

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

<b>Date of Meeting</b>	21 February 2018
<b>Application Number</b>	17/11259/VAR
<b>Site Address</b>	Oak Hill House, Henn Lane, Upper Seagry, Wilts, SN15 5HD
<b>Proposal</b>	Variation of condition 13 of planning permission 16/04077/FUL (Erection of 2No dwellings) to allow for repositioning of the proposed dwellings and alterations to the eaves height and ridge height.
<b>Applicant</b>	Mr K Lloyd
<b>Town/Parish Council</b>	Seagry
<b>Electoral Division</b>	Kington – (Cllr Greenman)
<b>Grid Ref</b>	394604 180829
<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 Greenman to consider the accuracy of the build against the approved plans and the impact of the resulting development on the character and appearance of the area, street scene and adjoining properties.

**1. Purpose of Report**

To consider the above application and to recommend that planning permission is GRANTED, subject to conditions.

**2. Report Summary**

The key issues in considering the application are as follows:

- Principle of the development.
- Impact on residential amenities of adjoining neighbours.
- Impact on character and appearance of the area.

Seagry Parish Council object to the proposed development and 20 letters of objection have been received, 2 letter of support & 2 letters of no objection have also been received.

**3. Site Description**

The site is located on the Eastern outskirts of the village of Upper Seagry. The land to which the application relates comprises some 0.24ha of residential garden and is otherwise undesignated under the adopted Wiltshire Core Strategy.

The land to the immediate West of the site has been developed to provide a 'courtyard development' consisting of a series of modern terraced properties, whilst the other dwellings within the locality are of various ages and designs, majority of these are set back from but front the highway.

The site itself is very spacious and has numerous mature trees on its boundary. The land to the South and East is characteristically open and consists of allotments and a village hall. At present vehicular access into the site is taken from Henn Lane adjacent to the rear gardens of The Court Yard.

#### **4. Planning History**

- 14/01293/OUT      Erection of 6 New Dwellings (Outline)- **Refused planning permission at Northern Area Planning Committee**
- 14/11574/OUT      Erection of Two New Dwellings- **Granted planning permission at appeal**
- 16/04077/FUL      Erection of 2 no. dwellings- **Granted planning permission at Northern Area Planning Committee**

#### **5. The Proposal**

The application seeks consent to vary condition 13 (approved plans list) of planning application 16/04077/FUL. The substituted plans are seeking consent to regularise discrepancies between the plans approved under application 16/04077/FUL and the development currently on site. The application seeks consent for repositioning of the proposed dwellings and alterations to the eaves height and ridge height of the projecting front gables of these properties. There are also other changes such as window details and the provision of additional velux windows.

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

Wiltshire Core Strategy Jan 2015:

Core Policy 1- Settlement Strategy

Core Policy 2- Delivery Strategy

Core Policy 3- Infrastructure Requirements

Core Policy 10- Spatial Strategy: Chippenham Community Area

Core Policy 51- Landscape

Core Policy 45- Meeting Wiltshire's housing needs

Core Policy 50- Biodiversity and Geodiversity

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 62- Development impacts on the transport network

Core Policy 67- Flood Risk

Appendix D

Appendix E

Appendix G

Saved Policies of the North Wiltshire Local Plan:

NE18- Noise and Pollution

T5- Safeguarding

CF2- Leisure facilities and open space

National Planning Policy Framework 2012:

Achieving sustainable development – Core Planning Principles (Paragraphs 7 & 14)

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

Chapter 6- Delivering a wide choice of high quality homes (Paragraphs 47, 49, 50 & 55)

Chapter 7- Requiring Good Design (Paragraphs 56, 57, 60, 61, & 64)

Chapter 8- Promoting healthy communities (Paragraph 75)

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**

Seagry Parish Council- Object for the following reasons:

- Application should be withdrawn
- There are many differences between the submitted plans and what has been built on site and unable to consider the application.
- Plans are inaccurate
- Description of development is wrong

## **8. Publicity**

The application was advertised by neighbour letter and site notice. These generated 20 letters of objection and 2 letter of support & 2 letters of no objection.

