

Agenda Item 88.

Development Management Ref No	No weeks on day of committee	Parish	Ward	Listed by:
152130	17/08	Finchamps tead	Finchampstead South	CLlr Simon Weeks

Applicant Mr Colin Singer C/O Mr John Slater
Location Lambda Cottage, Wick Hill Lane, Finchampstead. **Postcode** RG40 3SR
Proposal Full application for the proposed erection of a replacement detached four bedroom house and double garage.

Type Minor Dwellings (1-9)
PS Category 13
Officer Pooja Kumar

FOR CONSIDERATION BY Planning Committee on 6th January 2016
REPORT PREPARED BY Head of Development Management & Regulatory Services

SUMMARY

The application is for the erection of a detached four bedroom dwelling with associated garages, driveway, access and landscaping. The dwelling would replace the existing Lambda Cottage, which is single storey and located to the north of the site. The application has been submitted as an alternative scheme to the already approved F/2014/0300 (dated 13/03/2014) which approved a replacement dwelling in a similar footprint to the existing Lambda Cottage. The main difference between the two proposals is an alternative siting and design to the approved replacement dwelling. As a result of the altered design, the proposal would be smaller in terms of its footprint and volume, whilst also creating a new driveway and access.

In addition, it is understood from discussions with the agent, and within the submitted Design and Access statement submitted (dated July 2015) that the applicant has recently acquired "an additional 0.2 acres of land"(para 1.6) to the south of the original site. This additional land forms part of the current application's red line boundary which is different to the red line boundary of the approved F/2014/0300. As such, officers consider that a material change of use of this recently acquired land should also form part of the description and assessment of the application. This is a matter of dispute between officer and the applicant, and therefore the description has not been amended accordingly.

The application has been listed by Councillor Weeks as ward member as a cogent argument was provided by the applicant. Although it is recognised that the listing was made received late, both the Chairman and vice-chairman have agreed that it is reasonable to determine the application via planning committee.

The site is located within designated countryside, outside of settlement limits as outlined within the MDD Local Plan. The site is situated at the end of Wick Hill Lane, Finchampstead which is accessed from the Jubilee Road (B3348). The immediate locality comprises of a cluster of dwellings in a low density rural setting. Dwellings along the street scene are varied in character and are screened by number boundary treatments. The property to be replaced, Lambda Cottage, is screened

with fencing, mature hedgerow and trees to the west and by a timber barn, which is to be retained, to the north.

The principle of a replacement dwelling has been established by the extant planning permission F/2014/0300. The current application seeks to replace and re-locate the proposed dwelling to the far southern end of the site. As mentioned above, part of this site is within the existing residential curtilage at Lambda Cottage (in planning terms) and would require a change of use for the land to residential. Notwithstanding the reduced volume proposed compared to the extant permission, it is considered that the proposal represents an inappropriate development within the countryside which would result in excessive expansion and encroachment into the countryside, contrary to policies CP11 and CP3 of the Core Strategy. As such the application should be refused.

PLANNING STATUS

- Countryside
- 5KM & 7KM Thames Basin Heath SPA
- Bat Roosts
- South East Water
- Sand & Gravel Extraction
- Farnborough Aerodrome Consultation Zone
- Aerodrome Safeguarding for Wind

RECOMMENDATION

REFUSAL for the following reasons:

1. The proposed development by virtue of its inappropriate siting away from the original dwelling house combined with the enlargement of the existing residential curtilage would result in an excessive encroachment of development into the countryside, away from original buildings. The proposal would not respect the pattern and character of the settlement thus failing to positively maintain or enhance the rural setting of the site and locality. As such the proposal is considered to be unacceptable in principle and therefore contrary to the NPPF, Core Strategy policies CP3, CP11, policy TB06 of the Managing Development Delivery Local Plan as well as the relevant guidelines within the Borough Design Guide.
2. In the absence of a detailed mitigation and compensation strategy it has not been demonstrated to the satisfaction of the Local Planning Authority either that the proposed development would not have an adverse impact upon, or that the need for the development clearly outweighs the need to safeguard Bats which are protected species. As such, the development would be contrary to Wokingham Borough Core Strategy policies CP3 & CP7.

Informatives

1. This decision is in respect of the drawings and plans numbered 14.16.1A; 14.16.3; Site Survey 01D and; Tree Protection Plan received by the Local Planning Authority on 09/09/2015.
2. The Council engages with all applicants in a positive and proactive way through specific pre-application enquiries and the detailed advice available on the Council's website. On this particular application, advice was given

regarding the proposal being unacceptable. Discussion took place in trying to find a solution, but no solution was possible.

