APPLICATION NO.	P15/S2266/FUL
APPLICATION TYPE	FULL APPLICATION
REGISTERED	7.7.2015
PARISH	HARPSDEN
WARD MEMBER(S)	Will Hall Paul Harrison
APPLICANT	Mr Paul Wandless
SITE	Harpsden Wood Cottage, Harpsden Woods, Harpsden, RG9 4AF
PROPOSAL	Proposed replacement dwelling (Additional supporting information received 25 August 2015; revised design and access statement and further supporting plans received 11 September 2015)
AMENDMENTS	None
OFFICER	Simon Kitson

1.0 **INTRODUCTION**

1.1 This application is referred to Planning Committee because the officers' recommendation conflicts with the views of Harpsden Parish Council.

1.2 The application property (which is shown on the OS extract **attached** as Appendix A) comprises a historic detached dwelling set within a plot of approximately 0.7ha, of which at least 0.36ha comprises residential curtilage. The site lies outside the built-up confines of Harpsden, within the Chilterns Area of Outstanding Natural Beauty (AONB) and there is extensive woodland and open fields separating it from the main settlements to the north and south. Access to the site is via a long private drive leading from Woodlands Road.

1.3 In 2013, a Certificate of Lawful Development established that a substantial two-storey extension could be lawfully erected without the need for planning permission, by utilising a permitted development right which existed under the 1995 version of the Town and Country Planning (General Permitted Development) Order (GPDO). This was followed by a pre-application enquiry in 2014, describing a larger scheme which could also be erected under permitted development rights. The relevant plans are **attached** as Appendix B. It has been demonstrated that work commenced on the scheme before 15th April 2015.

2.0 **PROPOSAL**

2.1 As detailed in the application submission, this proposal is for the demolition and replacement of the existing property with a larger, brick and flint dwelling in a Neo-Georgian style, built partly within the footprint of the existing dwelling. It is also proposed to replace an existing timber garage building with a single-storey brick/ flint structure. The key proposed dimensions are set out below.

	Proposed	Existing
Footprint (GFA)	322 sq.m	355 sq.m, with PD extension
Volume	2226 cu.m	2227 cu.m, with PD extension
Height to eaves	6.67m	4.37m
Height to ridge	9.7m	7.98m
Garage footprint	41.2m	

2.2 Copies of the proposed plans are **attached** as Appendix C and other documentation

associated with the application can be accessed via the council's website, www.southoxon.gov.uk.

3.0 **SUMMARY OF CONSULTATIONS & REPRESENTATIONS**

3.1 Harpsden Parish Council – Objection (2)

- The proposal is out of character with the existing property and the settlement pattern
- The scale and design of the dwelling would be more appropriate to an urban environment
- The proposal would not be sensitive to the woodland setting of the AONB

CPRE Henley& Mapledurham District – Objection

- The proposal represents an overdevelopment of the small area within this modest woodland site
- There will be clear visibility from the public footpath and golf course

The Chiltern Society

- The scale of the proposal and the 'pseudo-Georgian' style of the proposed dwelling would be out of keeping with its setting and the surrounding built form

Countryside Officer (South Oxfordshire & Vale of White Horse) - No objection, subject to condition

- The submitted mitigation scheme appears to be adequate to compensate for the loss of potential habitat caused by the proposal.

Forestry Officer (South Oxfordshire District Council) - No objection, subject to condition

- The surrounding trees are covered by a TPO
- There is unlikely to be harmful impact upon the trees within the site, provided appropriate tree protection measures are undertaken

Neighbour Object (5)

- The proposal would not accord with Policy H12 in terms of the greater visual impact
- Inadequate evidence provided to demonstate that a material commencement of the permitted development scheme was undertaken prior to the change of legislation in April 2015.
- Questions raised over the weight which should be applied to a 'fallback position'
- The new dwelling does not take account of the historical background of the current building: an ancillary cottage in a woodland setting
- The new building would be visible from the public footpath crossing Henley Golf Club, impairing its sylvan character.
- The proposal does not accord with SODC's landscape and countryside policies
- The new dwelling would have a much increased ridge height and bulk hence it would have a substantial visual impact