Summary of key points raised:

- Poor design
- Access is a danger to highway safety
- Development doesn't respect character of the area
- Any part of the development not on the originally approved plans should be refused.
- Must go back to the original siting
- Out of character with the appearance of the area.
- Over development of the site
- Adverse impact on the residential amenity of The Court Yard
- Permission for two semi detached houses were far more appropriate
- Adverse Impact on the Pub
- Increase in height dominates the street scene
- Development too near the road
- The development has changed the whole nature of the centre of the village
- The applicant has a complete disregard for planning law

Summary of key points raised:

- Look quite attractive and are complimentary to the village
- Design is not dissimilar to other houses in Upper Seagry, which is actually a complete mixture of housing designs from very modern to old cottage.
- The small realignment with the wall on Henn lane making little difference to the visual aspect here.
- We have received a letter from the parish Council. In the years we have lived here we have never received such a letter. It was very carefully worded but nevertheless in our view intended to encourage negative comments. We are very uncomfortable with what appears to be a witch hunt.
- No consistent design of properties in the village
- These houses are needed in the locality

## **9. Planning Considerations**

### Breach of Planning Control

Many representations received state that the applicant has in some way broken the law, this is incorrect and not the case. It is not an offence to carry out development without first obtaining any planning permission required for it. Section 73A of the 1990 Town and Country

Planning Act specifically provides that a grant of planning permission can be given for a development that has already taken place.

In assessing and determining the application, the Council must approach an application such as this in exactly the same way as “normal” applications for proposals such as this.

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 Plan saved in the WCS, forms the relevant development plan for the Chippenham Community area and must be awarded full weight in considering this application.

The Wiltshire Housing Sites Allocation Plan and the Neighbourhood Plan for the settlement are emerging plans but can only be afforded very limited weight at this stage of their preparation.

The National Planning Policy Framework (NPPF) and Planning Practice Guidance (PPG) are material considerations which can be accorded substantial weight. The extant permission is also a material planning consideration in the determination of the application.

Discrepancies

The applicant has submitted additional revised plans for both dwellings and has acknowledged that some errors have occurred during the build out. The applicant now seeks to regularise these through the submitted plans. A summary of the discrepancies and what the applicant is proposing is set out below:

<b>UNIT 1</b>	
<b>Discrepancy</b>	<b>Proposed outcome</b>
Principal ridge height of main dwelling not built in accordance with the approved plans. Ridge has been constructed approximately 100mm lower than approved	Retain ridge height as built
Ridge height of projecting gable not built in accordance with approved plans. Ridge has been constructed approximately 150mm higher than approved	Retain ridge height as built
Eaves level of projecting gable not built in accordance with the approved plan. Eaves level has been constructed approximately 100mm higher than approved	Retain eaves height as built
Rear patio door (3 pane) installed rather than double doors	Retain fenestration as built
Property sited in the wrong location	Leave dwelling in location as built

<b>UNIT 2</b>	
<b>Discrepancy</b>	<b>Proposed outcome</b>
Principal ridge height of main dwelling not built in accordance with the approved plans. Ridge has been constructed approximately 500mm lower than approved	Retain ridge height as built

Ridge height of projecting gable not built in accordance with approved plans. Ridge has been constructed approximately 500mm Higher than approved	Retain ridge height as built
Eaves level of projecting gable not built in accordance with the approved plans. Eaves has been constructed approximately 700mm Higher than approved	Retain eaves height as built
Two additional rooflights serving the master bedroom installed.	Retain rooflights
Window missing on front elevation of first floor projecting gable	Reintroduce window
Rear patio door (3 pane) installed rather than double doors	Retain patio doors
Property sited in the wrong location as it has been sited closer to Henn Lane than the approved plans.	Leave dwelling in location as built

### Design & Visual Amenity

The application currently under consideration is still for two detached dwellings. The footprint is no larger than that of the extant permission but the siting and orientation is different to that granted by the Committee in 2016.