PLANNING HISTORY

33737; Demolition of existing dwelling (Lambda Cottage) and replacement with new dwelling (Old Orchard), and conversion of barn to garages – Conditional Approval (18/07/1990)

CLE/2007/2823; Application for a Certificate of Lawful Existing Use for the retention of a dwelling house known as Lambda Cottage – Approved (02/01/2008)

F/2013/2060; Proposed erection of a replacement 4no bedroom dwelling – Withdrawn (08/01/2014)

F/2014/0300; Proposed erection of a replacement dwelling, including creation of additional vehicular access – Conditional Approval (31/03/2014)

SUMMARY INFORMATION

Site Area	0.35 hectares
Thames Basin Heath SPA	5KM & 7km
Original Floor Area	211.91 sq m
Proposed Floor Area	361 sq m
Existing Use	Predominantly Residential
Proposed Use	Residential
Proposed Parking Spaces	4 including garage parking

CONSULTATION RESPONSES

Countryside Officer (Biodiversity):	Objection on the basis of insufficient information. The updated bat survey shows that there is no change to the status of the roosts discovered, and no detail on mitigation strategy or compensation plan has been submitted. A pre-commencement condition such as attached to the 2014 application is no longer suitable for the Local Authority to take in light of the case law on European Protected Species.
Environmental Health:	No objection subject to conditions on Air Quality and Demolition and Potential Contamination.
Highways:	No objection subject to condition and informative.
Landscape and Trees:	Objection on the basis that a new driveway entrance on site would result in the loss of a green habitat. Additionally the Arboricultural Impact Assessment and Method Statement is incomplete

Thames Water:

as it has been submitted without a tree survey and therefore is not in accordance with best practice BS5837:2012

Surface Water Drainage: It is a developers responsibility to make proper provision for drainage to ground, water courses or a suitable sewer. In terms of surface water it is recommended that the applicant should ensure that storm flows are attenuated or regulated into the receiving public network through on or off site storage.

Sewerage Infrastructure Capacity: No objection

REPRESENTATIONS

Local Residents:

1 objecting to the proposal, summarised as follows:-

- The proposal is not a real replacement for Lambda Cottage as it has already been replaced by Old Orchard
- Should the current application be approved, F/2014/0300 permission should be revoked
- Conditions should ensure that planting and landscaping is completed prior to commencement and contractor parking and the delivering of construction materials should not take place in the lane, but on site to prevent disruption

Finchampstead Parish – Objection

- The property should have been demolished under a previous planning approval, and footprint was increased by over 40%. FPC support the comments outlined in neighbour's letter

Ward Member – Cllr Weeks Objection

- An initial listing request was received on the basis that specific conditions must be attached to planning permission if granted. These conditions were to ensure the demolition of Lambda Cottage and the securing contractor parking on site, rather than along the Lane.
- Following discussions, and the final listing request, Cllr Weeks feels that there are specific aspects which should be scrutinised by planning committee. These aspects are weighing the restrictions of policy CP11 against the potential of reducing the impact on the neighbours and on vehicle access in the narrow lane.

APPLICANTS POINTS

- The position of the house will no longer be sited opposite the houses on the opposite side of Wick Hill; which will improve their outlook and privacy.
- The new dwelling is significantly smaller than the approved scheme.
- The proposed access at the south of the site would mean traffic to the new property will no longer pass further along the public right of way nor will it involve traffic passing the existing houses, reducing disturbance
- Visually the new house will be less prominent in the rural landscape.
- Improved relationship between the Old Orchard, improving privacy

PLANNING POLICY		
National Policy	NPPF	National Planning Policy Framework
Adopted Core Strategy DPD 2010	CP1	Sustainable Development
	CP3	General Principles for Development
	CP6	Managing Travel Demand
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	CP7	Biodiversity
	CP9	Scale and Location of Development Proposals
	CP11	Development outside of settlement limits, including countryside
Adopted Managing Development Delivery Local Plan 2014	CC01	Presumption in Favour of Sustainable Development
	CC02	Development Limits
	CC03	Green Infrastructure, Trees and Landscaping
	CC04	Sustainable Design & Construction
	TB06	Development of Private Residential Gardens
	TB21	Landscape Character
	TB23	Biodiversity
Supplementary Planning Documents (SPD)	BDG	Borough Design Guide
	WPSS	Wokingham Parking Standards Study Report October 2011

