

**REPORT OUTLINE FOR AREA PLANNING COMMITTEES****Report No.**

<b>Date of Meeting</b>	05/10/2016
<b>Application Number</b>	16/06233/FUL
<b>Site Address</b>	Land adj. Orchard Cottage Upper Minety Malmesbury Wiltshire SN16 9PY
<b>Proposal</b>	Erection of new dwelling
<b>Applicant</b>	Mrs C Wilson
<b>Town/Parish Council</b>	MINETY
<b>Electoral Division</b>	MINETY – Cllr Berry
<b>Grid Ref</b>	400572 191491
<b>Type of application</b>	Full Planning
<b>Case Officer</b>	Sam Croft

**Reason for the application being considered by Committee**

Applications called in by Councillor Berry for the following reasons:

- Inappropriate development
- Over development

**1. Purpose of Report**

To consider the above applications and to recommend APPROVAL subject to conditions.

**2. Report Summary**

Minety Parish Council objected to the application. 1 letter of objection was received from a local resident.

The main issues in the consideration of this application are as follows:

- Principle of Development
- Design and Site Layout
- Impact on the locality/amenity
- Highways

**3. Site Description**

The application is for the erection of a new dwelling on land at Orchard Cottage, Upper Minety. The application site occupies an area of land to the south east of Orchard Cottage and is accessed via its own gated entrance from Oaksey Road. Oaksey Road runs from the

centre of Upper Minety to Oaksey. The site is approximately triangular in shape and is bounded on two sides by mature vegetation. At present, it is part of the garden of Orchard Cottage and contains an outbuilding. The site is relatively flat and is screened from the road and surrounding development to the south-east and south-west. The site lies between Orchard Cottage to the north-west and Mansells Farmhouse to the south. The properties situated along Oaksey Road are characterised mainly by detached residential dwellings of varying character. Whilst Orchard Cottage is of the traditional Cotswold vernacular, the properties to the south west are large detached red brick, with Tudor style influences.

The site is located outside of any defined framework boundaries as set out in the Wiltshire Core Strategy. The site is not located within a Conservation Area or any landscape designations.

#### **4. The Proposal**

The application proposal is for the erection of a 4 bed detached dwelling together with access and landscaping/tree works. The proposed dwelling will face out onto Oaksey Road with a turning and parking area proposed to the front and side of the property which still leaves ample private garden space for the existing and proposed property. The principal elevation is largely symmetrical in design with a central porch projecting forward from the front elevation. There is short gable projection to the rear which features bi-fold and French doors leading onto a patio area. The proposal does not propose any windows at first floor level in the west and eastern elevations in order to avoid potential overlooking of nearby properties.

The proposed dwelling will be of traditional Cotswold vernacular to complement the overall mix of house types and designs found within the surrounding area. The building will be constructed of high quality materials, the south elevation will be constructed in natural stone with the remaining elevations in lime roughcast render with stone quoins to the corners. The roof will comprise of reclaimed plain tiles and the windows and doors will be UPVC to match Orchard Cottage.

#### **5. Planning History**

No relevant planning history

#### **6. Local Planning Policy**

##### **National Planning Policy Framework 2012 (NPPF)**

Paragraph 7, 14 and 17

Section 6 - Delivering a wide choice of high quality homes

Section 7 - Requiring good design

##### **Wiltshire Core Strategy (Adopted January 2015)**

CP1 - Settlement Strategy

CP2 - Delivery Strategy

CP57 - Ensuring High Quality Design and Place Shaping

#### **7. Summary of consultation responses**

Minety Parish Council - The parish council have object to the application on the basis that the "infilling" is not compatible with the recommendations set out by Wiltshire Council, the prospective property is outside the village boundary, is not sustainable being well away from local amenities and will add further pressure to an area already susceptible to flooding bringing more pressure to the inadequate drainage systems. In addition, the proposed access is sited on a partially blind bend and had previously only been a secondary access route rather than the sole or primary access to the whole property.

Highways - No objection subject to conditions.

Tree Officer - No objection subject to conditions.

Drainage – No objection subject to conditions.

Fire Service - Recommend the installation of a domestic sprinkler system.