Having taken into consideration the current siting of the properties it is considered that the discrepancies between the proposals is not so significant or dramatic so as to result in policy conflict or a reason for refusal. The proposed residential dwellings would still positively front onto the adjoining road and the slight change in siting will not result in a greater level of overlooking or loss of amenity for surrounding properties.

The immediate area consists of a mix of detached, semi detached and terraced housing all of different sizes, design, character, mass and bulk. There is no predominant housing type fronting the road or within the village as a whole which would demand a particular design response from the proposed development.

As set out above, the total height of Unit 1 should have measured 8.3m but the ridge height of the property was constructed 100mm lower at 8.2m. Similarly the projecting gable to ridge should have measured 7.2m but has been constructed at 7.34m. The eaves leave to the projecting gable has been constructed 100mm higher than the approved plans and measures approximately 2.7m

The total height of Unit 2 should have measured 8.5m but the ridge height of the property was constructed 500mm lower at 8m. Similarly the projecting gable to ridge should have measured 7.35m but has been constructed at 7.85m. The eaves leave to the projecting gable has been constructed approximately 500mm higher than the approved plans and measures 3.4m.

The development as built also appears to have removed the window at first floor level serving the master bedroom. Amended plans have been provided showing the inclusion of this window. It is considered that with the window now being proposed any design concerns have been overcome and the reintroduction on this fenestration will result in a development that has an acceptable relationship with the existing street scene and thereby accords with CP 57 of the CS.

Taking into consideration the extant permission for two dwellings on the site, what has been built and the revisions the applicant is proposing, overall it is considered that the development does not unduly conflict with the existing character of the area. The proposed units are of an acceptable design to the surrounding context and it would be difficult to justify and substantiate a reason for refusal on architectural grounds.

#### Garden Size

The proposed garden area is comparable, to the gardens within the area and adjacent properties and that approved previously at committee. Bearing in mind the size of the dwellings it is considered that the outdoor space provided satisfies the guidance for outdoor amenity space for a new dwelling. The proposal would allow for some outdoor space, sitting out, bin storage and for hanging out of washing, the proposal would also provide outdoor amenity space for a family to enjoy.

#### Highway Safety

It is important to note that the minor changes to the siting of the dwellings and the alterations to the approved plans do not result in any changes to the parking provision or access to the site. As with the previous application the Council's Highways Officer is of the view that, subject to the imposition of suitable conditions, the proposals will not adversely impact upon local highway safety. Furthermore, the proposed development meets the Council's parking standards. Overall, therefore, it is considered that the proposal is acceptable in highways terms and the provisions of CP 64 & CP 57.

#### Impact on Neighbours

The concerns identified by the immediate neighbours in relation to privacy and proximity to the shared boundary are noted. However, taking into consideration the existing site circumstances and the separation between the properties it would be difficult to substantiate a reason for refusal. It is considered that the separation between the properties elevations is acceptable and will not result in unacceptable levels of overlooking. Furthermore the revised siting of the dwellings is considered to be no worse than the relationship considered acceptable when approving the previously permitted scheme.

There are windows proposed on the rear elevation of unit 1. However, taking into consideration the separation and orientation between the proposed dwelling and existing properties to the west of the site it is considered acceptable. Furthermore the separation between the properties and the height to eaves and ridge level is not considered to be excessive or overbearing.

Additional concerns have been expressed in relation to harm caused to the existing Public House (PH) adjacent to the site. Similar to the reasons set out above it is considered that the separation between the new dwelling and the pub is sufficient to ensure that the proposal will not have an adverse impact on the PH and the accommodation it offers. Though the projecting gable is taller than approved the total height of the dwelling is lower. On balance, the relationship is considered to be acceptable.

It is considered that the proposed development, on balance, would not cause harm to the residential amenities of surrounding properties. The development will not result in an unacceptable loss of sunlight, daylight or privacy for adjoining properties and thereby accords with CP57 of the Core Strategy.

#### Setting of the Listed Building

It is considered that the proposed development will have not impact on the setting of any listed buildings and is therefore considered to accord with CP58 of the Core Strategy and the NPPF.