PLANNING ISSUES	
<u>Description of development</u>	
1)	It is proposed to erect a single 4-bedroom dwelling including an attached double garage. To facilitate the development access would be from the south of the site with associated, driveway, parking and turning space. At first floor level the proposed dwelling would include front, side and rear facing dormers.
2)	The key dimensions of the proposal are as follows: <ul style="list-style-type: none"> • 7.6 metres in height to the main central ridgeline • 8.6 metres maximum depth from the central bay to rearmost wall • 23.9 metres in width at widest point
<u>Background</u>	
3)	The current application follows on from an approved replacement dwelling under planning reference F/2014/0300 (approved 31/03/2014). The current

application provides an alternative siting and design of the proposed dwelling as a result of the applicant acquiring additional land along the southern part of the site.

- 4) The applicant in their Design and Access statement suggests that the land has been acquired “into the curtilage of Lambda Cottage” (para 1.6), which has provided the opportunity for the re-siting. The acquired land may be within the applicant’s ownership but it is not authorised, in planning terms, as being part of the residential curtilage of Lambda Cottage. Therefore a change of use of the land should also be assessed under the current application.
- 5) From comparing the site plans of the approved scheme (F/2014/0300) and the application before us, it can be assumed that approximately just short of 50% of the proposed dwelling would be located within the recently acquired land.

Principle of development

- 6) The National Planning Policy Framework (NPPF) has an underlying presumption in favour of sustainable development which is carried through to the local Development Plan. The Managing Development Delivery Local Plan Policy CC01 states that planning applications that accord with the policies in the Development Plan for Wokingham Borough will be approved without delay, unless material considerations indicate otherwise.
- 7) The site is located outside the settlement limits and therefore development would only be acceptable if in accordance with Policy CP11 of the Core Strategy. CP11 of the Wokingham Borough Core Strategy states “proposals outside of development limits will not normally be permitted except where... (2) it does not lead to excessive encroachment or expansion of development away from original buildings” and in relation to replacement dwellings proposals must (5i) “Bring about environmental improvements; or (5ii) not lead to inappropriate increases in the scale, form and footprint of the original building” (emphasis added).
- 8) Policy CP3 of the Wokingham Borough Council Core Strategy states that; development must be appropriate in terms of its scale of activity, mass layout, built form, height, materials and character of the area in which it is located, and it must be of a high quality design without detriment to the amenities of adjoining land uses and occupiers.
- 9) Whilst the principle of a replacement dwelling in the countryside is acceptable, the specific impacts of the proposal on the character of the surrounding countryside and any impacts upon the amenities of neighbouring properties must be carefully considered. In addition to the above, a significant material consideration is the extant permission; reference F/2014/0300.

Impact on the Character of the Area

- 10) As stated above this end of Wick Hill Lane comprises of a single access road and a cluster of dwellings, located mainly to the north and north-west of the lane, beyond which (to the south) are dwellings forming a sparser built

pattern. The clustered pattern of development provides a distinctive character for the locality. The grouping of dwellings (including associated outbuildings), mixed with the mature landscaped boundaries and pockets of open views to and from the wider rural landscape, create a positive sense of place.

- 11) Policy RD5 of the Borough Design Guide SPD states that new development in rural area should respond to the typical forms of buildings in the village or locality. In doing so, designers should generally take into account and respond to:
 - The pattern of building forms that helps create the character of a settlement, for instance whether there is a consistency or variety;
 - The ways in which buildings address the street;
 - The heights of buildings;
 - Roof forms and slopes, for instance whether there are gables or eaves facing the street;
- 12) The extant permission is considered to maintain the character and pattern of development by creating a 'courtyard' area between the approved dwelling and retained barn. The siting of the approved dwelling would be close to the area where dwellings are already loosely 'grouped' and therefore the focus of development remained. Thus the extant permission would successfully maintain and enhance the character of the locality. Whilst the extant permission introduced a new alignment along the street scene, this did not have a detrimental impact on the street scene and character of the settlement to warrant refusal.
- 13) The current proposal would result in the demolition the existing Lambda Cottage while retaining the adjacent barn located on site. The new dwelling would be sited to the southern-most end of the application site, approximately 25 metres away from the footprint of the original Lambda Cottage which would detrimentally alter the distinctive character prevalent along the street scene and therefore harm the character of the locality. Furthermore there would be an enlargement of residential curtilage which would erode a rural 'gap' along Wick Hill Lane.
- 14) The applicant in their Design & Access Statement states that the current proposal provides a scale of development which is more favourable than the approved dwelling by virtue of a reduction in the overall floor space proposed and siting away from nearby neighbouring properties. The difference in floor space is as outlined below has duly been considered but, in the view of officers,, the proposed siting remains unacceptable.
 - Approved dwelling incl garage- 407 sq m
 - Proposed dwelling incl garage- 361 sq m
 - Difference between approved and proposed- -46 sq m
- 15) As noted, almost 50% of the proposed dwelling would be sited on land which has recently been purchased by the applicant. The agent has identified the site as 'nuisance' site with enforcement history linked to the same. However the Council is not aware of any planning enforcement and environmental health complaints or of any action taken, and therefore without any additional information it can be concluded that the land does not lie within any residential

