 provides that the local planning authority shall have regard to the provisions of the Development Plan, so far as material to the application, and to any other material considerations.

The saved policies within the South Oxfordshire Local Plan 2011 remain relevant as do the policies contained within the Brightwell cum Sotwell Neighbourhood Plan as they were in the determination of the original planning permission P17/S2367/FUL.

The South Oxfordshire Local Plan 2034 is now at examination however it carries limited weight in decision making.

Overall however the proposed development continues to accord with the development in all its constituent parts.

**6.6 Impact of the changes to the building on the amenities of the occupants of nearby properties.**

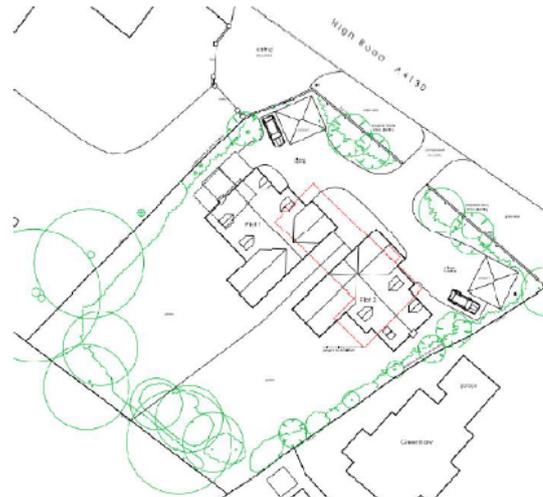
Policy H4 and specifically criterion (iv) of the policy and also Policy D4 of the South Oxfordshire Local Plan (SOLP) seek to protect the amenities of the occupants of nearby properties.

Impact on residential amenity is normally considered in terms of whether a development results in material harm by way of overlooking, loss of sunlight or being so large and close that it is considered oppressive and overbearing.

**6.7 The layout below shows the approved and the proposed positions of the two dwellings;**



*P18/S0050/FUL – Approved Site Plan*



*Extract from the Proposed Site Plan*

**6.8 In terms of how the development affects the property to the south at Greenhow it is my view that the relationship between it and the proposed and the approved dwelling on**

Plot 2 is directly comparable. It does not in my view result in a materially different impact which was acceptable previously and remains so now.

- 6.9 The increase in height of Plot 1 of 850mm will have no appreciable or material impact to the properties to the north west at Arlington and Ashworth House given the distance and small amount in increase of height.
- 6.10 In my view the changes in the elevations and the height of the building will not create a harmful unneighbourly impact to any nearby property.
- 6.11 **Impact of the changes to the buildings on the character and appearance of the area.**

Provision (ii) of Policy H4 states *‘the design, height, scale and materials of the proposed development are in keeping with its surroundings.’* whilst Provision (iii) states *that the ‘character of the area in not adversely affected.’*

Policy BCS9 of the BCSNDP states that *the development proposals will be supported, provided they complement, enhance and reinforce the local distinctiveness of the village and where appropriate are designed to enhance the setting of the conservation areas and their settings. Proposals must show clearly how the scale, mass, density, layout and design of the site, building or extension fits in with the character of the immediate area and wider context within the village. The scale of new developments should conserve and enhance the rural character and appearance of the village and its landscape setting as defined in the adopted Village Design Statement and Conservation Area Character Appraisal.*

- 6.12 The proposed buildings are one and a half storeys in height in the same way as the approved buildings are.

There is local concern about the heights of the two new properties. Firstly, that they are higher than the building that was on site and that the plans show Plot 2 850mm higher than it was in the previous planning permission.

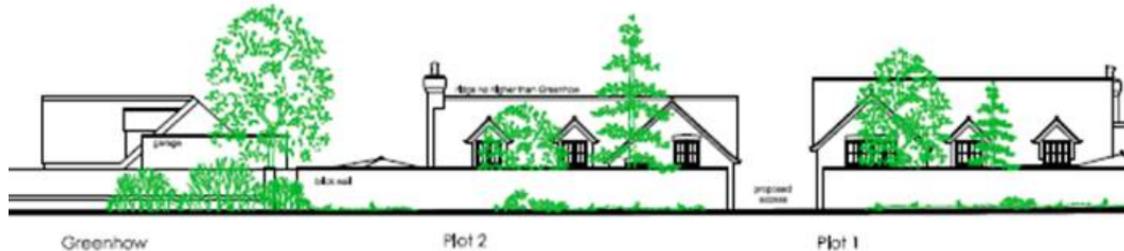
The properties are higher than the one they replace. Whilst the heights of the buildings at Greenhow and Rowan Close were likely important when they were considered in the context of the surrounding properties at that point, this application has to be assessed against the existing situation. There is no policy or planning restriction in place that limits the heights of building to a fixed measurement.