Neighbour Approve (7)

- The settlement accommodates an eclectic mix of properties, which includes an Eco house and a modern property with a rendered exterior. Many of the surrounding dwellings have evolved into substantial family homes.
- The proposed design would be more energy efficient and in keeping with local traditions
- There would not be an impact upon neighbouring properties
- The property would not be seen from nearby rights of way and it would be of an appropriate, sympathetic design reflecting the characteristic vernacular of the

Chilterns
- The new building would sit comfortably within its surroundings
- The development proposes traditional building materials and it will hardly be seen from outside the plot
- The proposal should be viewed consistently, within the context of other approvals in the locality
- Brick and flint are appropriate materials, in keeping with the wider area

4.0 **RELEVANT PLANNING HISTORY**

4.1 P13/S2024/LDP - Approved (30/09/2013)
Certificate of lawfulness for proposed two storey front extension and single storey rear extension.

P96/S0208 - Approved (30/05/1996)
Double detached garage with changing room/games room above.

P88/S0588 - Approved (17/08/1988)
Extension to existing residence.

5.0 **POLICY & GUIDANCE**

5.1 South Oxfordshire Core Strategy policies;

CSEN1 - Landscape protection
CSS1 - The Overall Strategy
CSQ3 - Design
CSB1 - Conservation and improvement of biodiversity

5.2 South Oxfordshire Local Plan 2011 policies;

H12 - Replacement dwelling
C6 - Maintain & enhance biodiversity
C9 - Loss of landscape features
C8 - Adverse affect on protected species
D1 - Principles of good design
D3 - Outdoor amenity area
D4 - Reasonable level of privacy for occupiers
G2 - Protect district from adverse development
G4 - Protection of Countryside
T1 - Safe, convenient and adequate highway network for all users
T2 - Unloading, turning and parking for all highway users

South Oxfordshire Design Guide 2008

5.3 National Planning Policy Framework

National Planning Policy Framework Planning Practice Guidance

5.4 The Town and Country Planning (General Permitted Development) Order 1995 (as amended)

6.0 **PLANNING CONSIDERATIONS**

6.1 The main considerations in relation to this application are:

1. The principle of the development
2. The impact on the character and appearance of the site and surrounding area
3. The impact on the amenity of neighbouring occupiers
4. The impact upon protected species and important landscape features

Principle of development

6.2 Due to the location of the property, the principle of the proposed development is established through Policy H12 of the South Oxfordshire Local Plan 2011 (SOLP) which supports applications for replacement dwellings in such locations, subject to compliance with the following criteria:-

i) Abandonment

6.3 It is accepted that the existing property is still in use as a single family dwelling house.

ii) Importance of existing dwelling

6.4 The larger dwelling at Harpsden Wood House was not considered worthy of listing by Historic England when assessed in conjunction with a recent householder application for extensive extensions and external works. The existing dwelling at the application property arguably has considerably less architectural interest and officers consider that there are no reasonable grounds to object to its demolition on the basis of an overriding historic or architectural importance.

iii) Volume

6.5 The starting point for an assessment under this criterion is that the proposed dwelling should not be materially greater in volume than the existing dwelling, taking into account permitted development rights. The sub-text of Policy H12 explains that 10% should be the limit of any increase, after permitted development allowances have been applied.

6.6 The agent states that the existing dwelling and the extensions possible under permitted development rights would have a cumulative volume of 2227.5 cu.m. Volume calculations have been provided to demonstrate that the proposal would have a volume of 2226 cu.m and, on this basis, the replacement dwelling would not be 'materially larger' than the existing as defined by Policy H12.