## **8. Publicity**

Local Residents – 1 letter of objection was received from a local resident. The main concerns raised were as follows:

- Greenfield development
- Development outside the built-up limits of the village
- The application would set a dangerous precedent
- No housing need has been established
- Impact on the rural character of Upper Minety

## **9. Planning Considerations**

### Principle of Development

Under the provisions of section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004, applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. At the current time the statutory development plan in respect of this application consists of the Wiltshire Core Strategy (WCS) (Adopted January 2015) and the 'saved' policies of the North Wiltshire Local Plan (NWLP) 2011 (adopted June 2006). A number of the NWLP policies continue to be saved to sit alongside the policies of the Core Strategy.

Upper Minety is identified as a small village in Core Policy 13 of the Wiltshire Core Strategy. Core Policy 1 sets out that development at Small Villages will be limited to that needed to help meet the housing needs of settlements and to improve employment opportunities, services and facilities. Paragraph 4.16 in the supporting text specifically says:

*'Any existing settlement boundaries for Small Villages and other small settlements not identified in the settlement strategy will be removed.....However, some very modest development may be appropriate at Small Villages, to respond to local needs and to contribute to the vitality of rural communities. Any development at Small Villages will be carefully managed by Core Policy 2 and the other relevant policies of this plan.'*

Core Policy 2 of the WCS sets out the delivery strategy for Council and states that outside the defined limits of development in Small Villages, development will be limited to infill within the existing built area. Proposals for development will be supported where they seek to meet local housing needs and/or employment, services and facilities provided that the development accords with all policies of the development plan and:

- i) respects the existing character and form of the settlement
- ii) the proposal does not elongate the village or impose development in sensitive landscape areas, and
- iii) does not consolidate an existing sporadic loose knit areas of development related to the settlement.

It is considered that the development would respect the character and form of the settlement and given the sites position between Orchard Cottage and Mansells Farmhouse. It is

considered that the proposed dwelling would respect to the character and existing form of the development and would result in the elongation of the village or impose development in sensitive landscape areas. It is noted that the Parish Council and a local residents have raised concerns with the development and that it would constitute Greenfield development, outside the accepted limits of Upper Minety; however, existing settlement boundaries for Small Villages and other small settlements not identified in the settlement strategy were removed through the adoption of the WCS and policy allows for modest development in line with Core Policy 2. The settlement boundary for Upper Minety is one of those which was removed as part of this process. The development is considered to be infill development in line with the requirements set out in Core Policy 2 and the supporting text given the site circumstances and characteristics and is therefore considered acceptable in principle.

It is also acknowledged that the Council cannot currently demonstrate a deliverable supply of land of housing for a 5 year period, plus requisite tolerances, although the situation is currently under review in respect of preparation of a new Housing Land Supply Statement for 2016/2017. It is anticipated that this position will therefore change very shortly. In these circumstances give the very small scale of development this is not considered to be a material consideration of full weight as the single dwelling proposal is not considered to significantly boost the supply of land for housing.

However, given the position in respect of housing land supply full weight cannot be given to policies in respect of the scale and distribution of housing under the terms of paragraph 49 of the NPPF. In the determination of planning applications, the most crucial issue to consider is whether or not the proposal accords with the relevant provisions of the development plan (the WCS). If it does not then the question of whether material considerations, including relevant policies in the NPPF, mean that permission should be granted despite conflict with policies arises. In understanding how to interpret paragraph 49 of the NPPF and what weight should be applied to policies within the WCS, the Council has relied on a number of appeal decisions in Wiltshire (Land at Arms Farm, Sutton Benger APP/Y3940/W/15/3028953 & Land to North of Holt Road and Cemetery Lane, Bradford-on-Avon APP/Y3940/W/15/3141340), and a recent court of appeal judgement that specifically examined how to apply and interpret paragraph 49 (C1/2015/0583 Suffolk Coastal District Council and Hopkins Homes Limited and C1/2015/0894 Richborough Estates Partnership LLP vs Cheshire East Borough Council First).