- 6.13 The comparison below shows the minor changes between the approved scheme and the proposed in terms of appearance and ridge height in relation to the adjoining properties.

The approved development (P18/S0050/FUL)



The proposed development (P20/S1367/FUL)



6.14 When compared to the previously approved development the change in height is visible but does not appear to be significant and in my view, does not amount to material harm to the character and appearance of the site or the area.

6.15 Policy BCS9 states that proposals for new garages, outbuildings or tall garden walls must be subservient in scale and, whether of a traditional or modern design, should draw from the local palette of vernacular building materials;

The proposed car ports are offset to the front of the two new dwellings. They are low buildings and in the context of the street scene only the tops of the roofs will be visible.

They are simple structures with traditional pitched roofs and do not in my opinion appear out of place or overly dominant. They achieve what Policy BCS9 is seeking in my opinion.

6.16 Policy BCS9 also states that development proposals should have regard to historic plot boundaries, hedgerows and enclosure walls.

The policy does not prohibit new accesses being created through boundary walls or hedges.

The addition of a new opening along this extent of the High Road will be located between the junction of Slade End and the existing access to the Rodings and Arlington and Ashworth House. Along this extent of High Road spaced out accesses are part of the characteristics of the area.

The opening itself is not significantly wide and in my view will not be unduly prominent or appear out of place in my view.

6.17 In my view the change in the development does not cause material harm to the character and appearance of the area and accords with the relevant criterion of Policy H4 and Policy BSC9.

6.18 **Impact on highway safety.**

With respect to highway safety matters the advice from Central Government set out in paragraph 109 of the National Planning Policy Framework (NPPF) is as follows:

*Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety.*

Policy T1 of SOLP seeks to ensure that all types of development will, where appropriate, provide for safe and convenient access to the highway network.

Policy T2 of SOLP seeks to ensure that development does not harm highway safety and provides for sufficient parking and turning areas.

Emerging Policy TRANS5 echoes these provisions.

Appendix 5 of SOLP sets out the council's maximum parking standards based on the number of bedrooms within a development.

- 6.19 The existing situation on site is that The Rodings has a single access onto a shared driveway which also serves Arlington and Ashworth House to the north which then joins the High Road. Three dwellings in total use this junction.

As approved the two new dwellings replace the single dwelling at The Rodings and would use the shared drive and junction taking it to a total of 4 properties using the junction. This was deemed acceptable by the Highway Authority. However the permission was subject to a condition which required that no development could commence until a scheme for off-site highway works had been submitted which included works to enable the 30mph speed limit to be extended and highway markings to be in the form of 'Give Way' across the existing access has been implemented.

That works has been undertaken and the 30mph speed limit has been extended to the north west beyond this site.

- 6.20 Whilst the four dwellings being served from one access was not considered to cause harm. Not being harmful is not the same as being the ideal situation. Four properties would be using a single access on to the High Road with a fairly small area in front of the gates for each property. The photograph below shows the available space in front of the respective entrances and if you consider the likely possibility of one or more vehicles trying to enter as another is trying to leave, I would suggest that really isn't the ideal situation.



It is the view of the Highway Authority - and one that your officers agree with - that although the new access is from the High Road the extension of the 30mph speed limit allows for the new access to provide the required visibility splays and therefore closing off the existing access is a better solution than the previous alternative arrangement.

- 6.21 An independent access for the two new dwellings rather than vehicle movements from 4 dwellings using one access is considered to be a benefit and acceptable in terms of highway safety.

Parking and manoeuvring within the site are considered acceptable to meet the council's standards and ensure that vehicles can exit in forward gear.

In your officers view the development accords with Policy T1 and T2.

