

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

<b>Date of Meeting</b>	08 March 2017
<b>Application Number</b>	16/10805/FUL & 16/10963/LBC
<b>Site Address</b>	30 Church Road, Hilmarton, SN11 8SE
<b>Proposal</b>	Proposed single storey rear extension
<b>Applicant</b>	Mr M Wilkins
<b>Town/Parish Council</b>	Hilmarton
<b>Electoral Division</b>	Calne Rural – Cllr Crisp
<b>Grid Ref</b>	402084 175305
<b>Type of application</b>	Full Planning
<b>Case Officer</b>	Mark Staincliffe

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

The application has been called into committee at the request of Cllr Crisp to consider the impact of the development on the listed building in relation to its size design and scale.

**1. Purpose of Report**

The purpose of the report is to assess the merits of the proposals against the policies of the development plan and other material considerations and to consider the recommendation that planning permission and listed building consent should be **REFUSED**.

**2. Report Summary**

The key issues in considering the applications are as follows:

- Principle of the development.
- Impact on character and appearance of the area.
- Impact on the setting of the listed building
- Impact on the setting of adjacent listed buildings and Conservation Area

Hilmarton Parish Council raised no objection to the proposed development and 0 letters of objection and 0 letters of support have been received.

**3. Site Description**

The application site is one of a pair of grade II listed Poynder Estate cottages, dating from 1875. The stone built cottages are cruciform in plan, with steeply pitched slate roofs with ornate barge boards and prominent chimney stack. The cottages form an attractive feature, being centrally located within the Hilmarton Conservation Area and located in close proximity to numerous listed buildings.

**4. Planning History**

N/05/00767/FUL	Proposed New Conservatory, Utility, WC and Garage- <b>WITHDRAWN</b>
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N/05/00768/LBC	Proposed New Conservatory, Utility, WC and Garage- <b>WITHDRAWN</b>
N/05/01548/LBC	Proposed Internal Alterations, Conservatory and Single Storey Side Extension- <b>REFUSED AND DISMISSED AT APPEAL</b>
N/05/01547/FUL	Proposed Conservatory and Single Storey Side Extension- <b>REFUSED AND DISMISSED AT APPEAL</b>
N/06/00411/FUL	Proposal to Erect a Timber Framed Conservatory and Extension, Erect a Greenhouse, Garden Shed and Gazebo in the Garden- <b>WITHDRAWN</b>
N/06/00412/LBC	Proposal to Erect a Timber Framed Conservatory and Timber Framed Extension- <b>WITHDRAWN</b>
N/06/00918/FUL	Proposal to Erect a Timber Framed Conservatory, Timber Boarded Extension. - <b>REFUSED</b>
N/06/00919/LBC	Proposal to Erect a Timber Boarded Extension and a Timber Framed Conservatory- <b>REFUSED</b>
16/02073/FUL	Re-divide Existing Single Dwelling to Original State of Two Dwellings – <b>GRANTED</b>
16/02218/LBC	Re-divide Existing Single Dwelling to Original State of Two Dwellings. <b>GRANTED</b>

## 5. The Proposal

The application seeks planning permission for a single storey rear extension.

## 6. Local Planning Policy

Wiltshire Core Strategy Jan 2015:

- Core Policy 1- Settlement Strategy
- Core Policy 2- Delivery Strategy
- Core Policy 51- Landscape
- Core Policy 57- Ensuring high quality design and place shaping
- Core Policy 58- Ensuring the Conservation of the Historic Environment
- Core Policy 61- Transport and Development
- Core Policy 62- Development impacts on the transport network
- Core Policy 63- Transport Strategies
- Core Policy 64- Demand Management
- Appendix D
- Appendix E
- Appendix G

Saved Policies of the North Wiltshire Local Plan:

- NE18- Noise and Pollution
- T5- Safeguarding

National Planning Policy Framework 2012:

- Chapter 1- Building a strong, competitive economy (Paragraphs 18 & 19)

Chapter 7-	Requiring Good Design (Paragraphs 56, 57, 60, 61, & 64)
Chapter 11-	Conserving and enhancing the natural environment (Paragraphs 109, 112, 118 & 123)
Chapter 12-	Conserving and enhancing the historic environment (Paragraphs 126, 128, 129, 132, 133 and 139)

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

Hilmarton Parish Council- No objection

Conservation- The proposal is considered to be contrary to the requirements of legislation sections 16(2) and 66 of the Planning (LBs and CAs) Act 1990, and guidance Section 12 of the NPPF, and BS7913 (Conservation of Historic Buildings). Recommend refusal.

