

**REPORT TO THE DEVELOPMENT CONTROL
COMMITTEE**

Report No.

Date of Meeting	15th October 2008
Application Number	08/02039/FUL
Site Address	3 Acre Cottage, West Kington Wick, Chippenham, Wiltshire SN14 7JD
Proposal	Replacement Dwelling
Applicant	Mr and Mrs M Brain
Town/Parish Council	Nettleton
Grid Ref	381679 176512
Type of application	Full Application

Reason for the application being considered by Committee

This application has been submitted to the Committee for decision under the scheme of delegation in force after the 8th April 2002 because a District Councillor is a Director of the company acting as agent on this application.

Summary of Report

This application proposes the replacement of a detached house with a new detached dwelling. The site is in a rural position in an Area of Outstanding Natural Beauty and outside the framework boundary of an village and therefore the key points to consider are as follows:

- Implications on DC Core Policy C3
- Implications on Policy H4 which deals with residential development in the countryside
- Implications on Policy NE4 which deals with Areas of Outstanding Natural Beauty
- Affect of the residential amenity of existing properties
- Design and scale of the development

Officer Recommendation

Planning Permission be GRANTED subject to the conditions and the satisfactory comments of the District Ecologist (and the imposition of any conditions considered necessary as a result).

Contact Officer	Alison Grogan	01249 706671	agrogan@northwilts.gov.uk
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Proposal and Site Description

This application proposes the demolition of an existing detached house and its replacement with a new dwelling. The site is in a rural location within an Area of Outstanding Natural Beauty and outside the framework boundary of any village. The existing dwelling is built along the northern and western boundaries of the site and it is proposed that the replacement will be sited further into the site so the rear elevation will be at the widest point approximately 8 metres from the northern boundary and approximately 10 metres from the western boundary.

The nearest neighbouring property is Box Cottage which lies across the lane to the west of the site. There are a number of trees and shrubs within the site and the property is well screened along the boundary with the lane to the west.

The red line includes a large area of land to the south of the dwelling and there has been some discussion as to whether this land is part to the residential curtilage and this will be discussed in more detail later in the report.

Planning History		
Application number	Proposal	Decision
81/01894/F	Stables	Permission

Consultations

Nettleton Parish Council have no objections.

Wiltshire County Council Highways have no objections.

District Ecologist – Request an Ecological Survey of the site to identify the potential for or presence of protected species that may be affected by the development, such as roosting bats and nesting birds in the building to be demolished.

Concerns raised regarding works that may have already started in relation to clearance of the pond as records show Great Crested Newts within the close vicinity of the site and the pond could be or potentially be a breeding site. Recommend that the pond be enhanced for wildlife and Great Crested Newts and an ecologist would be able to advise on further action and enhancements.

Representations

Five letters have been received.

Summary of key points raised:

- Why is the property not Listed? Why cannot the owners apply to modernise and remodel or extend? We object to the demolition of Three Acre Cottage and ask for it to be rejected on the grounds that it should be preserved for future generations.
- No plan showing the level of the new house.
- A ground floor window to the study shown on the west elevation which is not shown on the floor plans.
- Confirm that the grounds of 3 Acre Cottage have been for the recreation of the former owner who was a wildlife expert and had planted the trees/shrubs and created the pond to encourage wildlife habitats for her enjoyment.
- Would prefer the entrance to be moved further south as deliveries to Box Cottage often use the pedestrian gate opposite the current entrance to 3 Acre Cottage and the bend in the lane at this point can create a blind spot.
- Would welcome a planting plan for the area around the new house and it is unclear whether the existing 2 level walled garden will be retained in part and how the development area will be landscaped.

- New house would be at a higher level than the current one and it would look better if built at the same level as the existing.
- Window in the end wall of study looks into the window of Box Cottage opposite, it would be better if it was deleted or moved to the north wall.