curtilage and the lawful use of the land is yet to be confirmed.

- 16) From officer's site visit, the plot of land in question is characterised by mixed landscaping, including both trees and shrubs. Although the landscaping is not protected or of a high quality it provides a clear visual separation between the clustered pattern of development and the sparse settlement which lies to the south of Wick Hill Lane. As a result of the proposal, this area would become wholly residential characterised with hard landscaping to provide a driveway with parking and turning space for the proposed dwelling. Whilst it is noted that there would be limited landscaping along the side and front boundaries, the existing rural character of this plot would be lost.
- 17) There is an existing access point to the plot of land which seeks a change of use, which would be utilised under the current application as the only vehicular access for the new dwelling. However this access currently appears not be used and it is not known what the access has historically been used for.
- 18) There would be a clear material change of use of the land as a result of this proposal, from that of a landscaped open plot which contributes to a green character and a clear visual distinction between the two built patterns along Wick Hill Lane to that of a new replacement dwelling and associated new access and hardstanding for the parking of vehicles.
- 19) The proposed material change of use of the land is considered unacceptable in principle. Criterion 2 of policy CP11 clearly states that development proposals should not result in excessive encroachment or expansion into the countryside. The proposed new dwelling would not only be located significantly away from original buildings, it would require the material change of use of land outside the residential curtilage of the site and therefore would represent unacceptable encroachment within the countryside.
- 20) Generally replacement dwellings will be expected to be sited in the same location as the original building (Borough Design Guide SPD). There may be circumstances where it is preferable to site a replacement dwelling in another location, for instance where:
 - the visual or other impact of the replacement dwelling is more appropriate than the original building; or
 - the proposed location is preferable in environmental terms, such as further from a watercourse in a flood risk zone.
- 21) The proposed development would not represent a scheme which would satisfy the above criterion which is in line with policy CP3 of the Core Strategy, and therefore is considered non compliant with policies CP3 and CP11 of Core Strategy.
- 22) Overall the proposed siting of the development, change of use of the land, enlargement of the existing residential curtilage and associated works are considered to be unacceptable in principle. The proposed development would result in significant harm to the character of the settlement and set an undesirable precedent for encroachment into the countryside contrary to

policy CP11 of the Core strategy.

Impact on Neighbouring Amenities

- 23) It is noted that the approved scheme (F/2014/0300) attracted a number of neighbour objections on the basis of impact on neighbours amenities and outlook; highways safety concerns and countryside. The approved scheme was however, amended within the duration of the application, and was considered by officers not to result in any significant harm in terms of loss of privacy. The approved dwelling would be set back approximately 12 metres from the immediate road side and did not result any significant harmful overlooking, loss of light and overbearing.
- 24) Officers acknowledge that the applicant is now seeking to erect a smaller sized dwelling to the southern end of the site to remove any concerns of neighbours; however the scheme within the extant permission was not considered harmful and would not adversely affect the amenity of neighbours.
- 25) The current proposal would be located further away from the grouped dwellings and the immediate dwellings and would therefore also not result in any significant harm in terms of loss of light, overlooking and overbearing. Any improvements in terms of outlook for neighbours that would occur as a result of their proposal (in comparison to the extant approval) are not considered to be significant.

Highways & Parking

- 26) The proposed application includes the provision of an independent access located to the south of the site, two garages and parking and turning space to the front of the proposed dwelling. WBC Highways officers have considered that the proposed level of parking is considered to be in accordance with WBC Parking standards. A condition to restrict the use of the garages from anything other than parking of vehicles has been suggested by the Highways officers.