Additional information has been submitted in reference to an analysis of the character and appearance of the locality, and the historic precedent of development within the application site. Whilst this strengthens the applicants case it does not overcome the concerns expressed by the Conservation Officer with regards to the manner in which the works would unbalance the symmetry of the listed building and its neighbour, causing harm to the architectural and aesthetic values of the designated heritage asset, contrary to section 134 of the NPPF and legislation as previously reported. The Conservation Officer maintains the view that there is insufficient public benefit associated with this scheme to offset the degree of harm caused to the significance of the heritage asset.

## **8. Publicity**

The application was advertised by neighbour letter, site notices and press advert. No comments were received.

## **9. Planning Considerations**

Previous Appeal Decision

The Planning Inspector, in dismissing the appeal in December 2005 stated:

*“The design of the cottages is based on a series of plans published during the 19<sup>th</sup> Century to enable estate owners to improve housing for their workers. Consequently, the modest size of these workers cottages is a particular feature of their historic interest.”*

The above observations are still applicable to the determination of the applications.

Principle of Development

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.

In this case, the Wiltshire Core Strategy, including those policies of the North Wiltshire Local Plan saved in the WCS, forms the relevant development plan for the Calne Area. The emerging Neighbourhood Plan is at an early stage and formal submission is some way off. Due to its limited progress to date, this document can only be afforded limited weight.

The National Planning Policy Framework (NPPF) and Planning Practice Guidance (PPG) are material considerations which can be accorded substantial weight.

### Impact on Heritage Assets

In dismissing the previous appeal the Planning Inspector concluded that the proposals would fail to preserve or enhance the special architectural and historical interest of the grade II listed buildings. Furthermore, the inspector concluded that the extensions would harm the character and appearance of the Conservation Area. Though this proposal is materially different from the 2005 appeal the Inspector's conclusions and observations are an important material consideration in the determination of the application.

Section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the decision maker to have special regard to the desirability of preserving a Listed Building or its setting or any features of special architectural or historic interest which it possesses. Considerable weight must therefore be given to the preservation of the listed building, including its setting.

The House of Lords in *South Lakeland District Council v Secretary of State for the Environment* case decided that the "statutorily desirable object of preserving the character or appearance of an area is achieved either by a positive contribution to preservation or by development which leaves character or appearance unharmed, that is to say preserved.

The Council's Conservation Officer has confirmed that the proposed development would result in harm to the listed building, the setting of adjacent listed buildings and the character and appearance of the conservation area. This harm would be less than substantial but harm has been identified.

It is considered that the proposal will unbalance the buildings symmetry causing harm to the architectural and aesthetic values of the building. The proposed addition is considered to be an over dominant feature, sitting forward of the established building line to the rear of the building and its neighbour, thus dominating the existing perception from public and private vantage points. The proposed materials are also considered to be inappropriate as these do not relate to the host building or its wider setting. The proposed development is therefore in conflict with CP58.

For the purposes of determining the application Core Policy 58 is relevant and states:

*Development should protect, conserve and where possible enhance the historic environment.*

*Designated heritage assets and their settings will be conserved, and where appropriate enhanced in a manner appropriate to their significance*

The wording of core policy 58 and the supporting text to the policy is quite clear that if harm is identified it is in conflict with the policy. As the proposal fails to conserve or enhance the heritage asset the development is in conflict with CP58. This is a matter that weighs against the scheme in the planning balance.

Failure of the proposed development to comply with CP58 is not necessarily fatal to the acceptability of the proposed development. 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.