## 10. Conclusion

The application site is located within an area of the village where residential development has been accepted previously and an extant planning permission exists. It is considered that the scheme is Of a design, scale and appearance which is appropriate to its location. In particular, the increase in ridge height of the projecting gables is not thought to be unacceptable.

Taken in the context of the presumption in favour of sustainable development, the fact that this is not a designated Conservation Area or landscape as defined by the NPPF and WCS, in terms of the planning balance, the benefits of development (which include, the delivery of housing, efficient use of land in accordance with the Council's adopted policies, and the extant consent for the site), the best and most appropriate course of action would be for planning permission to be granted. All other matters have been sufficiently addressed, with technical details capable of resolution by planning condition.

On balance, therefore, it is considered that the proposal is acceptable in planning terms and in accordance with the Core Strategy and NPPF.

## RECOMMENDATION

Planning permission is GRANTED, subject to conditions

- 1 The materials to be used in the development hereby approved shall be constructed in accordance with the details submitted to the Council and approved by the council on 15 March 2017.

REASON: For the avoidance of doubt and to ensure the satisfactory appearance of the development

- 2 The hard and soft landscaping for the development hereby approved shall be carried out in accordance with the details submitted to and approved by the Council on 15 March 2017.

REASON: For the avoidance of doubt and to ensure the satisfactory appearance of the development and to respect the character and appearance of the street scene.

- 3 All soft landscaping comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the first occupation of the building(s) or the completion of the development whichever is the sooner; All shrubs, trees and hedge planting shall be maintained free from weeds and shall be protected from damage by vermin and stock. Any trees or plants which, within a period of five years, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless otherwise agreed in writing by the local planning authority. All hard landscaping shall also be carried out in accordance with the approved details prior to the occupation of any part of the development or in accordance with a programme to be agreed in writing with the Local Planning Authority.

REASON: To ensure a satisfactory landscaped setting for the development and the

protection of existing important landscape features.

- 4 No part of the development hereby approved shall be occupied until the parking area shown on the approved plans has been consolidated, surfaced and laid out in accordance with the approved details. This area shall be maintained and remain available for this use at all times thereafter.

REASON: To ensure that adequate provision is made for parking within the site in the interests of highway safety.

- 5 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting or amending that Order with or without modification), the garage(s) hereby permitted shall not be converted to habitable accommodation.

REASON: To secure the retention of adequate parking provision, in the interests of highway safety.

- 6 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting or amending that Order with or without modification), there shall be no additions/extensions or external alterations to any building forming part of the development hereby permitted.

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 external alterations.

- 7 The bin storage and recycling facilities for the development hereby approved shall be carried out in accordance with the details submitted to and approved by the Council on 15 March 2017. These shall be provided prior to first occupation of the property and shall thereafter be retained.

REASON: To ensure the provision of satisfactory facilities for the storage of refuse and recycling.

- 8 The scheme for the discharge of foul water from the site for the development hereby approved shall be carried out in accordance with the details submitted to and approved by the Council on 15 March 2017.

REASON: To ensure that the development can be adequately drained.

- 9 The scheme for the discharge of surface water from the site for the development hereby approved shall be carried out in accordance with the details submitted to and approved by the Council on 15 March 2017.

REASON: To ensure that the development can be adequately drained.

- 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 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 access shall be a minimum of 4.5m width and properly consolidated for the first 7 metres, measured from the edge of the carriageway, has been consolidated and surfaced (not loose stone or gravel). The ditch within the access shall be piped accordingly. The access shall be maintained as such thereafter.

REASON: In the interests of highway safety.

- 12 The development hereby permitted shall be carried out in accordance with the following approved plans:

Site Layout Plan

Site Location Plan

001 Plot 1 Elevations

002 Plot 1 Elevations

003 Plot 2 Elevations

004 Plot 2 Elevations

LPC/3074/SD1/5E

LPC/3074/SD1/2B

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

13      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.

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.

15      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.

16      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.