Landscaping

- 27) WBC Trees and Landscaping officers have objected to the creation of a new driveway entrance to serve the proposed dwelling which would result in the loss of a green habitat, contrary to policy CP11 and TB06. Landscape Officers here, refer to the existing access to the south of the site.
- 28) The officer notes the tree information submitted on documents titled 'Tree Protection Plan May 2015'; however the document has been submitted without a tree survey. As such the Arboricultural impact assessment and method statement is incomplete and not in accordance with best practice BS5837:2012.
- 29) Landscape officers; have expressly objected to the erection of two dwellings on site. Officers note that due to the siting of the proposed dwelling both permissions could be implemented, which would result in significant intensification of residential development within the countryside, contrary to policy CP11.

Biodiversity

- 30) WBC Ecology officer has objections to the proposed application on the basis that the applicant has supplied insufficient information for the authority to assess the impact of the development on a protected species. The applicant has submitted an updated bat survey report which shows that there has been no change to the status of the roosts discovered during a survey to support application F/2014/0300, there is no detail on the mitigation strategy or compensation plan.
- 31) Previously for the this site, condition 9 of the approved application F/2014/0300 was a 'pre-commencement' condition requiring a Natural England derogation to be obtained and details of the mitigation and compensation plan to be submitted to the local planning authority.
- 32) In light of the case law on European Protected Species, the Council's ecologist is of the opinion that this is no longer an acceptable approach for the local authority to take. Whilst there is some merit in conditioning the obtaining of the Natural England derogation to encourage compliance with the Conservation of Habitats and Species Regulations 2010 (as amended); such a condition not be used to bypass the requirement for the local planning authority considering the 'three tests' when it comes to European Protected Species. The local planning authority should consider, at the point of making a decision, what mitigation and compensation strategy is proposed and whether this is likely to be able to maintain favourable conservation status. Without doing so, there is an element of doubt as to whether it has properly fulfilled its duty under the regulations. It is also relevant for the local planning authority to review the proposals for the compensation roosts (that the Planning Design & Access Statement have identified will be included) at this stage in order to be confident that these are achievable within any plans to be approved.
- 33) It is therefore recommended that the applicant submits a detailed mitigation and compensation strategy that shows the integration of the compensation roosts within the proposed new building. Where these demonstrate that favourable conservation status can be maintained, the local planning authority can secure their implementation through condition. The strategy must be detailed enough to be enforceable although the condition will allow for the agreed modification where this is appropriate to obtain a European Protected Species derogation.
- 34) Therefore, the application fails to demonstrate that the proposed development would not result in any harm to bats, a European Protected Species, contrary to policy CP7 of the Core Strategy and policy TB23 of the MDD Local Plan.

Community Infrastructure Levy and SPA

- 35) **Community Infrastructure Levy:** As the proposal is for the construction of a new dwelling, it would be CIL liable development; the CIL charge for new residential development is set at £365 per square metre for any new increase in residential floor space. An exemption could be applied for if the build fell

within the requirements for a self-build dwelling.

- 36) **Special Protection Area:** The proposal does not meet the threshold for mitigation against the SPA as there would not be a net increase of dwellings. As such a mitigation strategy or contribution to the Council's agreed mitigation strategy is not required.

Environmental Health

- 37) **Demolition and Potential Contamination:** The proposal would require demolition of an existing building on site. Such structures and their demolition may give rise to contamination of the site through the presence of asbestos, oil storage facilities or other contaminating materials present in the buildings to be demolished. A detailed condition is recommended.
- 38) **Air Quality- Dust:** A condition to minimise any significant effect of dust arising as a result of the proposed development is suggested.

- 39) On balance, it is acknowledged that the proposal before us would result in a reduced scale of dwelling than the extant permission, and would be less visible to neighbours than the approved scheme. However these improvements are considered not to outweigh the resultant harm to the openness and encroachment of the countryside; and therefore the application is recommended for refusal.

CONCLUSION

Overall it is considered that the combination impact of the siting of the dwelling away from original buildings and extension of residential countryside would result in excessive encroachment and expansion of residential development into the countryside and therefore the application is recommended for refusal. Additionally, without the submission of a mitigation and compensation strategy for a protected species, the Council is unable to assess the impact of the proposal on the protected species of bats. The proposal is considered contrary to the NPPF, Core strategy policies CP3, CP7 and CP11 and MDD Local Plan Policies, TB06, TB21 and TB23.

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