There are a number of important statements and points of clarity provided in the above decisions that are important to framing any discussion on this application and the degree of conflict with the WCS. Particularly relevant are the statements in the court of appeal decision, paragraphs 42 to 48 ('How is the policy in paragraph 49 of the NPPF to be applied?'), which highlight a number of key points. First, it is up to the decision maker to judge whether a plan policy is or is not a relevant policy for the supply of housing, this can include restrictive policies not necessarily related to housing specifically; however that may have the effect of limiting housing. Furthermore, the appeal court decision confirms that in their view there will be many cases in which restrictive policies are still given sufficient weight to justify the refusal of planning permission, despite their not being up-to-date under the auspices of paragraph 49. In conclusion, the appeal court decision confirms that ultimately it will be up to the decision-maker to judge the particular circumstances of each application and how much weight should be given to conflict with policies for the supply of housing that are 'out-of-date', and, that the fundamental purpose of paragraph 49 is not to punish Councils (and by extension local communities), but to provide an incentive to boost housing land supply. In this context, it is important to note that the scale of the proposed development is limited and, in the view of officers, would not significantly boost the supply of land for housing and therefore should only be given limited weight.

Importantly, the decision goes on to highlight that paragraphs 14 and 49 of the NPPF do not make 'out of date' housing policies irrelevant to the determination of applications and that the weight given to such policies is not dictated by the NPPF and will vary according to circumstances on a case by case basis. This will also depend on the extent to which relevant policies fall short of providing for the five-year supply of housing land and the action being taken by the local planning authority to address the shortfall. Currently, the shortfall is assessed as 4.76 years supply and there is no indication that rural areas are struggling to deliver housing. The Council has continued to promote development in the Malmesbury Community Area (which covers this site) at sustainable locations and recent committee approvals have seen further housing sites approved, subject to signing of S106 agreements overall and above those minimum indicative targets.

In both of the Wiltshire based appeal decisions the Inspectors considered that weight should be applied to Core Policy 1 of the WCS despite paragraph 49 being engaged and, in fact, in the Sutton Bengier appeal the inspector applied full weight to Core Policy 1. However, following the appeal court judgement the Council agrees that Core Policy 1 must be seen and assessed in the context of paragraph 49 and cannot be considered fully 'up-to-date'. Nevertheless, the Council still believes that Core Policy 1 must carry significant weight in any decision making process; as the fundamental principles of the policy largely align with core planning principles of the NPPF, as set out in paragraph 17. It sets out the overarching spatial strategy for Wiltshire and, as highlighted above, there is no evidence of significant unmet demand in the community area and the scale of development proposed is very limited and could not be considered to significantly boost the supply of land for housing. As such, the settlement strategy and Core Policy 1 remains fundamental and relevant to the determination of this application.

On balance it is considered given the sites location, site characteristics and in the context of limited scale of development proposed, the principle of the development is considered acceptable. In order for the development to be considered unacceptable it in this location the development would need to result in significant harm to the local character and amenity or be subject to specific site constraints sufficient to warrant a refusal.

It is noted that a local resident has expressed a concern that the approval of this application would set a precedent for development along Oaksey Road would result in further development in the vicinity. However, all applications are considered on their own merits and any future development would need to be assessed against the relevant policies of the WCS.

#### Impact on the Context and Character of the Site and Surrounding Area

Core Policy 57 of the WCS sets out that a high standard of design is required in all new developments, including extensions, alterations, and changes of use of existing buildings. Development is expected to create a strong sense of place through drawing on the local context and being complimentary to the locality. Core Policy 57, amongst other things, requires that applications for development should respect the local character and distinctiveness of the area with regard to the design, size, scale, density, massing, materials, siting and layout of the proposal.

The application proposal is for the erection of a 4 bed detached cottage together with other associated ancillary development. The proposed dwelling will face out onto Oaksey Road with a turning and parking area proposed to the front and side of the property. The proposed dwelling will be of traditional Cotswold vernacular to complement the overall mix of house types and designs found within the surrounding area. The building will be constructed of high quality materials, the south elevation will be constructed in natural stone with the remaining elevations in lime roughcast render with stone quoins to the corners. The roof will comprise of reclaimed plain tiles and the windows and doors will be UPVC to match Orchard Cottage.