6.22 **Ecology.**

The original permission included a condition which stated that no development including site clearance stripping or demolition could occur until;

- a) a newt licence issued by Natural England pursuant to the Regulation 53 of The Conservation of Habitats and Species Regulations 2017 authorising the specified activity to go ahead; or
- b) proof of registration of the site for a great crested newt low impact class licence, has been submitted to and agreed in writing by the Local Planning Authority.

Thereafter, approved measures shall be carried out and retained in accordance with the approved details.

- 6.23 The Section 73 application P19/S0003/FUL varied the condition so that it reflected the newt licence and proof of registration with Nature Space that had been obtained.

The change in the approved plans has necessitated that a change to the wording of the condition such that the NatureSpace certificate and impact plan have been submitted to support this application which are specific to the development now proposed.

6.24 **Conditions.**

Planning conditions, with the exception of the condition that is being varied as part of a Section 73 application, are normally the same as those on the original planning permission. Additional conditions can also be added where they relate to the changes of the scheme through the variation of the approved plans.

The new access, car ports, parking arrangements and the fact that the development has already commenced has meant that some conditions have been deleted and new conditions added in this recommendation.

- 6.25 For clarity I will set them out below;

The original condition 1 required the development to commence within three years of the date of the permission. The development has already commenced and therefore is no longer necessary or relevant.

**Condition 1** (formerly condition 2) is the condition being varied and includes the list of new drawings to replace the previously approved drawings.

**Condition 2** (formerly condition 3) requires details of the materials to be approved prior to the construction of the dwellings. This remains unchanged.

**Condition 3** (formerly condition 4) removed permitted development rights for extensions to the house. This condition remains unchanged.

**Condition 4** (formerly condition 5) removed the permitted development rights for outbuildings. This remains unchanged.

**Condition 5** (formerly condition 6) requires tree protection to be carried out in accordance with the tree survey that accompanied the original application. The condition has been altered to reflect the updated tree report accompanying the application.

**Condition 6** (formerly condition 7) This condition relates to ecology and is altered as stated above to reflect the new development. It is now a compliance condition requiring the development to be carried out in accordance with the Impact Plan for great crested newt district licensing , dated 28th May 2020.

**Condition 7** (formerly condition 8) relates to surface water details to be provided for approval prior to the construction of the dwellings. This remains unchanged.

**Condition 8** is a replacement condition and relates to highway matters. It requires the new access to be formed and laid out and constructed strictly in accordance with the local highway authority's specification.

**Condition 9** is also a replacement condition and requires the existing access on the shared driveway with Ashworth and Arlington Houses to be stopped up before the new access is used.

**Condition 10** (formerly condition 9) requires the parking and turning areas to be provided as per the approved plans and prior to the buildings first being occupied.

**Condition 11** is a new condition and requires that the garage accommodation to be retained as such and not adapted for living purposes.

6.26 **CIL.**

The proposed changes to the approved plans do not trigger additional CIL payments.

7.0 **CONCLUSION**

7.1 I recommend that planning permission is granted because the changes to the approved plans do not result in a development that is unneighbourly. The changes to the buildings do not result in a development that is out of keeping or harmful to the character and appearance of the area.

The new access represents a preferable alternative to the extant permission and provides adequate visibility within the now extended 30mph zone.

In conjunction with the attached conditions the proposal accords with development plan policies.

8.0 **RECOMMENDATION**

8.1 **That Planning Permission is granted subject to the following conditions;**

- 1 : Approved plans**
- 2 : Schedule of Materials**
- 3 : Withdrawal of P.D. (Part 1 Class A) - no extensions etc**
- 4 : Withdrawal of P.D. (Part 1 Class E) - no buildings etc**
- 5 : Tree protection (implementation as approved)**
- 6 : Wildlife Protection (mitigation as approved)**
- 7 : New vehicular access**
- 8 : Surface water drainage works (details required)**
- 9 : Close existing access (a)**
- 10 : Parking & Manoeuvring Areas Retained**
- 11 : No Garage conversion into accommodation**

**Author:** Mr. P Bowers  
**E-mail :** [planning@southoxon.gov.uk](mailto:planning@southoxon.gov.uk)  
**Contact No:** 01235 422600

This page is intentionally left blank