Planning Considerations

Principle of Development

As the site is outside the framework boundary of any village the application must be considered with regard to Policy H4 of the North Wiltshire Local Plan 2011, and specifically part (ii), which states:

“(ii) It is a replacement for an existing dwelling where:

- a. The residential use has not been abandoned; and
- b. the existing dwelling is incapable of retention in its current state, is unsightly or is out of character with its surroundings and
- c. the replacement dwelling is of a similar size and scale to the existing dwelling within the same curtilage.”

Whilst the existing dwelling appears to have been empty for a time it is clear the residential use of the site has not been abandoned.

With regard to the condition of the existing building and whether it can be retained in its current form, the application was submitted with a full structural survey. The survey was passed to Building Control for comment and it was confirmed that it was reasonable to conclude that to make the building habitable it would involve substantial re-building. Whilst it is acknowledged that it is difficult to argue that a property is completely beyond repair, if the works involved require the building to be practically re-built then a decision must be made as to whether it would be reasonable to do so. In this particular case, following consultation with Building Control it is considered that the proposal is in accordance with the spirit of Policy H4. A local resident has objected to the proposal on the grounds that the current building is of historic value and should be Listed. Part of the building is an attractive cottage but it has extensions that are understood to be pre-1948, these extensions are unsympathetic and out of character with the dwelling, therefore, together with the poor structural condition of the building it is considered that the property would not be worthy of Listing.

The proposed dwelling will be approximately 19% larger than the existing property and it is considered that this increase in size would be equivalent to a standard extension and therefore would be acceptable.

The proposed dwelling although moved from the original footprint will be within the existing residential curtilage. However, there is an issue regarding the residential curtilage and the red line submitted on the site plan which includes the large area of land to the south of the site. The agent maintains that this land is the garden associated with the property and has submitted the conveyance details from 1986 to substantiate this claim. Following consultation with our Solicitor it is advised that the conveyance only confirms that the land is in the same ownership rather than confirming that the land is residential garden. It was also advised that the land within the red line can be accepted as the planning unit but is not considered to be all residential curtilage. Whilst the land may have been used for purposes ancillary to the primary residential use it is not considered as curtilage and therefore would have no permitted development rights. A condition has been added to define the residential curtilage. It is acknowledged that there has been a great deal of planting on this land and a wildlife pond created, and this has also been confirmed by a neighbour. However, it is considered that the land has been used more to cultivate a wildlife habitat rather than as a formal garden.

Impact on Amenity

The proposed dwelling is to be built on a different footprint which is at a slightly higher level than the existing, therefore, the agent has submitted a site survey and a section showing the heights of the

existing and proposed dwellings. This information shows that the eaves will be 150mm higher than the existing and the ridge will be 460mm higher than the existing.

The nearest neighbouring property is Box Cottage which is across the lane from the site. There are no first floor windows facing towards Box Cottage, the only openings are two ground floor windows, one to a study and one to a kitchen. At the nearest points the study window will be approximately 26 metres and the kitchen window approximately 40 metres from Box Cottage, there is also some tree and shrub screening between the two properties. Even though the house will be slightly higher than the existing, given the distances and the surroundings the proposal is not considered to have a detrimental impact on the amenity of neighbours.

Impact on ANOB

The site is within the Area of Outstanding Natural Beauty, however, this application is for a replacement of an existing property and the proposal will have only a modest increase in impact on the natural beauty of the area. Additionally the proposed dwelling will be moved away from the boundaries of the site, which should help to reduce any impact.

To soften the impact of the proposed dwelling a condition has been incorporated in the decision for a landscaping scheme.

Design and Scale of Development

The proposed dwelling will be approximately 19% larger than the existing property and the height will be increased by approximately 460mm.

The proposal is for a 4-bed dwelling and will be constructed of natural stone re-using the existing stone, the roof will be of natural slate and the windows and doors of timber. The dwelling will be of a traditional design, with rooms partially within the roof space.

Given the high quality materials and the traditional design the proposed dwelling is considered to be acceptable.