The properties situated along Oaksey Road are characterised mainly by detached residential dwellings of varying character. Whilst Orchard Cottage is of the traditional Cotswold vernacular, the properties to the south west are large detached red brick dwellings.

Overall the development is considered to respect the local character and distinctiveness of the area with regard to the design, size, scale, density, massing, materials, siting and layout. The proposed dwelling would complement existing development both in terms of its design and the materials proposed. The development is therefore considered to comply with Core Policy 57 of the WCS.

#### Impact on Neighbour Amenity

Core Policy 57 also seeks to avoid creating developments with unacceptable low levels of privacy and amenity and avoid the unacceptable loss of privacy and amenity to adjacent buildings. The proposed dwelling will face out onto Oaksey Road with a turning and parking area proposed to the front and side of the property leaving sufficient private garden space to the front, rear and side of the property. The proposal does not propose any windows at first floor level in the west and eastern elevations in order to avoid potential overlooking of nearby properties. In addition a significant distance of over 21m between proposed and the nearest existing property (Orchard Cottage) is proposed. The site is screened from the road and surrounding development to the south-east and south-west by mature boundary planting. Given the positioning of the dwelling, the location of fenestrations, degree of separation and existing screening it is not considered that the development would result in an unacceptable loss of privacy and amenity to adjacent buildings. Furthermore it is considered that the property itself would not suffer from unacceptable low levels of privacy and amenity.

#### Highways

The Council's Highways Officer has raised no objection to the principle of the development. The Officer is satisfied that there is sufficient room for three spaces to be provided for parking with the associated turning to be able for a car to enter and egress the highway in forward gear. They have raised a concern about the visibility from the proposed access due to the nature of the bend in the road to the northwest of the proposed access; however, it is considered that this can be appropriately conditioned.

It is noted that concerns have been raised about the impact of the development on highways safety and the level of parking being provided. The highways officer has raised no concerns in respect to these matters and accordingly the development is considered appropriate.

#### Drainage

It is noted that the parish has raised concerns about the site susceptible to flooding bringing more pressure to the inadequate drainage systems. The Council's Drainage team were consulted on the application and noted that the site is in Flood Zone 1 according to EA mapping and that the site is potentially at risk from surface water flood, although the area at risk appears to be touching if not within the site. Whilst, the EA mapping shows site is not in a vulnerable area for ground water, testing is needed to confirm that there is no local issue especially due the surface water flood risk. The Drainage Officer has concluded that they are willing to support application subject to conditions.

#### Conclusion

Section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004 require that the determination of planning applications must be made in accordance with the Development Plan, unless material considerations indicate otherwise. Overall it is considered that the development complies with Core Policy 1, 2, and 57 of the Wiltshire Core Strategy. On balance it is considered that the development itself would not result in sufficient harm to the character of the area or the amenity of

neighbouring development to outweigh the benefits and to warrant the refusal of the application.

### **RECOMMENDATION**

Planning Permission is APPROVED subject to the following conditions:

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

**REASON:**

To comply with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

- 2 No part of the development hereby permitted shall be first brought into use until the access, turning area and parking spaces have been completed in accordance with the details shown on the approved plans. The areas shall be maintained for those purposes at all times thereafter.

**REASON:**

In the interests of highway safety.

- 3 No development shall commence on site until visibility splays have been provided between the edge of the carriageway and a line extending from a point 2.4 metres back from the edge of the carriageway, measured along the centre line of the access, to the points on the edge of the carriageway 43 metres to the right or to the northwest. Such splays shall thereafter be permanently maintained free from obstruction to vision above a height of 900 mm above the level of the adjacent carriageway.

**REASON:**

In the interests of highway safety.

- 4 No development shall commence on site until the exact details and samples of the materials to be used for the external walls and roofs have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

**REASON:**

The matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, in the interests of visual amenity and the character and appearance of the area.

- 5 No development shall commence on site until a scheme for the discharge of foul water from the site has been submitted to and approved in writing by the Local Planning Authority.

**REASON:**

To ensure that the development can be adequately drained

- 6 The development shall not be first occupied until foul water drainage has been constructed in accordance with the approved scheme.