6.7 Whilst it is fully acknowledged that this proposal relies upon a loophole in the previous version of the GPDO which was closed following the introduction of the 2015 version of the legislation, officers believe that there is ample case law to support the view that the lawfulness of a permitted development scheme needs to be assessed against the legislation in force at the date a material commencement of work takes place. For the avoidance of doubt, s56 of the Town and Country Planning Act (1990) includes 'the digging of a trench which is to contain the foundations' within the definition of commencement of work and the applicant has provided written confirmation from a builder and approved inspector to support their claim that a foundation trench was excavated prior to 15th April when the new GPDO came into effect.

6.8 Officers accept that it is beyond reasonable doubt that the work on this extension has lawfully commenced and that it would be extremely difficult to demonstrate that the sizeable front extension would not be completed in the event that planning permission

were refused for the proposed replacement dwelling. A legal opinion on the status of the 'extant' extension was sought from the council's Senior Litigation & Planning Lawyer, and officers were advised as follows:

> *'..applying the weight of case law as it currently seems to exist, and the balance of probabilities test, I think it would be difficult to sustain the case that these extensions might not be lawfully built, in which case one would suppose that their notional volumes would be added to the existing'*

6.9 Whilst the immediate neighbour asserts that genuine intention to complete the extension needs to be shown, regard should be had to the cases at *Riordan Communications Ltd v South Bucks DC 2/12/99* and *East Dunbartonshire Council v SoS for Scotland and MacTaggart and Mickel Ltd 3/11/98* where the courts held that a subjective test of intention was not a relevant consideration in the lawfulness of a proposal. Officers have accepted that there has been a material commencement of work as defined by s56 of the Town and Country Planning Act 1990 and there is no local planning policy basis to challenge the legitimacy of the lawful scheme as a fallback position. The extant extension has therefore been afforded considerable weight in the assessment of this application.

iv) Visual Impact upon character and appearance of the area

6.10 The site is located within the Chilterns Plateau with Valleys, which is covered under Character Area 10 of the South Oxfordshire Landscape Assessment (SOLA). The SOLA describes a distinctive pattern of winding rural roads, extensive blocks of woodland and scattered settlements with a generally rural and unspoilt character. Policy CSEN1 of the South Oxfordshire Core Strategy (SOCS) states that the district's distinct landscape character and key features will be protected against inappropriate development and where possible enhanced. Where development is acceptable in principle, measures will be sought to integrate it into the landscape character of the area. High priority will be given to conservation and enhancement of the Chilterns Area of Outstanding Natural Beauty (AONBs) and planning decisions will have regard to its setting. Regard would also be had in particular to SOCS Policy CSQ3, SOLP Policy D1 and advice set out in Section 5 of the South Oxfordshire Design Guide 2008 (SODG).

6.11 The replacement of a smaller dwelling with a significantly larger property would seldom fully accord with clause (iv) of Policy H12, which requires the overall impact of the proposal upon the character and appearance of the site and surrounding area to be no greater than the existing arrangement. However, in this instance, it has been demonstrated that an arguably less-appropriate extant scheme could be completed, covering a much greater area of the plot and this is a material consideration in this application. Whilst the replacement dwelling would have a significantly higher ridgeline than the existing property and could therefore represent a more imposing structure within the site, officers consider that the current proposal would create a more visually-cohesive design solution. As the property is set within a large plot of land which would retain a generous amount of private amenity space within the curtilage and the council would not object to the demolition of the existing dwelling, there is no reasonable basis to require its replacement to maintain a level of subservience to the larger property at Harpsden Wood House and its neighbours.

6.12 With regard to the merits of the proposed Neo-Georgian design, the range of consultation responses and rebuttals demonstrate a diversity of opinion, and design is often a subjective matter. Nevertheless, it is indisputable that there is range of architectural styles, plot sizes and layouts within the locality and the submitted character assessment adequately demonstrates that the surrounding properties are

relatively bespoke, set within spacious plots and extended well beyond their original forms. In this context, officers do not accept that the scale of the current proposal would have a particularly harmful impact upon the character of this part of the AONB and the proposed design is not considered to be at odds with the local vernacular, indeed it could be argued that the design has taken some cues from the nearby property at Harpsden Wood Lodge, in terms of its simple, linear form and bold façade. Whilst the proposed choice of materials has also divided opinion, officers consider that the use of traditional brick and flint would in this instance not detract from the natural beauty of the surrounding area. In any event, this detail can be reserved by condition if the committee are minded to grant planning permission.