Highways and Access

Highways have raised no objection to the proposal as the access arrangements remain unchanged. The neighbour opposite has commented that the access should be moved further to the south as delivery vehicles to Box Cottage can sometimes create a blind spot. However, the highway is for the passing of vehicles rather than parking, therefore, delivery vehicles to the adjacent cottage should only stop if it is safe to do so. The access at Three Acre Cottage is on the right side of the bend and Highways have verbally commented that it is not dangerous.

Recommendation and Proposed Conditions/Informatives

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990.

2. The development hereby permitted shall be carried out strictly in accordance with the approved plans subject to such minor amendments to the development as may be approved in writing under this condition by the local planning authority.

Reason: To ensure that the development is implemented in accordance with this decision in the interests of public amenity, but also to allow for the approval of minor variations which do not materially affect the permission.

3. No development shall commence until details of roofing materials to be used externally have been submitted to, and approved in writing by, the local planning authority. The development shall be built in

the roofing materials approved.

Reason: In the interests of visual amenity.

4. No development shall commence until details of the external stonework, including type, coursing and bedding of the natural stone, type of pointing and mortar mix, have been submitted to, and approved in writing by, the local planning authority. The external stonework shall be built to conform with the approved details.

Reason: In the interests of visual amenity.

5. No development shall commence until details of all new external joinery have been submitted to, and approved in writing by, the local planning authority. These details shall include depth of reveal, materials and full drawings including both horizontal and vertical sections, to a scale of not less than 1:10. The development/works shall be completed in accordance with the approved details and at no time shall the approved joinery be altered without the prior written approval of the local planning authority.

Reason: To enable the local planning authority to be satisfied with the completed appearance of the development.

6. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification) there shall be no extension or external alteration to any building forming part of the development hereby permitted.

Reason: In order to safeguard the amenity of the area by enabling the local planning authority to consider individually whether planning permission should be granted for extensions and external alterations.

7. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification) no garages, sheds or other ancillary domestic outbuildings shall be erected anywhere on the site edged in red on the approved plans.

Reason: In the interests of the amenity of the area.

8. The development hereby permitted shall not be commenced until details of the landscaping of the site, including wherever appropriate the retention of existing trees, have been submitted to, and approved in writing by, the local planning authority.

The approved landscaping scheme shall be implemented within one year of either the first occupation or use of the development, whether in whole or in part, or its substantial completion, whichever is the sooner, and shall be maintained thereafter for a period of not less than five years. The maintenance shall include the replacement of any tree or shrub which is removed, destroyed or dies by a tree or shrub of the same size and species as that which it replaces, unless otherwise agreed in writing by the local planning authority.

Reason: In the interests of amenity.

9. Use of any part of the application site as domestic curtilage shall only take place north of the southern boundary of the driveway.

Reason: To define the residential curtilage.

Informatives:

1. The following policies of the Development Plan are relevant to this decision:-

North Wiltshire Local Plan 2011:- C3, H4, NE4

2. This decision relates to documents/plans submitted with the application, listed below. No variation from the approved documents should be made without the prior approval of this Council. Amendments may require the submission of a further application. Failure to comply with this advice may lead to enforcement action which may require alterations and/or demolition of any unauthorised buildings or structures and may also lead to prosecution.

Plan References

Site Location Plan, 333/1, 333/2, 333/3, 333/4 received by the local planning authority on the 26th August 2008, Revised Plan 333/5 and Additional Plans 333/7 and 333/8 received by the local planning authority on the 22nd September 2008.

Reason for Decision

The proposed replacement dwelling is considered to be acceptable having respect to its relationship with adjacent properties and the location within the Area of Outstanding Natural Beauty. The proposal is considered to be in accordance with Policies C3, H4 and NE4 of the North Wiltshire Local Plan 2011.

Appendices:	NONE.
Background Documents Used in the Preparation of this Report:	1.20, 2.02, 3.02, 4.02, 4.04