**REASON:**

To ensure that the development can be adequately drained

- 7 No development shall commence on site until a scheme for the discharge of surface water from the site (including surface water from the access / driveway), incorporating sustainable drainage details together with permeability test results to BRE365 not to make adjacent surface water flood risk any greater and prevention of the identified surface water flood risk in road entering the site, has been submitted to and approved in writing by the Local Planning Authority.

REASON:

To ensure that the development can be adequately drained

- 8 The development shall not be first occupied until surface water drainage has been constructed in accordance with the approved scheme.

REASON:

To ensure that the development can be adequately drained

- 9 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting or amending those Orders with or without modification), no development within Part 1, Classes A-E shall take place on the dwellinghouses hereby permitted or within their curtilage.

REASON:

In the interests of the amenity of the area and to enable the Local Planning Authority to consider individually whether planning permission should be granted for additions, extensions or enlargements.

- 10 The dwellings hereby approved shall achieve a level of energy performance at or equivalent to Level 4 of the Code for Sustainable Homes. No dwelling shall be occupied until evidence has been issued and submitted to, and approved in writing by, the local planning authority certifying that this level or equivalent has been achieved.

REASON:

To ensure that the objectives of sustainable development equal or equivalent to those set out in Policy CP41 of the Wiltshire Core Strategy are achieved.

- 11 The development shall be carried out as specified in the approved Arboricultural Impact Assessment prepared by S J Stephens Associates dated 24<sup>th</sup> June 2016 and shall be supervised by an arboricultural consultant.

REASON:

To prevent trees on site from being damaged during construction works.

- 12 The development hereby permitted shall be carried out in accordance with the following approved plans and documentation: 6060/01 Rev A Proposed Elevations, Site and Location Plan, Design and Access Statement and Arboricultural Impact Assessment, received on 27/06/2016

REASON:

For the avoidance of doubt and in the interests of proper planning.

13 INFORMATIVE TO APPLICANT:

Any alterations to the approved plans, brought about by compliance with Building Regulations or any other reason must first be agreed in writing with the Local Planning Authority before commencement of work.

14 INFORMATIVE TO APPLICANT:

The applicant should note that the grant of planning permission does not include any separate permission which may be needed to erect a structure in the vicinity of a public sewer. Such permission should be sought direct from Thames Water Utilities Ltd / Wessex Water Services Ltd. Buildings are not normally allowed within 3.0 metres of a Public Sewer although this may vary depending on the size, depth, strategic importance, available access and the ground conditions appertaining to the sewer in question.

16 INFORMATIVE TO APPLICANT:

The applicant is requested to note that this permission does not affect any private property rights and therefore does not authorise the carrying out of any work on land outside their control. If such works are required it will be necessary for the applicant to obtain the landowners consent before such works commence.

If you intend carrying out works in the vicinity of the site boundary, you are also advised that it may be expedient to seek your own advice with regard to the requirements of the Party Wall Act 1996.

17 INFORMATIVE TO APPLICANT:

Please note that Council offices do not have the facility to receive material samples. Please deliver material samples to site and inform the Planning Officer where they are to be found.

18 INFORMATIVE TO APPLICANT:

The applicant is advised that the development hereby approved may represent chargeable development under the Community Infrastructure Levy Regulations 2010 (as amended) and Wiltshire Council's CIL Charging Schedule. If the development is determined to be liable for CIL, a Liability Notice will be issued notifying you of the amount of CIL payment due. If an Additional Information Form has not already been submitted, please submit it now so that we can determine the CIL liability. In addition, you may be able to claim exemption or relief, in which case, please submit the relevant form so that we can determine your eligibility. The CIL Commencement Notice and Assumption of Liability must be submitted to Wiltshire Council prior to commencement of development. Should development commence prior to the CIL Liability Notice being issued by the local planning authority, any CIL exemption or relief will not apply and full payment will be required in full and with immediate effect. Should you require further information or to download the CIL forms please refer to the Council's Website  
[www.wiltshire.gov.uk/planninganddevelopment/planningpolicy/communityinfrastructurelevy](http://www.wiltshire.gov.uk/planninganddevelopment/planningpolicy/communityinfrastructurelevy).