The NPPF is a material planning consideration and paragraphs 133 & 134 of the NPPF are relevant to the determination of the application. Paragraph 134 provides: "*Where a development proposal will lead to less than substantial harm to the significance of a*

*designated heritage asset, this harm should be weighed against the public benefits of the proposal'*

The process of determining the degree of harm, which underlies paragraph 132 of NPPF, must involve taking into account the value of the heritage asset in question. In considering harm it is also important to address the value of the asset, and then the effect of the proposal on that value. Not all effects are of the same degree, nor are all heritage assets of comparable significance, and it is for the decision maker to assess the actual significance of the asset and the actual effects upon it.

Moving onto the conservation area in the locality, it is considered that the proposed extension would be prominently visible within the street from where the extension would appear incongruous not only in design and appearance but also through the materials proposed. The extension would diminish the contribution that this pair of buildings has to the character and appearance of the conservation and would cause harm. The development is therefore in conflict with the NPPF and Core Policy 58.

Less than substantial harm to the listed building, setting of listed buildings and the character/appearance of the Conservation Area has been identified, the proposal is therefore in conflict with both Core Policy 58 of the Core Strategy and the NPPF. Significant weight must therefore be given to the harm in the planning balance and determining if planning permission should be granted.

The balancing exercise in these respects is undertaken in the Conclusion at the end of this report.

#### Highway Matters

The proposed development would have no adverse impact on highways safety and sufficient off street parking is provided.

#### Impact on residential amenities

The proposed development will not result in any significant adverse impact on the residential amenities of adjoining properties in terms of loss of sunlight, daylight or privacy. The proposal is therefore not in conflict with Core Policy 57 in this respect.

### **10. Conclusion (The Planning Balance)**

The Court of Appeal in *E Northants DC v Secretary of State for Communities and Local Government* [2014] EWCA Civ 137 ("Barnwell") makes clear that the duty imposed by s72 (1) meant that when deciding whether harm to a conservation areas/listed buildings was outweighed by the advantages of a proposed development the decision-maker should give particular weight to the desirability of avoiding such harm. There is a "strong presumption" against the grant of permission in such cases. The exercise is still one of planning judgment but it must be informed by that need to give special weight to maintaining the conservation area/listed building. For the reasons set out above the proposal is in conflict with Core Policy 58 of the Core Strategy, it would also be in conflict with the NPPF unless the benefits of the scheme clearly outweigh the harm.

In the discussion above it is considered that the proposal will result in less than substantial harm to the character & appearance of the Listed Building as well as the Conservation Area. It is therefore necessary for the applicant to provide public benefits that will outweigh the harm identified. The original statement failed to provide convincing justification and though the additional information strengthens the applicant's case it is considered that the additional justification fails to demonstrate that sufficient public benefits are advanced to offset the degree of harm caused. The benefits delivered by the proposed works are considered to be private in that they are solely for the benefits of the owner of the property.

Taking into consideration the above it is considered that the proposal is in conflict with the NPPF and Cores strategy and the public benefits fail to overcome the identified harm.

### **RECOMMENDATION**

Planning permission should be REFUSED for the reason set out below:

- 1 The proposed development, by reason of its design, size and location fails to conserve the character appearance, and setting of the listed building and the setting of adjacent listed properties and character of the Conservation Area. This harm not otherwise justified by any wider public benefit. The proposal is therefore contrary to Core Policy 57 and 58 of the adopted Wiltshire Core Strategy, sections 16(2), 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and paragraphs 131, 132, 134, 135 and 137 of the National Planning Policy Framework.

Listed Building consent should be REFUSED for the reason set out below:

The proposal is considered to be contrary to the requirements of legislation sections 16(2) (LBs and CAs) Act 1990, and guidance contained with Section 12 of the NPPF, and BS7913 (Conservation of Historic Buildings), in that the proposed works would unbalance the buildings symmetry causing harm to the architectural and aesthetic values of the building. The proposed addition is considered over dominant feature, and would harm the setting of the listed building and its immediate neighbour.