6.13 In terms of the perceived visual impact of a larger property upon the AONB, which is referenced in several objections to the proposal, it is noted that the dwelling is set within a sizeable plot of land and is accessed via a long private driveway with a distance of more than 140m to the nearest highway. There is also substantial screening provided by mature trees, particularly at the site boundaries to the east and west; and views of the existing dwelling from public vantage points would be very limited. Furthermore, there is a distance of around 170m between the dwelling and the nearest public footpath, which crosses Henley Golf Club. Whilst it is conceivable that there would be glimpses of the development through gaps in the deciduous tree-lined boundary to the rear of the site, officers do not consider that this would constitute significant harm as the generally verdant character of the local landscape would be preserved.

6.14 Notwithstanding the above, officers recognise that the proposed scheme represents a significant increase in the amount of built development within the site by utilising the full permitted development allowance which applied to the previous property. It is therefore wholly appropriate for the council to retain control of future development within the site by withdrawing permitted development rights for all incidental and ancillary development.

Ecology and landscape

6.15 The site falls within an area of high ecological value and the presence of bat habitats would potentially be a major constraint to development. However, the applicant has provided detailed survey data and mitigation measures setting out the ways in which the loss of potential habitats would be mitigated. The council's ecologist raises no objections to the proposal, provided that the measures are implemented in accordance with the submitted report.

6.16 There are a number of trees within the site which are covered by a TPO. However, the council's forestry officer is satisfied that the proposal would not have a harmful impact upon any trees of arboricultural significance, provided that appropriate tree protection measures are in place throughout the construction phase. These details can be secured by condition.

Neighbouring amenity

6.17 It is noted that a number of neighbours have objected to the proposal, with a similar number in support of the scheme. The negative comments mostly relate to the visual impact of the proposed dwelling and its appropriateness within the woodland setting, which has been addressed above. Comments were also received from representatives of Harpsden Wood Lodge which cited an unacceptable amenity impact, based upon visibility within private views from their dwelling. Given the distances involved, officers consider that this is not a material planning consideration.

6.18 There is also a reasonable distance between Harpsden Wood Cottage and the nearest residential properties to the south, Harpsden Wood End and Beechwood Cottage, with each dwelling located more than 35m from the proposed building. Whilst the higher ridgeline may be visible from some of the adjoining properties and to a lesser degree, Harpsden Wood House, views of the dwelling would be oblique and largely obscured by the substantial boundary screening at the site perimeter, much of which is covered by a blanket TPO. Officers consider that this proposal would not result in a material loss of daylight, sunlight or privacy with respect to any of the neighbouring properties.

7.0 **CONCLUSION**

7.1 The proposal complies with the relevant development plan policies. On balance, officers are satisfied that the proposal would have an acceptable impact upon the site, and it would not materially harm the special landscape beauty and the rural character of this part of the Chilterns Area of Outstanding Natural Beauty. The proposal is also considered acceptable in terms of the impact upon neighbouring amenity.

8.0 **RECOMMENDATION**

8.1 **To grant planning permission, subject to the following conditions:**

1. **Commencement three years - full planning permission.**
2. **Development to be implemented in accordance with the approved plans.**
3. **Samples of all external finishes to be approved prior to commencement of development.**
4. **Bat habitat mitigation measures to be implemented in accordance with the approved details.**
5. **Detailed tree protection to be agreed prior to commencement of development.**
6. **Withdrawal of permitted development (Part 1 Class A, B, E) - no further extensions, roof extensions or outbuildings to be erected without planning permission.**

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